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**Ad Hoc Open-ended Working Group on
Benefit-sharing from the Use of Digital
Sequence Information on Genetic Resources
First meeting
Geneva, 14–18 November 2023
Item 3 of the provisional agenda*
Issues for further consideration set out in the annex to decision 15/9**

Compilation of lessons learned from other international funding mechanisms

Note by the Secretariat

Summary

In paragraph 22 (a) of decision 15/9, the Conference of the Parties to the Convention on Biological Diversity requested the Executive Secretary to compile lessons learned from other international funding mechanisms, such as the Benefit-sharing Fund of the International Treaty on Plant Genetic Resources for Food and Agriculture, the World Health Organization Pandemic Influenza Preparedness Framework and the Small Grants Programme of the Global Environment Facility.

To facilitate the research, and with the generous financial support of the European Union, the Secretariat contracted a team of consultants from the University of Strathclyde Law School. The team was led by Stephanie Switzer and comprised Elisa Morgera, Jack Travers, Sumiya Hemsî and Dean Pennie.

The compilation served as the basis for the distillation of lessons learned presented as part of document CBD/WGDSI/1/2 on the overview of information gathered further to decision 15/9 and key points for consideration by the Ad Hoc Open-ended Working Group on Benefit-sharing from the Use of Digital Sequence Information on Genetic Resources. An executive summary of that compilation and overall conclusions may be found in document CBD/WGDSI/1/2/Add.2.

The document is circulated in the form and language in which it was received by the Secretariat. Any views expressed in the study are those of the authors or the sources cited in the study and do not necessarily reflect the views of the Secretariat.

* CBD/WGDSI/1/1.

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Lessons learned from other international funding mechanisms

Authors: Stephanie Switzer, Elisa Morgera, Jack Travers, Sumiya Hems, Dean Pennie¹

Background to the study

This study on lessons learned from other international funding mechanisms responds to paragraph 22(a) of decision 15/9 where the Conference of the Parties (COP) requested the Executive Secretary to the Convention on Biological Diversity (CBD) to ‘Compile lessons learned from other international funding mechanisms, such as the Benefit-sharing Fund of the International Treaty on Plant Genetic Resources for Food and Agriculture, the World Health Organization Pandemic Influenza Preparedness Framework, and the Small Grants Programme of the Global Environment Facility.’

Paragraphs 9 and 10 of decision 15/9 are relevant to the study as is the annex to the decision listing issues for further consideration.

In paragraph 9 of the decision, the COP agreed that a solution fair and equitable benefit-sharing on digital sequence information on genetic resources should, inter alia:

- (a) Be efficient, feasible and practical;
- (b) Generate more benefits, including both monetary and non-monetary, than costs;
- (c) Be effective;
- (d) Provide certainty and legal clarity for providers and users of digital sequence information on genetic resources;
- (e) Not hinder research and innovation;
- (f) Be consistent with open access to data;
- (g) Not be incompatible with international legal obligations;
- (h) Be mutually supportive of other access and benefit-sharing instruments;
- (i) Take into account the rights of indigenous peoples and local communities, including with respect to the traditional knowledge associated with genetic resources that they hold;

In paragraph 10 of the decision, the COP recognized that ‘the monetary and non-monetary benefits arising from the use of digital sequence information on genetic resources should, in particular, be used to support conservation and sustainable use of biological diversity and, inter alia, benefit indigenous peoples and local communities.’

Criteria for the analysis of lessons learned were developed on the basis of these paragraphs as well as the list of issues for further consideration in the annex to the decision. The criteria are:

1. Operation and accrual of funds, including legal certainty;
2. Governance processes of the funds;
3. Disbursement criteria, processes and costs, and the impact of funds;
4. Processes for monitoring, evaluation and learning, responsive/iterative adjustments to lessons learnt and feedback;
5. Impact on research and innovation, including open data;
6. Consideration given to indigenous peoples and local communities.

The aim of this study review is to distil key lessons from the literature with respect to other international funding mechanisms. In addition to the funds referred to in paragraph 22(a) of decision 15/9, the authors reviewed a further ten international funds: the Global Crop Diversity Trust, the Global Environment Facility, the Least Developed Countries Fund, the Special Climate Change Fund, the Adaptation Fund, the Green Climate Fund, the International Finance Facility for Immunisation, the Land Degradation Neutrality Fund, The Lion’s Share Fund, and the 1% for the Planet Impact Fund.

¹ All authors are affiliated with Strathclyde Law School, University of Strathclyde, Glasgow, Scotland.

This study drew on a range of secondary literature, including both peer-reviewed academic literature and grey literature. This was complemented by reviewing organisational resources such as the websites, annual reports and financial statements, operational manuals, meeting and organisational reports and any associated risk reporting from the surveyed funds. This study also benefitted from correspondence and conversations with officials from relevant funds.² The research was carried out between April and October 2023.

Global Crop Diversity Trust

1. Overview

Established in 2004 by the Food and Agriculture Organization of the United Nations (FAO) and the then-International Plant Genetic Resources Institute (now Biodiversity International) on behalf of the Consultative Group on International Agricultural Research (CGIAR), the Global Crop Diversity Trust (Crop Trust) was created with a vision ‘*to ensure the long-term conservation and availability of plant genetic resources for food and agriculture with a view to achieving global food security and sustainable agriculture*’³ by focusing on supporting *ex situ* conservation of plant genetic resources for food and agriculture (PGRFA) via genebanks. A key use of the Trust’s funds is towards helping to cover the costs of essential operations of international genebanks, as recognized under article 15 of the International Treaty on Plant Genetic Resources for Food and Agriculture (ITPGRFA) as well as the Svalbard Global Seed Vault.⁴ Additionally, the Trust raises funds from donors to coordinate projects that conserve and make key crop collections available for global food security, with a key focus on national collections.⁵

2. Funding

Its Constitution directs the Crop Trust to “seek to raise, from governments, corporations, foundations, trusts and others, including individuals, adequate funds, including endowment funds, for the achievement of its objective.”⁶ The constitution of the Crop Trust also foresees the establishment of an endowment fund. The Endowment Fund operates as a pot of money which is invested in a balanced portfolio in accordance with its investment policy⁷ with a view to generating financial returns to fund the mission of the Crop Trust. In essence, ‘a portion of the fund’s value is paid out to support activities that ensure global crop diversity is safely conserved and maintained.’⁸ However, these, ‘disbursements (should) come solely from investment income earned so that the capital is not drawn on.’⁹

By the end of 2022, more than \$253 million in contributions had been received, with over \$74 million utilised for various projects. The equity in the Endowment Fund exceeds total contributions, due to what the Crop Trust describes as a risk-conscious and highly diversified investment portfolio.¹⁰ The Crop Trust seeks to grow the Endowment Fund a (target of at \$850 million) so that annual

² This study benefitted from discussions with a range of individuals from the studied funds, for which the writing team is grateful. This study also builds upon the work of a DEFRA study by ICF Consulting Services Limited: Digital Sequence Information (DSI): lessons from multilateral mechanisms - Final report (Job Number 30302584, 2021). The authors are grateful for early discussions with DEFRA as well as with Naomi Kenney.

³ Constitution of The Global Crop Diversity Trust, article 2(1).

⁴ Sommer Jenkins, ‘Genetic Engineering and Seed Banks: Impacts on Global Crop Diversity’, (2013) 9 Macquarie J Int’l & Comp Env’t L 67, 70.

⁵ Crop Trust (<https://www.croptrust.org/work/projects/>).

⁶ Constitution of The Global Crop Diversity Trust, article 16 (1).

⁷ Crop Trust, ‘Global Crop Diversity Trust Investment Policy’ (Crop Trust 2022).

⁸ Crop Trust, ‘How Does the Endowment Fund Work’ < <https://www.croptrust.org/work/endowment-fund/how-does-the-endowment-fund-work/> > accessed on 19 July 2023.

⁹ Crop Trust, ‘How Does the Endowment Fund Work’ < <https://www.croptrust.org/work/endowment-fund/how-does-the-endowment-fund-work/> > accessed on 19 July 2023.

¹⁰ Crop Trust, ‘Crop Trust 2030 Financing Strategy’ (n.d.). https://www.croptrust.org/fileadmin/uploads/croptrust/Documents/Policy_Documents/Crop_Trust_Financing_Strategy_2030.pdf, accessed 10 October 2023.

investment earnings can reach approximately \$34 million annually and ensure the core long-term funding of essential operations for targeted genebanks globally.

Of the \$850 million, \$500 million will support international collections under article 15 of ITPGRFA, with a further \$250 million going towards other important collections of Annex I crops.¹¹ The remaining \$100 million will support the long-term operation of the Svalbard Global Seed Vault and fund Secretariat operations.¹² Notably, the strategy calls for, among other things, joint fundraising and greater private sector investment from corporations and individuals¹³ through the development of 'value propositions [...] to highlight the risks of narrow crop diversity as well as the impact of supporting crop diversity for businesses in their field of action.'¹⁴ In 2019, approximately 95% of the Endowment Fund was provided by national governments, with the remainder from the private sector and/or foundations.¹⁵

One innovative mechanism being explored is the issuance of a long-term food security bond (FSB).¹⁶ The FSB would target private sector investors with both government assurances to cover any shortfall upon redemption, and government grants to pay the coupon to reduce the cost to the Trust to zero.¹⁷ The lessons learned in exploring this instrument include the complexity of using bond instruments in the case of non-revenue generating entities, as well as difficulty in securing a sufficient level of guarantee from a highly rated public entity, especially in consideration of a longer tenure (length of time to bond maturity) and/or larger size of the bond. While official development assistance has been facing an increasing number of demands in the past few years, including public health/COVID, food security and refugee assistance, an intensifying attention to funding global common goods and activities that promote biodiversity and/or climate change adaptation also leads to new opportunities to access funding.

3. Governance

The Crop Trust operates as an essential element of the funding strategy of the International Treaty for Plant Genetic Resources for Food and Agriculture (ITPGRFA).¹⁸ The Crop Trust operates under policy guidance from the Governing Body of the Treaty as 'an *independent international fund* whose goal is to support the efficient and effective ex-situ conservation of crop diversity over the long term (emphasis added)'.¹⁹ In this respect, the Crop Trust is distinct from the Benefit-Sharing Fund of the ITPGRFA, examined below.

The Crop Trust itself is governed by an Executive Board which is made up of a diverse set of members, four of whom are nominated by the Governing Body of the ITPGRFA and represent diverse regions, and four who are nominated by the Donors' Council. Members are senior experts from a wide

¹¹ Crop Trust 'Securing Crop Diversity for Sustainable Development' (Crop Trust, 2015) 20.

¹² Crop Trust 'Securing Crop Diversity for Sustainable Development' (Crop Trust, 2015) 20.

¹³ Crop Trust, 'Crop Trust 2030 Financing Strategy'(n.d.).

https://www.croptrust.org/fileadmin/uploads/croptrust/Documents/Policy_Documents/Crop_Trust_Financing_Strategy_2030.pdf, accessed 10 October 2023, 6 to 7.

¹⁴ Crop Trust, 'Crop Trust 2030 Financing Strategy'(n.d.)

https://www.croptrust.org/fileadmin/uploads/croptrust/Documents/Policy_Documents/Crop_Trust_Financing_Strategy_2030.pdf, accessed 10 October 2023, 6.

¹⁵ FAO, 'Commission on Genetic Resources for Food and Agriculture: Report from the Global Crop Diversity Trust', (FAO, 2019) CGRFA-18/21/15/Inf.3, 13.

¹⁶ Stefan Schmitz and others 'Crop Diversity, its Conservation and Use for Better Food Systems' in Joachim von Braun and others (eds) 'Science and Innovations for Food Systems Transformation' (Springer, 2023) 551.

¹⁷ Stefan Schmitz and others 'Crop Diversity, its Conservation and Use for Better Food Systems' in Joachim von Braun and others (eds) 'Science and Innovations for Food Systems Transformation' (Springer, 2023) 551.

¹⁸ Commission on Genetic Resources for Food and Agriculture 'Open-Ended Working Group on the Rules of Procedure and the Financial Rules of the Governing Body, Compliance, and the Funding Strategy' (14-17 December 2005), CGRFA/IC/OWG-1/05/Inf.2, Appendix.

¹⁹ Commission on Genetic Resources for Food and Agriculture 'Open-Ended Working Group on the Rules of Procedure and the Financial Rules of the Governing Body, Compliance, and the Funding Strategy' (14-17 December 2005), CGRFA/IC/OWG-1/05/Inf.2, 2.

variety of backgrounds and contribute different types of expertise, including civil service, science, public administration, policy etc. The Executive Board has a long and extensive list of functions and powers contained in the Constitution.²⁰ Overall, its main tasks are to oversee that the Endowment Fund's policies are in line with both guidance from the Treaty's Governing Body and relevant provisions of the Constitution, budget approval and various other factors related to its implementation.²¹ The Executive Board is supported by three committees made up of experts in the areas of responsibilities; finance and audit, investment, and governance and nominating.²² Another important governance aspect pertains to the Donors' Council, which advises the Executive Board on fundraising and financing of the activities of the Trust, *provides a forum for donors* to express their views and, perhaps most importantly, to engage in financial oversight of the operations of the Trust.²³ Comprised of both public and private donors, the Donors' Council sets its own procedures and elects a Chairperson who convenes meetings biannually.²⁴

4. Disbursement Criteria and Processes under the Trust

Disbursement of funds is largely based on the general objective of the Crop Trust as set out in its Constitution, presented above.²⁵ Moreover, in line with the Global Plan of Action for the Conservation and Sustainable Utilization of Plant Genetic Resources for Food and Agriculture, 'an efficient goal-oriented, economically efficient and sustainable system of *ex-situ* conservation' is an important criterion for disbursement.²⁶ As the fund is unable to provide the adequate level of contributions that would be required to maintain or upgrade all existing genebanks and their infrastructure, it focuses on cost-effective, efficient and sustainable activities through three programmatic areas; securing PGRFA of global significance, promoting participation/increasing benefits, and increasing efficiency and effectiveness within and between collections.²⁷

Disbursements from the Endowment Fund have been used to support essential operations of the genebanks of the international research centres of the Consultative Group on International Agricultural Research (CGIAR) through long-term grant agreements (LTGs) and long-term partnership agreements (LPAs).²⁸ These collections form an essential pillar of the multilateral system (MLS). LTGs cover a portion of the costs of the genebank; there are currently 11 genebanks supported through LTGs. Once a genebank has met performance targets, it becomes eligible to receive LPA funds that cover the essential operational costs forever.²⁹ At the time of writing of this document, three international genebanks have received such LPAs.

5. Monitoring and Evaluation

In terms of monitoring and evaluation, the Finance & Audit, and Investment Committees of the Board have various functions for monitoring and evaluation, such as reviewing the market performance of the endowment fund, recommending a prudent path of investment to the Executive Board, and reviewing the qualification/management plans of genebanks for LPAs.³⁰ As with most

²⁰ Constitution of The Global Crop Diversity Trust, Article 6.

²¹ Constitution of The Global Crop Diversity Trust, article 6.

²² Crop Trust, 'Organization Chart' <https://www.croptrust.org/fileadmin/uploads/croptrust/Documents/Policy_Documents/Crop-Trust-Governance-Chart.pdf> accessed on 19 July 2023.

²³ Constitution of The Global Crop Diversity Trust, article 10 (1).

²⁴ Constitution of The Global Crop Diversity Trust, article (2), (3), (4); Crop Trust, 'Donors' Council' <<https://www.croptrust.org/about/governance/donors-council/>> accessed on 19 July 2023

²⁵ Constitution of The Global Crop Diversity Trust; Crop Trust' Fund Disbursement Strategy' (November 2009), 1.

²⁶ Crop Trust' Fund Disbursement Strategy' (November 2009), 1.

²⁷ Crop Trust' Fund Disbursement Strategy' (November 2009), 5-6.

²⁸ Crop Trust, 'What are the Funds used for?' <<https://www.croptrust.org/work/endowment-fund/what-are-the-funds-used-for/>> accessed on 19 July 2023.

²⁹ Crop Trust, 'What are the Funds used for?' <<https://www.croptrust.org/work/endowment-fund/what-are-the-funds-used-for/>> accessed on 19 July 2023.

³⁰ Crop Trust, 'Charter and Terms of Reference of the Investment Committee and the Finance & Audit Committee of the Global Crop Diversity Trust' (Crop Trust, 2015).

investment and auditing committees, they provide a layer of accountability towards the Executive Board to ensure they are operating within their mandate and in line with the Constitution and other policies. Further, they create a review mechanism for the endowment and LPAs to ensure a similar standard is achieved.

The Crop Trust, in partnership with CGIAR, are in the process of developing a quality management system framework based on the FAO's genebank standards to ensure good quality data documentation, review, improvement and sharing of genebank operations and practices.³¹ Through this new framework, the Crop Trust and its partners in the CGIAR are creating an innovative way of building capacity through genebank operations and advance learning workshops.³² Furthermore, performance targets associated with monitoring tools, audits and reviews will be key to managing its LTGs and LPAs.³³

6. Costs vs. Benefits and the Efficiency of the Trust and Impact, including research and innovation

As mentioned above, the equity of the Endowment Fund currently exceeds total contributions, speaking to the strength of the investment approach from the Executive Board. The benefits versus cost of *ex situ* conservation can be significant, with the Crop Trust estimating a financial cost of \$725 to, 'conserve a single crop variety in an international collection, forever.'³⁴ In terms of the potential impact of such conservation, while this is difficult to estimate in monetary terms, the Crop Trust cites the example of 'a single variety of potato bred using material conserved at the International Potato Center (CIP) genebank, provided an estimated USD 1 billion in value to farmers in Uganda. That's a single variety of a single crop in a single country.'³⁵

7. Key Takeaways

- The Crop Trust Endowment Fund is a model of long-term funding for public goods. Despite \$74m in withdrawals, the Fund balance is currently above the total contributions paid-in, acting as an important and stable source of funding for several globally significant collections and providing support for *ex situ* conservation of PGRFA, potentially in perpetuity;
- As the Fund is unable to provide an adequate level of funding that would be required to maintain or upgrade all existing genebanks and their infrastructure, it focuses its efforts on activities that provide global benefits in a cost-effective, efficient and sustainable manner;
- The impact of *ex situ* conservation is difficult to quantify solely in monetary terms, but there are clear benefits from such preservation;
- Growing attention to the topics of biodiversity, climate change adaptation and food security - as well as the interplay between these topics, especially as global common goods, is positive for the Crop Trust's efforts in securing further contributions to the Fund.

International Treaty for Plant Genetic Resources for Food and Agriculture's Benefit-Sharing Fund

1. Overview

The International Treaty for Plant Genetic Resources for Food and Agriculture³⁶ was adopted under the auspices of FAO in 2001 and entered into force in 2004. It has the objective of the

³¹ Stefan Schmitz and others 'Crop Diversity, its Conservation and Use for Better Food Systems' in Joachim von Braun and others (eds) 'Science and Innovations for Food Systems Transformation' (Springer, 2023) 549.

³² Stefan Schmitz and others 'Crop Diversity, its Conservation and Use for Better Food Systems' in Joachim von Braun and others (eds) 'Science and Innovations for Food Systems Transformation' (Springer, 2023) 549.

³³ Stefan Schmitz and others 'Crop Diversity, its Conservation and Use for Better Food Systems' in Joachim von Braun and others (eds) 'Science and Innovations for Food Systems Transformation' (Springer, 2023) 549.

³⁴ Crop Trust, 'What Will it Cost to Secure Global Diversity Forever?' <<https://www.croptrust.org/work/endowment-fund/what-will-it-cost-to-secure-global-diversity-forever/>> accessed on 19 July 2023.

³⁵ Crop Trust, 'What Will it Cost to Secure Global Diversity Forever?' <<https://www.croptrust.org/work/endowment-fund/what-will-it-cost-to-secure-global-diversity-forever/>> accessed on 19 July 2023.

³⁶ FAO, 'International Treaty on Plant Genetic Resources for Food and Agriculture' <<http://www.fao.org/plant-treaty/en/>> accessed on 20 July 2023.

‘conservation and sustainable use of plant genetic resources for food and agriculture and the fair and equitable sharing of the benefits arising out of their use, in harmony with the Convention on Biological Diversity, for sustainable agriculture and food security.’³⁷ There are currently 150 Contracting Parties to the Treaty.

Among other things, the Treaty established a Multilateral System of access and benefit-sharing (MLS).³⁸ The MLS covers the 35 crops and 29 forages listed in Annex I to the Treaty, which was established on the basis of the criteria of food security and interdependence. The MLS operates as a virtual common pool resource to facilitate access to these PGRFA. The MLS includes all PGRFA listed in Annex I to the Treaty that are under the management and control of Parties and in the public domain. The Treaty further encourages natural and legal persons within the Parties’ jurisdiction who hold the resources listed in Annex I to include them within the system.³⁹ The system also includes resources held in ex-situ collections by CGIAR (discussed above in respect of the Crop Trust), including non-Annex I crops that meet certain conditions.⁴⁰ A number of Contracting Parties with important genebanks share non-Annex I crops on a voluntary basis using the Standard Material Transfer Agreement of the Multilateral System. As of 30 June 2023, PGRFA holders had reported the availability of 1 313 028 accessions in the Multilateral System.⁴¹

Under the Treaty, facilitated access to PGRFA in the MLS is considered a benefit in itself. The Treaty also states that the benefits from the use of PGRFA under the MLS shall be shared fairly and equitably through a number of mechanisms, namely exchange of information, access to and transfer of technology, capacity-building, and the sharing of the benefits arising from commercialization.

Monetary benefits arising from commercialization flow into a multilateral Benefit-Sharing Fund described further below.⁴²

2. **Accrual of funds**

The Benefit-Sharing fund (BSF) of the ITPGRFA became operational in 2009.⁴³ The BSF is under the direct control of the Governing Body of the ITPGRFA.⁴⁴ The BSF has been described as an ‘evolving mechanism’⁴⁵ and, as noted above, receives monetary benefits upon the commercialisation of a product that is PGRFA, and which incorporates material from the MLS.⁴⁶

In terms of the operationalisation of monetary benefits, exchanges of Annex I PGRFA materials take place pursuant to a standardised material transfer agreement (SMTA), a private law contract

³⁷ International Treaty on Plant Genetic Resources for Food and Agriculture, (adopted on 3 November 2001, entered into force 29 June 2004) 2400 UNTS I-43345, Article 1.1.

³⁸ The Secretariat of the International Treaty recently published an educational module on the Multilateral System functions which provides an overview of the legal and historical perspectives that lead to the development of the Multilateral System and the list of Annex I crops and illustrates the core concepts and articles of Multilateral System. It contains an extensive list of resources and references for further reading and learning. It has been designed to contribute to supporting the implementation of the International Treaty and also the Post-2020 Global Biodiversity Framework. <https://www.fao.org/documents/card/en/c/cb7984en>.

³⁹ International Treaty on Plant Genetic Resources for Food and Agriculture, (adopted on 3 November 2001, entered into force 29 June 2004) 2400 UNTS I-43345, article 11 (3).

⁴⁰ International Treaty on Plant Genetic Resources for Food and Agriculture, (adopted on 3 November 2001, entered into force 29 June 2004) 2400 UNTS I-43345, article 11 (5).

⁴¹ <https://www.fao.org/3/nn216en/nn216en.pdf>.

⁴² International Treaty on Plant Genetic Resources for Food and Agriculture, (adopted on 3 November 2001, entered into force 29 June 2004) 2400 UNTS I-43345, Article 19.3.f.

⁴³ See Resolution 1/2006.

⁴⁴ FAO, ‘Resolution 3/2019: Implementation of Updated Funding Strategy of the International Treaty 2020-2025 (November 2019), 10.

⁴⁵ FAO, ‘Resolution 3/2019: Implementation of Updated Funding Strategy of the International Treaty 2020-2025 (November 2019), Annex 2, para 2.

⁴⁶ SMTA; Morten Walløe Tvedt. ‘A Contract-Law Analyses of the SMTA of the Plant Treaty: Can it Work as a Binding Contract?’ (2021) 24 J World Intellect Prop, 83– 99.

agreed upon by the Governing Body to the ITPGRFA after the Treaty's entry into force.⁴⁷ The SMTA specifies the situations when monetary benefit-sharing upon commercialization is required and elaborates the percentages to be shared. The SMTA also specifies situations when monetary benefit-sharing upon commercialization is encouraged but not required.

Monetary benefit-sharing is **required** when a user commercialises a product that is PGRFA and that incorporates material from the MLS and where the product is **not** available without restriction to others for further research and breeding.⁴⁸ The availability of a product would be restricted if, for example, it was patented.⁴⁹ In this situation, the user has the choice of two *alternate* options for sharing:

- **The default option:** payment of 1.1 % on the sales of a product that incorporates PGRFA from the MLS, less thirty percent (30%)⁵⁰ i.e., 0.77%⁵¹; or
- **The alternate option:** payment of 0.5 % of the sales of any products that are PGRFA and belong to the same crop, irrespective of whether the product is available without restriction or indeed, 'regardless of whether the products incorporate the material accessed.'⁵²

Monetary benefit-sharing is **encouraged** when a recipient commercialises a product that is PGRFA and that incorporates material from the MLS and where the product is available without restriction to others for further research and breeding.⁵³ A product would be considered to be available without restriction for further research and breeding if, for example, it was protected by plant breeders' rights under UPOV. This provision for encouraging but not requiring monetary benefit-sharing has not proven successful. Indeed, voluntary payments by the seed industry are unreliable and do not result in a level playing field, a point explored further below.

Monetary benefits under the above arrangements are shared multilaterally to the BSF, with such a multilateral, decoupled, and pooled arrangement having the advantage of reducing the transaction costs associated with bilateral agreements.⁵⁴ The ITPGRFA emphasises that, 'benefits arising from the use of plant genetic resources for food and agriculture that are shared under the Multilateral System should flow *primarily, directly and indirectly, to farmers in all countries, especially in developing countries, and countries with economies in transition*, who conserve and sustainably utilize plant genetic resources for food and agriculture (emphasis added).'⁵⁵

The experience to date, however, has been that the BSF is heavily reliant on voluntary contributions from Contracting Parties and others. By 2022, user-based fees totalled \$391,721 or 1.26% of funds accruing to the BSF.⁵⁶ The rest of the BSF's funds were accrued by way of voluntary contributions from Contracting Parties, the private sector, other international mechanisms and non-governmental organisations. This includes Norway's innovative payment of 0.1% of national seed

⁴⁷ See Morten Walløe Tvedt, 'A Contract-Law Analyses of the SMTA of the Plant Treaty: Can it Work as a Binding Contract?' (2021) 24 J World Intellect Prop, 83–99; Elsa Tsioumani, 'Fair and Equitable Benefit-Sharing in Agriculture: Reinventing Agrarian Justice (Routledge, 2021) 17.

⁴⁸ SMTA, Article 6.7.

⁴⁹ Elsa Tsioumani, 'Fair and Equitable Benefit-Sharing in Agriculture: Reinventing Agrarian Justice (Routledge, 2021) 17.

⁵⁰ This figure is to cover expenses; see Elsa Tsioumani, 'Fair and Equitable Benefit-Sharing in Agriculture: Reinventing Agrarian Justice (Routledge, 2021) 17-18.

⁵¹ See SMTA, Annex 2.

⁵² Elsa Tsioumani, 'Fair and Equitable Benefit-Sharing in Agriculture: Reinventing Agrarian Justice (Routledge, 2021) 18

⁵³ SMTA, Art. 6.8.

⁵⁴ E W Welch et al, Potential Implications of New Synthetic Biology and Genomic Research Trajectories on the International Treaty for Plant Genetic Resources for Food and Agriculture (Secretariat of the International Treaty on PGRFA, 2017), 4.

⁵⁵ International Treaty on Plant Genetic Resources for Food and Agriculture, (adopted on 3 November 2001, entered into force 29 June 2004) 2400 UNTS I-4334, Article 13.3.

⁵⁶ ITPGRFA Secretariat, 'The Benefit Sharing Fund: 2020-2021 Report' (FAO, 2022).

sales as well as its seed licensing platform which generated \$1,494,204 or 4.81% of BSF funds.⁵⁷ In addition, the French seed sector has in the past provided annual voluntary contributions.⁵⁸

The current BSF Manual, which is regularly reviewed by the Governing Body, stipulates that user-based contributions may not be earmarked. By contrast, voluntary contributions can be earmarked, though in respect of such earmarked contributions, these are tasked to be, ‘kept under regular review by the Governing Body in accordance with Resolution 3/2017 given the implications of such earmarking, to ensure that there are not adverse effects on the Fund.’⁵⁹ No donors made any earmarking for the most recent funding cycle of the BSF.

Given the very low levels of user-based payments to the BSF, sustainability and predictability of financing levels has been a particular concern of the Governing Body of the Treaty. There are numerous reasons to explain the low level of such payments, including the (slow) speed of plant breeding; the availability of material, and type of material; alternative sources of materials, avoidance of MLS material and the problem of voluntary payments, the imbalance of payment rates between options, and transaction costs for receivers.⁶⁰

With regard to the slow speed of plant breeding, it has been stated that ‘(t)he lengthy time-period required for research, development and commercialization partly explains the failure to generate and share commercial benefits from the SMTA.’⁶¹ Indeed, the first user-based payment did not take place until mid-2018, and was based on a voluntary use of the SMTA for a non-Annex I crop and experts argue this is a requirement set out in national legislation rather than due to the commercialisation of a variety within the MLS.⁶²

As concerns avoidance of MLS material, users can often access genetic resources of the crops and forages listed in Annex I from sources that do not require an SMTA, e.g., from non-Parties to the Treaty or from private collections. A related issue is the fact that major commercial crops such as coffee and soybeans are excluded from the MLS, thereby reducing the potential for monetary benefit-sharing.⁶³ However, as noted by Frison and others, the political reality during the Treaty negotiations was such that the text might never have been agreed upon if all PGRFA was included within the scope of the MLS.⁶⁴

Finally, a simple games theory analysis identifies the problems with reliance on voluntary payments, in particular the lose–lose scenario where no commercial entity can afford to make the first payment, which would impact upon its competitiveness, and result in there not being a level playing field.⁶⁵

Challenges with benefit-sharing under the Treaty have led to a process to enhance the functioning of the MLS. This is described further in section 7 below.

⁵⁷ ITPGRFA Secretariat, ‘The Benefit Sharing Fund: 2020–2021 Report’ (FAO, 2022) 44.

⁵⁸ FAO, Evaluation of the Third Project Cycle of the Benefit-Sharing Fund of the International Treaty on the Plant Genetic Resources for Food and Agriculture (FAO,2022).

⁵⁹ FAO, ‘Resolution 3/2019: Implementation of Updated Funding Strategy of the International Treaty 2020–2025 (November 2019) 18.

⁶⁰ ITPGRFA Secretariat, ‘First Meeting of the Ad Hoc Open-Ended Working Group to Enhance the Functioning of the Multilateral System’ (13–16 May 2014) IT/OWG_EFMLS-1/14/3.

⁶¹ Elsa Tsioumani, ‘Beyond Access and Benefit-Sharing: Lessons from the Law and Governance of Agricultural Biodiversity’ (2018) 21 J World Intellect Prop 106– 122.

⁶² Elsa Tsioumani, *Fair and Equitable Benefit-Sharing in Agriculture: Reinventing Agrarian Justice* (Routledge, 2021) 19.

⁶³ Elsa Tsioumani, ‘Beyond Access and Benefit-Sharing: Lessons from the Law and Governance of Agricultural Biodiversity’ (2018) 21 J World Intellect Prop 106– 122.

⁶⁴ Christine Frison, Tom Dedeurwaerdere and Michael Halewood, ‘Intellectual Property and Facilitated Access to Genetic Resources Under the International Treaty on Plant Genetic Resources for Food and Agriculture’ (2010) 32 European Intellectual Property Review.

⁶⁵ ITPGRFA Secretariat, ‘First Meeting of the Ad Hoc Open-Ended Working Group to Enhance the Functioning of the Multilateral System’ (13–16 May 2014) IT/OWG_EFMLS-1/14/3.

In addition to the sharing of monetary benefits, the SMTA also requires sharing of certain non-monetary benefits. It specifies that recipients are to make available ‘all non-confidential information that results from research and development carried out on the (relevant MLS) material’ and are ‘encouraged to share all non-confidential information’ resulting from such research and development, as well as to share non-monetary benefits. Once any period of restriction over the product has expired, they are also encouraged to place a sample of the relevant product in a collection part of the MLS.⁶⁶

3. Governance

The Treaty establishes a Governing Body which generally meets once every two years to adopt decisions to guide implementation of the Treaty. The Governing Body is composed of all Contracting Parties to the Treaty.⁶⁷ The BSF comes under the direct control of the Governing Body. An Operations Manual for the Benefit-Sharing Fund was welcomed by the Governing Body at its eighth session held in 2019. The Operations Manual provides that the Governing Body delegates its authority for the operations of the BSF during the biennium between sessions of the Governing Body to the Standing Committee on the Funding Strategy and Resource Mobilization (Funding Committee).⁶⁸ The Funding Committee has representation from all FAO regions.⁶⁹ As set out below, an independent panel of experts assists with screening and review of funding proposals (see discussion under Disbursement Criteria).

The Governing Body makes decisions regarding the BSF by understanding the wider funding landscape on PGRFA and using BSF in a catalytic and focused manner. It does not intend to fill all funding needs of the Treaty through the BSF.

In terms of monitoring and review of fund processes, a new Monitoring, Evaluation and Learning framework of the BSF was finalized by the Funding Committee in 2021.⁷⁰ The Monitoring, Evaluation and Learning framework includes the ‘BSF Results Framework’ with an impact, an outcome and three outputs.⁷¹ A set of indicators support monitoring of how PGRFA are managed on-farm and *in situ*, and also how non-monetary benefit-sharing is being generated in the form of capacity-building, information-sharing and co-development and transfer of technologies. The strengthening of local value chains, in particular local seed and food systems is prioritized, as well as the mechanisms to share PGRFA materials, data and knowledge.

The Monitoring, Evaluation and Learning framework addresses a number of key approaches to monitoring, including establishing baselines, risk management, technical monitoring with a focus on the output level, monitoring at the outcome level including assessing the benefits for farmers, financial monitoring and monitoring tools. The Monitoring, Evaluation and Learning Framework recognises that monitoring of previous cycles under the BSF had been strong on achievement of technical outputs, but a more systemic approach was needed for monitoring at the programme outcome level. Part of the purpose of the Monitoring, Evaluation and Learning framework is to correlate outputs to enable monitoring at the outcome level.⁷²

⁶⁶ SMTA, Article 6.9.

⁶⁷ Art. 19.1.

⁶⁸ FAO, ‘Resolution 3/2019: Implementation of Updated Funding Strategy of the International Treaty 2020-2025 (November 2019), 19.

⁶⁹ ITPGRFA Secretariat, ‘The Benefit Sharing Fund: 2020-2021 Report’ (FAO, 2022) 38.

⁷⁰ ITPGRFA Standing Committee, ‘Fourth Meeting of the Standing Committee on the Funding Strategy and Resource Mobilization’ (20-22 September 2021) IT/GB-9/SFC-4/21/Proceedings.

⁷¹ ITPGRFA Standing Committee, ‘Fourth Meeting of the Standing Committee on the Funding Strategy and Resource Mobilization’ (20-22 September 2021) IT/GB-9/SFC-4/21/Proceedings, 25.

⁷² ITPGRFA Standing Committee, ‘Fourth Meeting of the Standing Committee on the Funding Strategy and Resource Mobilization’ (20-22 September 2021) IT/GB-9/SFC-4/21/Proceedings, 19.

4. Disbursement Criteria and Processes under the Fund with consideration of and the Efficiency and Impact of the Fund

Funds from the BSF are disbursed on a competitive basis to individual projects aligning to pre-identified programmatic objectives.⁷³ These objectives are in line with the agreed priorities of the Second Global Plan of Action for the Conservation and Sustainable Utilization of Plant Genetic Resources for Food and Agriculture. In this regard, ‘the programmatic approach of the Benefit-sharing Fund specifically focuses on: (a) Priority area 2: Supporting on-farm management and improvement of plant genetic resources for food and agriculture, and; (b) Priority area 11: Promoting development and commercialization of all varieties, primarily farmers’ varieties/landraces and underutilized crops.’

Five calls for projects under the BSF have been made to date with each call incorporating different objectives and criteria.⁷⁴ An operational manual for the use of resources under the Benefit-Sharing Fund sets out that these are to be based on the following principles; ‘(T)ransparency and impartiality; Simplicity and accessibility; Efficiency and effectiveness; Quality and technical merit.’⁷⁵ Project proposals are ‘screened and appraised by an independent panel of experts representing each of the seven FAO regions.’⁷⁶

According to its last annual report, published in 2022, the BSF has invested ‘26 million USD in 81 projects in 67 developing countries (with a) focus on supporting on-farm management and improvement of crop varieties, on-farm and in situ conservation, farmer-to-farmer exchanges, local seed value chains, and a better flow of PGRFA from ex situ collections to farmers and back.’⁷⁷

Different sources have provided different commentary on experience with funding from the BSF.

Regarding the project-based approach, one review noted that that the BSF’s adoption of a ‘competitive project-based approach can be perceived as unfair and causes frictions between States. The competitive approach to receiving the funds can disadvantage applicants with less capabilities, undermining the goal of equitable benefit sharing.’⁷⁸ Similarly, Tsioumani has opined that it is at least questionable whether the, ‘competitive project-based approach is appropriate to meet challenges related to distributional equity, the public value of PGRFA and the required cooperation among different States and actors to address food security concerns.’⁷⁹ The Treaty has, however, responded to these criticisms in different ways. The BSF Manual adopted by the Governing Body in 2019, for example, enables new modalities of fund allocation that do not require a competitive call for proposals. Farmer organizations have been able to gain access to funding, including capacity building activity and a support desk. The BSF-5 portfolio contains a higher number of under-represented countries than in previous BSF project cycles, and 75% of the recommended project proposals are led and directly executed by national organizations.

⁷³FAO, ‘Resolution 3/2019: Implementation of Updated Funding Strategy of the International Treaty 2020-2025 (November 2019), Annex 2, para 2; FAO, ‘Resolution 3/2019: Implementation of Updated Funding Strategy of the International Treaty 2020-2025 (November 2019), Annex 2, paras 4-8.

⁷⁴ Gea Galluzzi, Isabel Lopez Noriega, and Michael Halewood, ‘Non-Monetary Benefit Sharing Mechanisms Within the Projects Funded by the Benefit Sharing Fund’ (FAO, 2014).

⁷⁵ FAO, ‘Resolution 3/2019: Implementation of Updated Funding Strategy of the International Treaty 2020-2025 (November 2019), 19.

⁷⁶ ITPGRFA Secretariat, ‘The Benefit Sharing Fund: 2020-2021 Report’ (FAO, 2022) 38.

⁷⁷ FAO, ‘The Benefit Sharing Fund: 2020-2021 Report’ (FAO, 2022).

⁷⁸ ICF Consulting Services Limited, Digital Sequence Information (DSI): lessons from multilateral mechanisms - Final report (Job Number 30302584, 2021), 14.

⁷⁹ Elsa Tsioumani, ‘Beyond Access and Benefit-Sharing: Lessons from the Law and Governance of Agricultural Biodiversity’ (2018) 21 J World Intellect Prop 106–122; drawing on Selim Louafi, ‘Reflections on the Resource Allocation Strategy of the Benefit Sharing Fund: Policy Brief’ (Swiss Federal Office for Agriculture, 2013).

Geographical representation has been a challenge in different project cycles of the BSF, with different regions or subregions being relatively underrepresented in different project cycles.⁸⁰

In 2022, an independent evaluation of the third cycle of the Benefit-sharing Fund (BSF-3) included findings on the following:

- **Effectiveness:** For a relatively small amount of money, the BSF 3 significantly contributed to the overall objectives of the Benefit-sharing Fund. Effectiveness.
- **Efficiency:** BSF 3 provided an effective and reasonably efficient funding modality. In effect, the BSF 3 enabled the funding and implementation of a number of relatively small and diverse but critical PGRFA interventions, which otherwise would not have been possible to be funded individually by major donors. BSF-3 was efficiently designed and well executed from the call for proposals, selection and approval processes. The checks and balances in project selection and approval process were rigorous.
- **Sustainability:** It is too early to assess the sustainability of the individual projects' activities and outcomes. Nevertheless, there were promising indications though there's a need to manage risks in a more systematic approach. The Monitoring, Learning and Evaluation Framework has addressed this matter already.⁸¹

As should be clear, projects funded by the BSF include both monetary and non-monetary benefits, the latter being in the form, for example, of training and information.⁸² Project partners for example have built capacities to use several tools available to support the Global Information System. More than 26 000 Digital Object Identifiers have been assigned to PGRFA in projects, helping to provide access to information on seeds and other crop material for research, training, and plant breeding.⁸³ It has, however, been argued that, '(s)uch non-monetary benefits are being generated and shared despite the fact that Parties' obligations to share non-monetary benefits are linked to other mechanisms and not to the Benefit-sharing Fund, directly blurring the lines between monetary and non-monetary benefit-sharing and highlighting the close interlinkages between relevant mechanisms (reference omitted).'⁸⁴ It is, however, the case that in real terms, the boundaries between monetary and non-monetary benefits are often blurred, a fact not unique to the ITPGRFA.

The Benefit-sharing Fund facilitates cooperation among a wide range of stakeholders. The Fund has established partnerships among more than 500 institutions, including farmers' organizations, national and international research centres, non-governmental organizations, universities and others.

In respect of non-monetary benefits, 'a milestone in the Operational Plan for the Funding Strategy 2020-2025 refers to the development of a methodology for measuring non-monetary benefit-sharing during the biennium 2022-2023.'⁸⁵ The Funding Committee has, 'recommended that the Secretariat follow a broad and inclusive approach to non-monetary benefit-sharing so as to reflect

⁸⁰ FAO, Evaluation of the Third Project Cycle of the Benefit-Sharing Fund of the International Treaty on the Plant Genetic Resources for Food and Agriculture (FAO, 2022), xi. It was noted in the Evaluation (at p17) that, 'While the intraregional distribution of projects was not a BSF 3 criterion, a number of experts from Africa stated that the call for proposals was at times difficult to interpret and adapt to their regional needs.' However, as noted in the main text to this study, the BSF-5 portfolio contains a higher number of under-represented countries than previous cycles. ITPGRFA Standing Committee, 'Seventh Meeting of the Standing Committee on the Funding Strategy and Resource Mobilization' (2-5 May 2023) 3.

⁸¹ FAO, Evaluation of the Third Project Cycle of the Benefit-Sharing Fund of the International Treaty on the Plant Genetic Resources for Food and Agriculture (FAO, 2022) 15-16.

⁸² Elsa Tsioumani, 'Beyond Access and Benefit-Sharing: Lessons from the Law and Governance of Agricultural Biodiversity' (2018) 21 J World Intellect Prop 106– 122.

⁸³ ITPGRFA Secretariat, 'The Benefit Sharing Fund: 2020-2021 Report' (FAO, 2022) 31.

⁸⁴ Elsa Tsioumani, 'Beyond Access and Benefit-Sharing: Lessons from the Law and Governance of Agricultural Biodiversity' (2018) 21 J World Intellect Prop 106– 122.

⁸⁵ ITPGRFA Standing Committee, 'Seventh Meeting of the Standing Committee on the Funding Strategy and Resource Mobilization' (2-5 May 2023) 6.

facilitated access to germplasm and other benefit-sharing practices beyond the three categories listed under Article 13.2.⁸⁶

5. **Costs versus Benefits**

As noted above, a key consideration for the operation of the BSF has been the sustainability of its financing model. Its heavy reliance upon donations has resulted in numerous discussions on reform to the funding model. While discussions on this are ongoing, it is worth noting that while the sustainability of the current funding supporting the BSF is obviously questionable, it must also be acknowledged that, '(t)he entire costs of conservation and sustainable use of PGRFA was never meant to be paid for solely by funds raised through the operation of the mandatory financial benefit sharing provisions of the Treaty/SMTA.'⁸⁷ As stated above for BSF-3, the independent evaluators argued that for a relatively small amount of money, the BSF 3 significantly contributed to the overall objectives of the Benefit-Sharing Fund.

6. **Research and Innovation**

The promotion of research and innovation in relation to PGRFA is central to the achievement of the goals of the Treaty. This has been reflected in, inter alia, the inclusion of measurements of data on PGRFA made publicly available and measurements of analysis and research published as an indicator under the Monitoring, Evaluation and Learning framework.

7. **Process to enhance the functioning of the Multilateral System**

The above describes the current situation regarding the operations of BSF of the Treaty. Given the disappointing level of returns from user-based payments and the common aim of having sustainable and predictable user-based income, in 2013, a process was launched, focused on ways to enhance the functioning of the MLS and of benefit-sharing therein.⁸⁸ A series of proposals were advanced under this, including expansion of the PGRFA held under the MLS and amendments to the SMTA to include, among other things, introduction of a subscription system for access to PGRFA in the MLS. DSI also became a key part of the issues under consideration in the negotiations.

These discussions culminated in the development of the so-called draft June 2019 'package';⁸⁹ however, the Eighth Session of the Governing Body of the Treaty was unable to reach agreement on the package and the changes were not adopted. The process to enhance the functioning of the Multilateral System was re-launched at the Ninth Session of the Governing Body. A progress report on the process will be considered by the Tenth Session of the Governing Body to be held from 20 to 24 November 2023.

The introduction of a subscription system is a central element to the June 2019 draft package, in part due to the fact that as far as, 'monetary benefits are concerned, the adoption of the subscription system would de facto dissolve the distinction between DSI and the material genetic resources.'⁹⁰ The aims and key features of the subscription system set out in the June 2019 package are numerous; 'to keep the administrative burden and costs at a minimum, guarantee *legal certainty and transparency*,

⁸⁶ ITPGRFA Standing Committee, 'Seventh Meeting of the Standing Committee on the Funding Strategy and Resource Mobilization' (2-5 May 2023) 6.

⁸⁷ Christine Frison, Tom Dedeurwaerdere and Michael Halewood, 'Intellectual Property and Facilitated Access to Genetic Resources Under the International Treaty on Plant Genetic Resources for Food and Agriculture' (2010) 32 European Intellectual Property Review.

⁸⁸ ITPGRFA Governing Body, 'Resolution 2/2013 Implementation of the Funding Strategy of the International Treaty' (24-28 September 2013) 3-5.

⁸⁹ ITPGRFA Secretariat, 'Ninth Meeting of the Ad Hoc Open-Ended Working Group to Enhance the Functioning of the Multilateral System' (17-21 June 2019) IT/OWG_EFMLS-9/19/Interim Report.

⁹⁰ Elisabetta Gotor, Francesco Caracciolo and F. Scafetti, 'On the International Flow of Plant Genetic Resources: Forecasting the Impacts of an Evolving Legal Framework on CGIAR Genebanks' (Bioversity International, 2019), footnote 11; ITPGRFA Secretariat, 'Tenth Meeting of the Ad Hoc Open-Ended Working Group to Enhance the Functioning of the Multilateral System' (12-14 July 2023) IT/OWG_EFMLS-10/23/4.

avoid the need for tracking and tracing, make the flow of income to the Benefit-sharing Fund more predictable and sustainable, in particular through upfront benefit-sharing payments⁹¹, provide access to all germplasm covered by the Multilateral System, and link the benefit-sharing payments to the sales of all PGRFA products of the subscriber.⁹² However, it is also recognised that should a subscription system be introduced, consideration must be given to the particular situation of, ‘rights of farmers and indigenous communities to conserve, exchange and use the Material that is available in the Multilateral System are preserved; and (also that) the public institutions involved in research and breeding in the developing countries are exempted from any payment obligations arising out of access and use of Material from Multilateral System.’⁹³

8. Key Takeaways

Clearly there is much to learn from the experiences of the ITPGRFA and the operation of the BSF in respect of monetary benefit-sharing, as well as discussions to update and improve the current system.

- The length of time required for development and commercialisation partly explains the failure to generate and share commercial benefits from the SMTA. Commercialisation takes time, and user-based fees that depend on commercialisation will not immediately produce reliable monetary benefits;
- Voluntary payments within benefit-sharing schemes proved to be unreliable and do not result in a level playing field;
- Monetary benefit-sharing options triggered by restrictions in further use of a product as is the case for the default option under the ITPGRFA SMTA, should be carefully reflected upon.
- Funds accrued under the BSF have been used to finance activities connected with the delivery of non-monetary benefit-sharing, demonstrating the fuzzy characteristics of what constitutes monetary and non-monetary benefits since the latter inevitably requires funding to produce.
- An iterative approach to benefit-sharing and the continuous evolution of the Benefit-sharing Fund has enabled the Treaty to gain experience in this complex area and improve the engagement and ownership by all players in the Treaty community.

World Health Organisation’s Pandemic Influenza Preparedness Framework

1. Overview

The World Health Organizations (WHO)’s Pandemic Influenza Preparedness (PIP) Framework is an access and benefit-sharing (ABS) soft law instrument adopted by the WHO’s World Health Assembly in 2011, to promote the “fair, transparent, equitable, efficient, and effective system for, on an equal footing: (i) the sharing of H5N1 and other influenza viruses with human pandemic potential; and (ii) access to vaccines and sharing of other benefits, such as diagnostics and antivirals.”⁹⁴ In essence, the central goal of the PIP Framework is to establish a, ‘fair, transparent, equitable, efficient, effective system’⁹⁵ which puts the sharing of influenza viruses with human pandemic potential (IVPP) on an equal footing with access to vaccines and the sharing of other benefits.⁹⁶

⁹¹ On this point, see F Rabitz, ‘Access without benefit-sharing: design, effectiveness and reform of the FAO seed treaty’ (2017) 11 Int. J. Commons 621.

⁹² ITPGRFA Secretariat, ‘Tenth Meeting of the Ad Hoc Open-Ended Working Group to Enhance the Functioning of the Multilateral System’ (12-14 July 2023) IT/OWG_EFMLS-10/23/4, 6.

⁹³ ITPGRFA Secretariat, ‘Ninth Meeting of the Ad Hoc Open-Ended Working Group to Enhance the Functioning of the Multilateral System’ (17-21 June 2019) IT/OWG_EFMLS-9/19/Interim Report.

⁹⁴ World Health Organization (WHO), ‘Pandemic Influenza Preparedness Framework’ (WHO, 2011) p.6.

⁹⁵ WHO, ‘Pandemic Influenza Preparedness Framework’ (WHO, 2011) p.6.

⁹⁶ WHO, ‘Pandemic Influenza Preparedness Framework’ (WHO, 2011) p.6.

2. Operation, access and benefit-sharing

In terms of the operation of the PIP Framework, Member States are expected to share PIP biological material (BM) through the Global Influenza Surveillance and Response System (GISRS), a global network of public health laboratories.⁹⁷ An Influenza Virus Tracking Mechanism (IVTM) tracks transfers of PIP BM, essential to surveillance and public health response, ‘into, within, and out of the WHO GISRS.’⁹⁸ The GISRS functions under WHO terms of reference,⁹⁹ and transfers of PIP BM between GISRS collaborating institutions are governed by a Standard Material Transfer Agreement 1 (SMTA1).¹⁰⁰ Benefit-sharing obligations do not affix to transfers under SMTA1, nor should intellectual property rights be asserted on PIP BM by either provider or recipient of PIP BM under SMTA1.¹⁰¹

In respect of PIP BM transferred *out of the* GISRS system, these are regulated by a Standard Material Transfer Agreement 2 (SMTA2) negotiated by WHO with the recipients of such materials. In exchange for receiving PIP BM, recipients are required to conclude an SMTA2 and commit to providing benefits that are selected from pre-defined lists of options set out in Annex 2 to the PIP Framework. The options differ depending upon the nature and capacity of the recipient of the PIP BM with the Framework dividing recipients into three categories;¹⁰² a) vaccine and antiviral manufacturers; b) manufacturers of other pandemic related products such as diagnostics; and c) all other recipients including Universities, biotech companies and research institutions.¹⁰³

Vaccine and antiviral manufacturers (category A of SMTA2) must select and commit to at least two benefit-sharing options from a list of six possible options. These include, for example, donating 10% of real time pandemic vaccine production in the event of an outbreak of pandemic influenza,¹⁰⁴ or reserving at least 10% of real time pandemic production for purchase by WHO at an affordable price. Manufacturers of other products relevant to pandemic preparedness and response such as manufacturers of diagnostics (category B), must choose one benefit-sharing option from a list of six that includes providing diagnostic kits to WHO in the event of a pandemic, or reserving for WHO a certain number of diagnostic kits for purchase at a price affordable to WHO. All other recipients of PIP BM outside of the GISRS system (category C) shall ‘*consider providing benefits*’ from the range of options applicable to manufacturers (under categories A and B) as well as from a list which includes, for example, technology transfer, the granting of sublicenses to the WHO as well as capacity building. The IVTM operates as a traceability mechanism to track and trace the transfer of PIP BM.

A full list of the benefit-sharing options under SMTA2 is set out below.

⁹⁷ WHO, ‘Pandemic Influenza Preparedness Framework’ (WHO, 2011) Section 5.1.1, ‘Member States, through their National Influenza Centres and Other authorized laboratories, should in a rapid, systematic and timely manner provide PIP biological materials from all cases of H5N1 and other influenza viruses with human pandemic potential, as feasible, to the WHO Collaborating Centre on Influenza or WHO H5 Reference Laboratory of the originating Member State’s choice.’

⁹⁸ WHO, ‘Pandemic Influenza Preparedness Framework’ (WHO, 2011) Section 5.1.3.

⁹⁹ WHO, ‘Pandemic Influenza Preparedness Framework’ (WHO, 2011) Section 7.3 and Annex 4.

¹⁰⁰ WHO, ‘Pandemic Influenza Preparedness Framework’ (WHO, 2011), Section 5.4.1 and Annex 1.

¹⁰¹ WHO, ‘Pandemic Influenza Preparedness Framework’ (WHO, 2011), Annex 1, Article 6.1.

¹⁰² WHO, ‘What is an SMTA2?’ <[https://www.who.int/initiatives/pandemic-influenza-preparedness-framework/standard-material-transfer-agreement-2-\(smta2\)](https://www.who.int/initiatives/pandemic-influenza-preparedness-framework/standard-material-transfer-agreement-2-(smta2))> accessed on 8 October 2023.

¹⁰³ WHO, ‘What is an SMTA2?’ <[https://www.who.int/initiatives/pandemic-influenza-preparedness-framework/standard-material-transfer-agreement-2-\(smta2\)](https://www.who.int/initiatives/pandemic-influenza-preparedness-framework/standard-material-transfer-agreement-2-(smta2))> accessed on 8 October 2023.

¹⁰⁴ WHO, ‘Pandemic Influenza Preparedness Framework’ (WHO, 2011) Annex 2.

	CATEGORY A (Select 2/6)	CATEGORY B (Select 1/6)	CATEGORY C (Consider)
1	Donate % of real-time vaccine production to WHO	Donate diagnostic kits to WHO	Consider contributing to the measures listed below, as appropriate: <ul style="list-style-type: none"> • Donations of vaccines; • Donations of pre-pandemic vaccines; • Donations of antivirals; • Donations of medical devices; • Donations of diagnostic kits; • Affordable pricing of pandemic products; • Transfer of technology and processes; • Granting of sublicenses to WHO; • Laboratory and surveillance capacity building.
2	Reserve % of real-time vaccine production at affordable pricing to WHO	Reserve diagnostic kits at affordable pricing to WHO	
3	Donate antivirals to WHO	Support laboratory and surveillance capacity strengthening	
4	Reserve antivirals at affordable pricing to WHO	Support transfer of technology, know-how and/or processes	
5	License on technology, know-how, processes or products needed for the production of influenza vaccines, antivirals or adjuvants to developing country manufacturers, on mutually-agreed fair terms	License on technology, know-how, processes or products needed for the production of influenza vaccines, antivirals or adjuvants to developing country manufacturers, on mutually-agreed fair terms	
6	Royalty-free license to developing country manufacturers or WHO for production of influenza vaccines, antivirals or adjuvants	Royalty free license to developing country manufacturers or WHO for production of influenza vaccines, antivirals or adjuvants	

(Figure reproduced from WHO, Standard Material Transfer Agreements (SMTA2), available at <https://www.who.int/initiatives/pandemic-influenza-preparedness-framework/standard-material-transfer-agreement-2-%28smta2%29>)

3. Funding

The Partnership Contribution (PC) is the ‘sustainable and innovative financing mechanism of the Framework’; it is an annual cash contribution made by vaccine, diagnostic and pharmaceutical manufacturers that use the Global Influenza Surveillance and Response System. Section 6.14.4 of the PIP Framework directs those funds under the PC be used for “improving pandemic preparedness and response, inter alia, for conducting burden of disease studies, strengthening laboratory and surveillance capacity, access and effective deployment of pandemic vaccines and antiviral medicines”. The PIP Framework sets out that the ‘sum of the annual contributions shall be equivalent to 50% of the running costs of the WHO GISRS [...] (with the) distribution between companies (to be) based on transparency and equity, based on their nature and capacities.’¹⁰⁵ That amount is currently set at \$28 million which is 50% of the total GISRS running cost, as estimated in 2010. The Framework specifies that such costs “may change over time and the partnership contribution will change accordingly.” The specific amount due from each by contributor is determined each year according to standard operating procedures¹⁰⁶ developed in 2013 by WHO, in consultation with manufacturer associations.

In the 2016 Report of the PIP Framework Review Group, it was noted that the ‘running costs for GISRS have increased since 2010’ as a result of the initial estimate being based on little information and not containing all the running costs; such as those associated with training,

¹⁰⁵ WHO, ‘Pandemic Influenza Preparedness Framework’ (WHO, 2011) Section 6.14.3; World Health Organization, ‘PIP Partnership Contributions (2012-2023) <https://cdn.who.int/media/docs/default-source/pip-framework/partnership-contribution/pc-collection/pc-total-contributions.pdf?sfvrsn=a4d30a76_43> accessed on 8 October 2023.

¹⁰⁶ WHO, ‘Partnership Contribution Standard Operating Procedures’ (June 2015).

accreditation, utilities, depreciation of equipment and in-kind contributions, amongst other things. There are also more laboratories in the GISRS network now than' at that time.¹⁰⁷

Noticeably, SMTA 2 constitutes a private law contract between the WHO and the recipient of PIP biological materials while the PC system is not legally binding and there are no enforcement mechanisms available to WHO beyond skilful negotiation and the potential embarrassment for a company of public exposure.¹⁰⁸ In this respect, the WHO's Partnership Contribution differs from proposals under the ITPGRFA for a subscription system as the latter could potentially be tied to an SMTA and hence be legally binding.

4. Governance and monitoring and evaluation

The implementation of the PIP Framework is overseen by the World Health Assembly,¹⁰⁹ which receives advice on implementation from the WHO Director-General, who is also responsible for promoting implementation of the Framework. An independent PIP Advisory Group, comprised of experts serving the WHO 'exclusively' also exists to, 'provide evidence-based reporting, assessment and recommendations regarding the functioning of the Framework.'¹¹⁰ The Advisory Group is composed of experts, 'based on equitable representation of the WHO regions and of affected countries, taking into account balanced representation between developed and developing countries.'¹¹¹ It has 18 members – three from each WHO region – 'with a skill mix of internationally recognized policy makers, public health experts and technical experts in the field of influenza'¹¹² as well as gender balance. Members serve in their personal capacity, and they do not represent their Member States. The focus is therefore on technical expertise, with no positions reserved for Indigenous Peoples or Local Communities.

Arrangements for evaluation, monitoring and review are set out in section 7 of the PIP Framework. The Advisory Group is responsible for presenting an annual report to the Director-General on its evaluation of implementation¹¹³. In addition, the Director-General must, on a biennial basis, inform the WHA, through the Executive Board, of the status and progress on several specific areas of implementation including lab and surveillance capacity, status of agreements entered with industry, financial reports relevant to use of the PC, and global influenza vaccine production capacity¹¹⁴. Section 7.4.2 of the PIP Framework further directed that the PIP Framework and its annexes be reviewed in 2016. A review of the PIP was undertaken in 2016 with a number of recommendations being made, including the adoption of a "comprehensive evaluation model".¹¹⁵ Implementation progress reports are developed every 6 months to provide detailed progress on implementation against indicators or milestones of all preparedness activities¹¹⁶ under multi-year High Level Implementation Plans.

5. Disbursement Criteria and processes

Benefits secured under PIP SMTA2 are different from the funds which comprise this study, as they are neither bilateral in the sense that they do not accrue back to the 'provider' country of the relevant PIP BM, nor multilateral in the sense of monetary benefits accruing to a multilateral fund. Instead, benefits in the form of, inter alia, vaccines, will be provided to WHO through a commitment

¹⁰⁷ WHO Seventieth World Health Assembly, 'Review of the Pandemic Influenza Preparedness Framework' (10 April 2017) A70/17, p.65.

¹⁰⁸ WHO Executive Board, 'Review of the Pandemic Influenza Preparedness Framework' (29 December 2016) EB140/16, p.62.

¹⁰⁹ WHO, 'Pandemic Influenza Preparedness Framework' (WHO, 2011), Section 7.1.1.

¹¹⁰ WHO, 'Pandemic Influenza Preparedness Framework' (WHO, 2011), Section 7.1.3.(iii).

¹¹¹ WHO, 'Pandemic Influenza Preparedness Framework' (WHO, 2011), Section 7.2.2.

¹¹² WHO, 'Pandemic Influenza Preparedness Framework' (WHO, 2011), Section 7.1.

¹¹³ WHO, 'Pandemic Influenza Preparedness Framework' (WHO, 2011), Section 7.2.5.

¹¹⁴ WHO, 'Pandemic Influenza Preparedness Framework' (WHO, 2011), Section 7.4.1.

¹¹⁵ <https://www.who.int/initiatives/pandemic-influenza-preparedness-framework/partnership-contribution>.

¹¹⁶ WHO, 'PIP Framework Partnership Contribution' <<https://www.who.int/initiatives/pandemic-influenza-preparedness-framework/partnership-contribution>> accessed on 8 October 2023.

to provide 10% of real-time production when pandemic influenza vaccine production starts. To date,¹¹⁷ the WHO has signed 14 SMTA2s with vaccine and antiviral manufacturers (category A), representing approximately 420 million doses available to the WHO.¹¹⁸ While significant, an assessment of the 14 SMTAs found that, ‘all companies selected the benefits that involved donations of products and reserving products for pandemics to be sold at affordable prices to WHO, rather than benefits involving granting licences to or ownership of intellectual property rights.’¹¹⁹ The latter form of benefits would arguably be more conducive to research and development, as well as in encouraging local manufacturing. In addition, it is difficult to access agreements for private manufacturers holding confidential/proprietary or privileged information not publicly available by the WHO.¹²⁰

For the Partnership Contribution the distribution of the PC is such that ‘10% of PC Funds are allocated for the PIP Secretariat since 2013 and of the remainder, 30% are set aside for response during an influenza pandemic and 70% of funds are allocated for preparedness.’¹²¹ The response funds are kept in reserve in the event of a pandemic and most preparedness funds are allocated to ‘Laboratory and Surveillance Capacity Building’.¹²² The Partnership Contribution Independent Expert Technical Mechanism (PCITEM) – comprising eight independent experts - meets each biennium to ‘review and provide scientific and technical guidance and advice to support, improve and finalize the PC funded work plans reviews.’¹²³

6. Costs vs. Benefits and the Efficiency of PIP and Impact, including research and innovation

The PIP Framework has been praised as an integral component to global efforts to bolster pandemic preparedness¹²⁴, rebuilding trust in the sharing of IVPP BM after Indonesia had demanded guarantees on benefit-sharing to grant access to its samples in 2006/2007. The PC has been identified as particularly innovative ‘taking a new and innovative approach to private- public partnerships to build pandemic preparedness’¹²⁵ and a central mechanism to facilitating pandemic influenza preparedness.¹²⁶ Other commentators have, however, been more circumspect in respect of the operationalisation of SMTA2, which is yet to be tested, such as Rourke¹²⁷ and Eccleston-Turner¹²⁸

¹¹⁷ WHO, SMTA2 with Vaccine & Antiviral Manufacturers <https://cdn.who.int/media/docs/default-source/PIP-framework/smta2/smta2_cata_20221115.pdf?sfvrsn=5f74516c_1> accessed on 8 October 2023.

¹¹⁸ WHO, SMTA2 with Vaccine & Antiviral Manufacturers <https://cdn.who.int/media/docs/default-source/PIP-framework/smta2/smta2_cata_20221115.pdf?sfvrsn=5f74516c_1> accessed on 8 October 2023. The SMTA2 commitments are expressed as a percentage of real-time pandemic vaccine production. This is estimated to be approximately 420 million doses based on current technologies. The figures may change depending on a variety of factors.

¹¹⁹ Anthony Rizk and others, ‘Everybody Knows This Needs to be Done, but Nobody Really Wants to do it: Governing Pathogen and Benefit Sharing (PBS)’ (Geneva Grad. Institute of International and Development Studies, 2020).

¹²⁰ Michelle F. Rourke, ‘Access by Design, Benefits if Convenient: A Closer Look at the Pandemic Influenza Preparedness Framework’s Standard Material Transfer Agreements’ (2019) 97 *Milbank Q*, 91-112.

¹²¹ WHO, ‘Pandemic Influenza Preparedness Programme’ <<https://open.who.int/2022-23/our-work/category/14/programme/14.003/about/about>> accessed on 8 October 2023; WHO, ‘Advisory Group Recommendations to the Director-General on Potential Uses of PIP Partnership Contribution Resources for Pandemic Preparedness and Response’ (16 May 2012).

¹²² Michelle Rourke and Mark Eccleston-Turner, ‘The Pandemic Influenza Preparedness Framework as a ‘Specialized International Access and Benefit-Sharing Instrument under the Nagoya Protocol’ (2021) 72 *Northern Ireland Legal Quarterly* 411, 435.

¹²³ WHO, ‘About PCITEM’ <<https://www.who.int/groups/partnership-contribution-independent-technical-expert-mechanism/about>> accessed on 8 October 2023.

¹²⁴ David Branigan, ‘WHO Reports Shows Global Progress on Influenza Preparedness’ <<https://www.healthpolicy-watch.org/who-report-shows-global-progress-on-influenza-preparedness-response/>> accessed on 8 October 2023

¹²⁵ WHO, ‘External Evaluation of the Pandemic Influenza Preparedness Partnership Contribution-High Level Implementation Plan 2013-2016 (February 2017) 5.

¹²⁶ WHO, ‘Pandemic Influenza Preparedness Framework: Partnership Contribution High-Level Implementation Plan I. Final Report 2014-2017 (WHO, 2018); WHO, ‘Summary of the PIP PC Preparedness High-Level Implementation Plan II 2018-2023 (WHO, 2018); WHO, ‘Pandemic Influenza Preparedness Framework: Annual Progress Report, 1 January-31 December 2022; (WHO, 2023).

¹²⁷ Michelle F. Rourke, ‘Access by Design, Benefits if Convenient: A Closer Look at the Pandemic Influenza Preparedness Framework’s Standard Material Transfer Agreements’ (2019) 97 *Milbank Q*, 91-112.

¹²⁸ Mark Eccleston-Turner, ‘The Pandemic Influenza Preparedness Framework: A Viable Procurement Option for Developing States?’ (2017) 17 *Medical Law International*, 227-248.

separately raising concerns that SMTA2 commitments by vaccine manufacturers could be impeded by the imposition of export restrictions by Member States, though one would hope that states would act in good faith in this regard.

In addition, developments in synthetic biology call into question the future needs of pharmaceutical companies to access biological materials; as noted by Hampton¹²⁹, it has become ‘increasingly possible for vaccine and other medical countermeasures to be developed and manufactured through the use of digital sequence information (DSI), which is freely available.’ Notably, only non-GISRS entities that receive physical PIP BM samples are required to conclude an SMTA2 with WHO ; that is, PIP biological materials which include influenza viruses with human pandemic potential.¹³⁰ This has been termed the ‘benefit-sharing loophole’¹³¹ though it should also be noted that at present, all relevant major manufacturers have signed SMTAs with the WHO stating that the agreements remain ‘valid and enforceable regardless of whether manufacturers utilize physical pathogen samples or rely entirely on DSI in the development of vaccine in the future’ because the agreements cover the production of pandemic influenza vaccine, regardless of how it is produced. It should however be noted that many national regulatory authorities require the testing of vaccines/diagnostics against the physical virus for licensing purposes, making access to the physical material still required to obtain regulatory approval. In addition, the PIP Secretariat is exploring the use of SMTA2- like agreements, on a voluntary basis, with manufacturers who have not received PIP BM from GISRS.¹³²

7. Compatibility and Mutual Supportiveness

In terms of the relationship and mutual supportiveness of the PIP Framework with other international instruments, it is notable that it was negotiated at largely the same time as the Nagoya Protocol, making “negotiation dynamics” between the Nagoya Protocol and the PIP are “highly interlinked.”¹³³ Despite this, concerns have been expressed in a WHO study that implementation of the Nagoya Protocol could lead to complexity, high transaction costs, and have a limiting effect upon pathogen sharing.¹³⁴ It is to be underlined that the WHO study *did* find that the Protocol and the PIP were potentially complementary, but argued that there was a lack of legal clarity in respect of the relationship of the PIP Framework’s ABS provisions and that of the Nagoya Protocol, with a potential impact on public health.¹³⁵ More generally, while there is a general presumption that the PIP Framework is likely to constitute a specialised international instrument within the meaning of Article 4 (4) of the Nagoya Protocol, some commentators have been more circumspect in making such an assessment.¹³⁶ No definitive answer to this question has been given via international processes.

¹²⁹ Mark Eccleston-Turner, ‘The Pandemic Influenza Preparedness Framework: A Viable Procurement Option for Developing States?’ (2017) 17 *Medical Law International*, 227-248.

¹³⁰ WHO, ‘Pandemic Influenza Preparedness Framework’ (WHO, 2011), Section 4.1 details the full expanse of what constitutes PIP biological materials. It is clear, however, that genetic sequence data/digital sequence information is excluded from the scope of the definition.

¹³¹ Abbie-Rose Hampton, ‘Pathogen Dematerialization and the ABS Loophole’ (2023) 10 *Journal of Law and the Biosciences*, 1-20.

¹³² WHO, ‘Pandemic Influenza Preparedness Framework’ (WHO, 2011) Section 6.11.

¹³³ Marie Wilke, ‘A Healthy Look at the Nagoya Protocol - Implications for Global Health Governance’ in Elisa Morgera, Matthias Buck and Elsa Tsioumani (eds), 2010 *Nagoya Protocol on Access and Benefit-Sharing in Perspective* (Martinus Nijhoff 2013) p.125.

¹³⁴ WHO, ‘Implementation of the Nagoya Protocol and Pathogen Sharing: Public Health Implications – Study by the Secretariat’ available at <<https://www.who.int/publications/m/item/implementation-of-the-nagoya-protocol-and-pathogen-sharing-public-health-implications>> accessed 9 October 2023, p.7.

¹³⁵ WHO, ‘Implementation of the Nagoya Protocol and Pathogen Sharing: Public Health Implications – Study by the Secretariat’ available at <<https://www.who.int/publications/m/item/implementation-of-the-nagoya-protocol-and-pathogen-sharing-public-health-implications>> accessed 9 October 2023, p.18.

¹³⁶ Michelle Rourke and Mark Eccleston-Turner, ‘The Pandemic Influenza Preparedness Framework as a ‘Specialized International Access and Benefit-Sharing Instrument under the Nagoya Protocol’ (2021) 72 *Northern Ireland Legal Quarterly* 411-447.

8. Takeaways

As noted in the literature, the PIP Framework has been proposed as a potential model for other ABS funds. The Framework and its partnership contribution model have been recognised as a successful and innovative sustainable and innovative financing mechanism which has successfully raised significant funds to bolster pandemic preparedness and secure funds for a future pandemic influenza response. However, in terms of the capacity for the PIP Framework to act as a model for other ABS schemes, it is important to consider the highly regulated transfers of pathogenic material made available under strict conditions from very specific providers might not clearly transfer to other situations.¹³⁷

On a more granular level, the following conclusions may be drawn in respect of the operation of the PIP Framework;

- The PIP has served to increase trust in the GISRS system and aims to provide a balance between the provision of IVPPs by states and the fair and equitable access to medical countermeasures such as vaccines by countries, based on public health risk and need;
- The future access to specific percentages of pandemic influenza vaccine production, diagnostics or pharmaceuticals, secured through the SMTA2, operates as a form of non-monetary benefits provided by manufacturers and underpinned by private law contracts. The actual terms of any SMTA are crucial to its success. In addition, how the terms of any SMTA overlap/interact/depend upon the actions of states is also an important aspect of its likely success;
- Of the SMTA2s concluded, companies have selected benefits that involve the donation of products and reserving products rather than granting licenses or ownership of intellectual property. The latter form of benefits would arguably be more conducive to research and development, as well as more supportive of local manufacturing;
- The Partnership Contribution is an interesting innovation with respect to voluntary monetary benefit-sharing which has served to fund pandemic preparedness activities and will also be used to aid response activities during any future influenza pandemic. Despite its voluntary nature, the private sector has in general complied with requests for contributions though the small number of actors involved may in part explain its success;
- The level of monetary benefits under the Partnership Contribution has not been updated to reflect the current running costs of the GISRS system. The level of the partnership contribution is currently being reviewed.

The Global Environment Facility

1. Overview and Operation

The Global Environment Facility (the GEF), established in 1991, serves as the financial mechanism for the Convention on Biological Diversity, the Stockholm Convention on Persistent Organic Pollutants, the United Nations Framework Convention, the UN Convention to Combat Desertification (UNCCD) and the Minamata Convention on Mercury.¹³⁸ The GEF will also serve as part of the financial mechanism for the new Agreement under the United Nations Convention on the Law of the Sea on the Conservation and Sustainable Use of Marine Biological Diversity of Areas Beyond National Jurisdiction. The GEF has also established the Global Biodiversity Framework Fund (GBF Fund) to support the implementation of the Kunming-Montreal Global Biodiversity Framework. Supporting the work of the GEF are 18 GEF agencies which are the operational arm of the GEF. They

¹³⁷ Elsa Tsioumani, *Fair and Equitable Benefit-Sharing in Agriculture: Reinventing Agrarian Justice* (Routledge, 2021) p.22.

¹³⁸ The GEF further provides funds for International Waters and Sustainable Forest Management projects, providing that such projects cohere with the objectives of the United Nations Forum on Forests.

work closely with project proponents, including government agencies, civil society organizations, and other stakeholders, to design, develop, and implement GEF-funded projects and programmes. As discussed further below, the GEF also serves to administer the SCCF and LDCF.

2. Governance and Funding

The GEF is housed in the World Bank but is a separate institution, albeit one without separate legal personality.¹³⁹ The apex bodies at the top are the GEF Council and GEF Assembly, comprising all 182 member States (Participants). The Assembly meets every four years while the Council meets twice a year and is the main decision-making body of the GEF. It is comprised of 32 members ‘representing constituency groupings formulated and distributed taking into account the need for balanced and equitable representation of all Participants and giving due weight to the funding efforts of all donors.’¹⁴⁰ Despite this, there have been concerns that the GEF is overly donor-driven and does not always reflect the interests of recipient countries. The GEF is further supported by a Secretariat, as well as a Scientific and Technical Advisory Panel (the STAP) and an Independent Evaluation Office (IEO).

The GEF is funded by participating donor countries, a mixture of developed and developing countries, with the funds made available to eligible developing countries and countries with economies in transition with the aim of meeting objectives set out by international environmental conventions and agreements.¹⁴¹ The GEF Trust Fund goes through replenishment cycles every four years, with funds dispersed through GEF agencies, as mentioned above, for the implementation of projects in eligible countries.¹⁴² In the current replenishment cycle, (GEF-8, which runs from 2022 and 2026) the GEF was replenished to a record \$5.3B worth of funding,¹⁴³ a 30% uplift from the previous replenishment round. The World Bank acts as the GEF Trustee with donor funds held in the GEF Trust Fund as well as other specialist trust funds subsequently established (see for example SCCF and LDCF).

3. Disbursement Criteria and Processes

The System for the Transparent Allocation of Resources (STAR) applies to a large proportion of GEF programming directions and allocates resources for biodiversity, climate change mitigation, and land degradation focal areas to recipient countries. The resultant allocation may be utilised by recipient countries for implementing activities in line with the focal area strategy of the GEF, with flexibility to support projects across the Rio Conventions. Focal area objectives are negotiated during each replenishment to reflect directions received from the Conventions served by the GEF.¹⁴⁴ Focal areas are complemented by a number of core indicators,¹⁴⁵ with results monitored by several core indicators. Integrated Programs (IP) that generate benefits across multiple focal areas are a particular focus of GEF-8.¹⁴⁶

¹³⁹ Albeit this in itself is contested; Ilias Bantekas, ‘The Legal Personality of World Bank Funds under International Law’, (2021) 56 Tulsa L. REV. 209, 210-254.

¹⁴⁰ GEF, ‘Instrument for the Establishment of the Restructured Global Environment Facility’ (September 2019) https://www.thegef.org/sites/default/files/publications/gef_instrument_establishment_restructured_2019.pdf accessed 9 October 2023, para 16.

¹⁴¹ GEF ‘Funding’ <https://www.thegef.org/who-we-are/funding#:~:text=GEF%20funding%20is%20provided%20by,international%20environmental%20conventions%20and%20agreements> accessed on 22 June 2023.

¹⁴² GEF ‘Funding’ <https://www.thegef.org/who-we-are/funding#:~:text=GEF%20funding%20is%20provided%20by,international%20environmental%20conventions%20and%20agreements> accessed on 22 June 2023; GEF 56th Council Meeting, ‘The GEF Evaluation Policy’ (June 13, 2019) GEF/ME/C.56/02/Rev.01.

¹⁴³ GEF, Indicative GEF-8 Resource Allocation Table Following the Conclusion of the Replenishment Negotiations, (April 8, 2022), GEF/R.08/Misc.01.

¹⁴⁴ GEF, ‘GEF-8 Programming Directions’ (7 January 2022) GEF/R.08/17.

¹⁴⁵ GEF, ‘GEF-8 Programming Directions’ (7 January 2022) GEF/R.08/17, Annex 3.

¹⁴⁶ GEF, ‘GEF-8 Programming Directions’ (7 January 2022) GEF/R.08/17.

The country STAR allocations are country specific and vary depending on the GDP of the country, a weighted index used to calculate the potential to deliver global environmental benefits, as well as operational and governance considerations.¹⁴⁷ In general, STAR allocations are often less than the core funds yet provide a clear indication that governments value the programme modality and are willing to endorse STAR resources to be disbursed at the country level through the mechanism as a rolling modality with an existing governance mechanism in place. Under GEF-8, STAR allocations are also flexible, allowing countries to transfer funding between different focal areas. Increased funding under the STAR allocation to SIDS and LDCs has also been provided in GEF-8.¹⁴⁸

While the system of STAR allocations helps to guard against a single, or small group of countries dominating resource allocation¹⁴⁹, STAR allocations have nevertheless been controversial due to equity and fairness concerns regarding the division of resources between countries.¹⁵⁰ The GEF secretariat has made a significant number of adjustments to this allocation¹⁵¹ but challenges, such as gaps in supporting data, remain.¹⁵² Notably, vulnerability is not a criterion under the STAR allocation methodology, a point that has been somewhat controversial to some parties.¹⁵³ This is to be reviewed by the GEF Secretariat going forward.

In terms of the distribution of funding under the most recent GEF work programme, approved by the GEF Council at its 64th meeting in June 2023, the biodiversity focal area has been allocated the largest share of funding and accounts for 37% of GEF-8 allocation so far.¹⁵⁴ A total of 136 recipient countries will benefit from this work programme, though Latin America leads the way in receiving the largest benefits.¹⁵⁵ The timeliness of disbursement of funding has been frequently cited as a problem but this is improving, albeit the timelines are still lengthy, with 85% of, 'projects that disbursed for the first time in (the) fiscal (year) 2022 did so within 18 months of CEO endorsement/approval', up from 71% in 2021.¹⁵⁶

GEF implementing agencies are not equally represented in GEF programming, with results from GEF-7 indicating that the World Bank, UNDP, UNEP and the FAO accounted for the largest share.¹⁵⁷ Concern regarding a potential 'concentration' of funding to certain agencies has found expression in the GEF Council meetings,¹⁵⁸ resulting in the adoption of policy to limit such concentration, which does seem to be decreasing.¹⁵⁹

With the exception of GEF Enabling Activities (which address obligations under the conventions for national planning and reporting) and as discussed below under the GEF Small Grants Programme, co-financing is central to the GEF with the June 2023 work programme listing US\$9.138

¹⁴⁷ GEF, 63rd GEF Council Meeting, Initial GEF-8 STAR Country Allocations, July 1, 2022, GEF/C.63/inf.05.

¹⁴⁸ GEF Council Meeting, Updating the System for Transparent Allocation of Resources (STAR) (19 May 2022) GEF/C.62/04.

¹⁴⁹ Lianbiao Cui and others, 'Co-Financing in the Green Climate Fund: Lessons from the Global Environment Facility' (2019) 20 Climate Policy, 95-108.

¹⁵⁰ David Cipler, J. Timmons Roberts and Mizan Khan, 'The Politics of International Climate Adaptation Funding: Justice and Divisions in the Greenhouse' (2013) 13 Glob Environ Polit., 49-68.

¹⁵¹ For an overview of some of the challenges identified in previous iterations of the RAF/STAR, see World Bank, 'The World Bank Group's Partnership with the Global Environment Facility' (10 December 2015); Soledad Aguilar, 'New Programmatic Approach Implemented' (2010) 40 ENVTL. POL'y& L. 96.

¹⁵² ICF Consulting Services Limited, Digital Sequence Information (DSI): lessons from multilateral mechanisms - Final report (Job Number 30302584, 2021, 33.

¹⁵³ Earth Negotiations Bulletin (ENB), 'Summary Report, 21-23 June 2022: 62nd Meeting of the GEF Council' <<https://enb.iisd.org/global-environment-facility-council-meeting-62-summary>> accessed on 8 October 2023.

¹⁵⁴ GEF 64th Council Meeting, 'Work Program for GEF Trust Fund' (5 June 2023) GEF/C.64/04/Rev.01, 5.

¹⁵⁵ GEF 64th Council Meeting, 'Work Program for GEF Trust Fund' (5 June 2023) GEF/C.64/04/Rev.01, 6.

¹⁵⁶ GEF 63rd Council Meeting, 'The GEF Monitoring Report 2022' (31 October 2022) GEF/C.63/03, 21.

¹⁵⁷ Earth Negotiations Bulletin (ENB), 'Summary Report, 21-23 June 2022: 62nd Meeting of the GEF Council' <<https://enb.iisd.org/global-environment-facility-council-meeting-62-summary>> accessed on 8 October 2023.

¹⁵⁸ Earth Negotiations Bulletin (ENB), 'Summary Report, 21-23 June 2022: 62nd Meeting of the GEF Council' <<https://enb.iisd.org/global-environment-facility-council-meeting-62-summary>> accessed on 8 October 2023.

¹⁵⁹ GEF 63rd Council Meeting, 'The GEF Monitoring Report 2022' (31 October 2022) GEF/C.63/03, 21.

billion of expected co-financing¹⁶⁰ from sources including the private sector, governments, and other multilateral entities. The overall average ratio for co-financing set out in the GEF co-financing policy is 7:1.¹⁶¹ That is, for every \$1 committed under GEF programming, \$7 is committed via co-financing.¹⁶² The co-financing policy also sets out the portfolio of projects and programs approved in Upper-Middle Income Countries and High-Income Countries that are not Small Island Developing States or Least Developed Countries to reach a ratio of Investment Mobilized to GEF financing of at least 5:1. Countries with the capacity to do so are encouraged to seek even higher levels of Co-Financing and Investment Mobilized. The Secretariat does not impose minimum thresholds and/or specific types or sources of Co-Financing or Investment Mobilized in its review of individual projects and programmes.

While the requirement of co-financing has the potential of reducing reliance upon public funds, it has nevertheless been noted that not all areas will attract the same levels of interest from the likes of the private sector to co-finance projects.¹⁶³ Problems have also been identified with the materialisation of co-financing during project implementation, with co-financing taking, ‘longer to materialize in Africa and in available LDCs, across regions and country groups.’¹⁶⁴ In respect of the Global Biodiversity Framework Fund, co-financing is encouraged but not required.

4. Monitoring and Evaluation

Monitoring and evaluation of GEF activities occurs in several ways. The Independent Evaluation Office (IEO) is central to the process, and is independent of the GEF Secretariat, agencies and policy making.¹⁶⁵ Its focus is on evaluation at a strategic level, for example, reviewing achievements in focal areas and conducting, ‘GEF-wide annual performance report and ... undertaking institutional evaluations, such as assessing GEF governance, policies and strategies.’¹⁶⁶ The IEO is also responsible for producing a 4 yearly Comprehensive Evaluation of the GEF.¹⁶⁷ Evaluation is also accompanied by monitoring, with yearly monitoring reports, for example, helping to assess the extent to which activities financed by the GEF contribute to global environmental benefits, while also assessing the portfolio of projects currently being implemented.¹⁶⁸ The most recent version of the report utilised the GEF-8 Results Measurement Framework (RMF) to assess the effectiveness and efficiency of the GEF partnership.¹⁶⁹ The promotion of knowledge sharing and learning is an integral element of the GEF’s approach to evaluation,¹⁷⁰ with communities of practice and learning as well as knowledge platforms promoted under several focal areas.¹⁷¹ Further discussion of arrangements for monitoring of implementing agencies can be found under our discussion of the SGP, below.

5. Costs v Benefits and Efficiency and Impact

In terms of the costs of administering the GEF, versus the total replenishment amount, corporate costs - including the running of the Secretariat - account for 3.5% of total funding, or US\$187 million.¹⁷² In respect of the overall effectiveness and impact of the GEF, analysis of the previous GEF-7 cycle found that the, ‘cumulative contribution of all GEF-7 projects and programs led to the full

¹⁶⁰ GEF 64th Council Meeting, ‘Work Program for GEF Trust Fund’ (5 June 2023) GEF/C.64/04/Rev.01, 8.

¹⁶¹ GEF, ‘Policy on Co-Financing’ (26 June 2018) Policy:FI/PL/01.

¹⁶² There are some exceptions to this, see GEF, ‘Policy on Co-Financing’ (26 June 2018) Policy:FI/PL/01.

¹⁶³ Patrick Bayer, Christopher Marcoux and Johannes Urpelainen, ‘When International Organizations Bargain: Evidence from the Global Environment Facility’ (2014), 59 J. CONFLICT, 1074-1100.

¹⁶⁴ GEF 63rd Council Meeting, ‘The GEF Monitoring Report 2022’ (31 October 2022) GEF/C.63/03,25.

¹⁶⁵ GEF Independent Evaluation Office (GEFIEO) ‘About Us’ <<https://www.gefio.org/about-us>> accessed on 8 October 2023.

¹⁶⁶ GEF Independent Evaluation Office (GEFIEO) ‘About Us’ <<https://www.gefio.org/about-us>> accessed on 8 October 2023.

¹⁶⁷ GEF Independent Evaluation Office (GEFIEO) ‘About Us’ <<https://www.gefio.org/about-us>> accessed on 8 October 2023.

¹⁶⁸ GEF 63rd Council Meeting, ‘The GEF Monitoring Report 2022’ (31 October 2022) GEF/C.63/03.

¹⁶⁹ GEF 63rd Council Meeting, ‘The GEF Monitoring Report 2022’ (31 October 2022) GEF/C.63/03, 21.

¹⁷⁰ GEF 56th Council Meeting, ‘The GEF Evaluation Policy’ (13 June 2019) GEF/ME/C.56/02/Rev.01.

¹⁷¹ See also discussion below under ‘Research and Innovation.’

¹⁷² GEF, ‘RESOURCE ALLOCATION FOR THE EIGHTH REPLENISHMENT OF THE GEF TRUST FUND’ (2022) available at https://www.thegef.org/sites/default/files/2023-01/GEF-8_PD_Annex2_Resource_Allocation.pdf.

achievement of seven out of ten Core Indicator targets. An eighth indicator reached over 90 percent of its target,¹⁷³ Indeed, the 30% uplift to replenishment under GEF-8 can be seen as a ‘vote of confidence’¹⁷⁴ in the GEF and its stakeholders.¹⁷⁵

The effectiveness of the GEF - in terms of achieving global environmental benefits - is also linked to the requirement of co-financing. In essence, ‘(c)ofinancing in GEF projects helps ensure that GEF support is incremental and focused on generating global environmental benefits. It may also be useful to increase the scale of supported activities, and to ensure that other partners have “skin in the game.”’¹⁷⁶ In the IEO 2023 Annual Performance Report (APR), it was noted that, ‘(c)umulatively (judged in terms of the cumulative portfolio of 2,134 completed GEF projects), materialized cofinancing in 62 percent of the projects fully met or exceeded the amount promised at project approval/endorsement. In comparison, cofinancing commitments were fully met or exceeded in 48 percent of the APR 2023 cohort projects, representing a drop of 14 percentage points.’¹⁷⁷ The IEO report was unable to determine the factors behind the drop but noted that, ‘(t)he relationship between materialization of cofinancing and outcome achievements is clear: The outcome of projects for which cofinancing materialized fully was rated in the satisfactory range for 87 percent of projects, compared to 74 percent of projects where materialization was lower. Where less than half of the promised cofinancing materialized sixty six percent of the projects are rated in the satisfactory range for outcome, compared to 86 percent of projects where at least 50 percent of promised cofinancing materialized.’¹⁷⁸

The GEF is seen in some quarters as being donor-driven in policy and governance processes. Concerns have been raised in the literature on the potential marginalisation of, for example, ‘indigenous peoples and local communities in project design’ within the GEF.¹⁷⁹ A review in 2017 recommended that relevant policies and guidelines be updated to ‘reflect best practice concerning indigenous peoples, including a rights-based approach to engagement.’¹⁸⁰ Numerous initiatives exist to ensure the free prior and informed consent (FPIC) of Indigenous and Local Communities where they may be impacted by a GEF project, as well as to guard against involuntary resettlements.¹⁸¹ Clearly the engagement of indigenous peoples and local communities is a key priority that is linked intrinsically to perceptions of the success – or otherwise of the GEF.

6. Research and Innovation

Since almost its inception, there has been the expectation that the GEF will promote innovation.¹⁸² A recent study on innovation and the GEF found that it has a comparative advantage in the promotion of innovation, given, among other things, the large number of stakeholders it works with, and giving implementing agencies space to develop adaptive management strategies. The GEF has also promoted communities of practice and learning in certain focal areas.¹⁸³ However, it has been recognised that innovative projects are seen as ‘riskier’ and hence are less likely to get approved. This

¹⁷³ GEF, ‘GEF Corporate Scorecard June 2022’ (GEF, 2022).

¹⁷⁴ <https://enb.iisd.org/global-environment-facility-council-meeting-62-summary#:~:text=Negotiations%20for%20the%20eighth%20replenishment.funding%20level%20of%20GEF%2D7>.

¹⁷⁵ Earth Negotiations Bulletin (ENB), ‘Summary Report, 21-23 June 2022: 62nd Meeting of the GEF Council’ <<https://enb.iisd.org/global-environment-facility-council-meeting-62-summary>> accessed on 8 October 2023.

¹⁷⁶ GEF, ‘GEF IEO ANNUAL PERFORMANCE REPORT 2023 (Prepared by the Independent Evaluation Office of the GEF)’ (22 June 2023) para 33.

¹⁷⁷ GEF, ‘GEF IEO ANNUAL PERFORMANCE REPORT 2023 (Prepared by the Independent Evaluation Office of the GEF)’ (22 June 2023) para 34.

¹⁷⁸ GEF, ‘GEF IEO ANNUAL PERFORMANCE REPORT 2023 (Prepared by the Independent Evaluation Office of the GEF)’ (22 June 2023) para 34.

¹⁷⁹ Tom Griffiths, ‘The Global Environment Facility and its Local Benefits Study: A Critique’ (Forest Peoples Programme, 2006)

¹⁸⁰ GEF 53rd Council Meeting, ‘Review of GEF’s Engagement with Indigenous Peoples’ (31 October 2017) GEF/ME/C.53/Inf.07, 52.

¹⁸¹ GEF, ‘policy on Environmental and Social Safeguards’ (13 June 2019) Policy:SD/PL/03.

¹⁸² GEFIEO, ‘GEF Support to Innovation: Findings and Lessons’ (GEFIEO, 2021), iii.

¹⁸³ GEFIEO, ‘GEF Support to Innovation: Findings and Lessons’ (GEFIEO, 2021).

may produce a reluctance to submit for approval more innovative, but also potentially riskier, proposals.¹⁸⁴ More innovative proposals also take more time, which again may produce a disincentive to produce them. These issues have been recognised, together with the need for a risk appetite across GEF instruments and approaches.¹⁸⁵ An Innovation window for funding has also been launched under GEF-8 for higher risk exploratory projects.¹⁸⁶

7. Key Takeaways

- The GEF serves as the funding mechanism to five international agreements – soon to be six. It has nevertheless managed to attract record levels of funding under GEF-8;
- Funding is via four yearly replenishment cycles and, as noted above, the most recent replenishment cycle reached record levels of funding;
- The use of STAR allocations is useful to avoid dominance by one, or a small number of countries, in terms of the allocation of funding but the fairness of STAR allocations depends upon the data and metrics utilised. A continuing debate exists on the utility of vulnerability as a criterion under the STAR allocation process;
- The timeliness of the disbursement of funds has at times been problematic;
- The concentration of implementing agencies involved in GEF programmes is being addressed, but may be an inevitable consequence of the GEF structure, implementation through agencies and the limited opportunities for direct recipient access;
- Co-financing is useful as it may ensure both government and private sector ‘buy in’ for some projects and appears to correlate positively with a project’s success, but not all regions and focal areas are likely to attract the same level of co-financing.

Small Grants Programme of the Global Environment Facility

1. Overview and operation

Established in 1992, the Global Environment Facility’s (GEF) Small Grants Programme (SGP) aims to provide financial, technical and capacity-building assistance to projects that protect and restore the environment whilst improving people’s well-being and socio-economic conditions.¹⁸⁷ Implemented by the UNDP, the focus of the SGP is on community and locally based projects that aim at environmental and local benefits simultaneously. This is achieved by awarding grants to relevant NGOs, CBOs and Indigenous Peoples organisations which then use the funds for a range of livelihood, empowerment and environmental objectives.

2. Funding

SGP funding is disbursed via one of three main avenues: so called ‘core’ funds which are allocated specifically for the SGP as a GEF Corporate programme; envelopes of GEF funds which are allocated to countries through the System for the Transparent Allocation of Resources (STAR) which governments can endorse to be channelled to civil society projects at the national level, in line with criteria agreed upon for the GEF Operational phase; as well as funds are allocated through co-financing provided by donors other than the GEF which employ the same delivery mechanism. In the current GEF-8 cycle \$155M have been allocated to the SGP 2.0 including \$135M core funds for the SGP, before taking into account the endorsement of STAR funds provided by governments.¹⁸⁸ The

¹⁸⁴ GEFIEO, ‘GEF Support to Innovation: Findings and Lessons’ (GEFIEO, 2021).

¹⁸⁵ GEF 64th Council Meeting, ‘Leveraging Innovation for Transformational Change’ (9 June 2023) GEF/STAP/C.64/Inf.06.

¹⁸⁶ GEF 64th Council Meeting, ‘Leveraging Innovation for Transformational Change’ (9 June 2023) GEF/STAP/C.64/Inf.06, 7.

¹⁸⁷ GEF and UNDP, Third Joint GEF-UNDP Evaluation of the Small Grants Programme (GEF and UNDP, 2021) 1; UNDP, ‘Our Mission’ <<https://sgp.undp.org>> accessed on 26 June 2023.

¹⁸⁸ GEF, 62nd GEF Council Meeting, Summary of the Negotiations of the Eighth Replenishment of the GEF Trust Fund, (15 June 2022), GEF/C.62/03, 266.

replenishment for the SGP 2.0 also includes a new \$10M CSO challenge programme, as well as \$10M initiative with SMEs.¹⁸⁹

The GEF-5 replenishment cycle had introduced an Upgrading Policy, meant to ‘upgrade’ countries that had benefited from the SGP global programme for a certain time and met set criteria).¹⁹⁰ As of Nov 2023, 16 countries are considered Upgraded Country Programmes (UCP)s, and 127 participate in the SGP core global program. Both programs typically grant a maximum of \$50,000 (averaging at approx. \$25,000) per project, with core global program disbursing core funds and government endorsement from typically up to 10% of the STAR allocation for that country, and UCP countries are exclusively funded via STAR allocations.¹⁹¹ During GEF-8, the UCP modality started its retirement following recommendations from the 2021 Third Joint Evaluation.

Co-financing to the SGP can either be cash or in-kind.¹⁹² Co-finance is a requirement for grant recipients as they are viewed as partners rather than beneficiaries. In-kind co-financing represents goods/services that are provided to the project to help achieve its goals¹⁹³ and represent around 53% of the total co-financing from the communities.¹⁹⁴ The SGP operates a 1:1 commitment on co-financing (cash and in-kind), which has regularly been exceeded due to the strong support to the SGP. However, when viewed on a country-to-country basis, and as noted above in our discussion of the GEF, the level of commitment varies significantly by region.¹⁹⁵ Furthermore, although not applied on an individual project basis, co-financing requirements can place a significant burden on civil society project proponents, in particular smaller grassroots organisations with less experience, and potentially reducing civil society organisations’ access to international climate and nature finance, as well as lower project success.¹⁹⁶

In terms of the sustainability of the fund, despite the financing levels being stable over the preceding replenishment cycles, the trend towards an increase in the GEF-8 replenishment cycle may be a sign of potential increase or boost for the future and increasing flows of finance to civil society organisations and Indigenous Peoples and local communities, including with respect to new Global Biodiversity Framework Fund (GBFF) approved by the GEF Council in June 2023.¹⁹⁷ In any event, the level of funds committed to the SGP is significant and gives credence to the long-term viability of the fund.

3. Governance

The overall governance structure of the SGP is multifaceted with both top-down and bottom-up approaches, the latter being more predominant. As part of the four-year replenishment cycle, the GEF Council and GEF Assembly ultimately oversee the SGP, with the GEF Secretariat liaising with UNDP as the implementing agency. The UNDP has enabled the expansion of the SGP to 137 participating countries since 1992,¹⁹⁸ continuously links with other GEF agencies, and has mobilized bilateral sources of funds from Australia, Germany, Japan, Norway, New Zealand, Switzerland, as well as philanthropic foundations (UN Foundation, MAVA, Packard), to channel support to civil society projects using the SGP model.

¹⁸⁹ GEF, 62nd GEF Council Meeting, Summary of the Negotiations of the Eighth Replenishment of the GEF Trust Fund, (15 June 2022), GEF/C.62/03, 266.

¹⁹⁰ GEF and UNDP, Third Joint GEF-UNDP Evaluation of the Small Grants Programme (GEF and UNDP, 2021) 1.

¹⁹¹ GEF and UNDP, Third Joint GEF-UNDP Evaluation of the Small Grants Programme (GEF and UNDP, 2021) 32.

¹⁹² Lilianna Hisas, ‘The A-Z of the SGP: A Guide to the GEF Small Grants Programme’ (SGP, 2017) 5.

¹⁹³ Syezlin Hasan and others ‘Identifying and Mitigating Risks to Completion of Small Grant Climate Change Adaptation Projects: Evidence from the Pacific’ (2021) 12:55 Regional Environmental Change 55.

¹⁹⁴ Lilianna Hisas, ‘The A-Z of the SGP: A Guide to the GEF Small Grants Programme’ (SGP, 2017), 12.

¹⁹⁵ GEF and UNDP, Third Joint GEF-UNDP Evaluation of the Small Grants Programme (GEF and UNDP, 2021) 66.

¹⁹⁶ Marek Soanes and others, Delivering Real Change: Getting International Climate Finance to the Local Level, (IIED 2017) 31.

¹⁹⁷ GEF, 62nd GEF Council Meeting, Summary of the Negotiations of the Eighth Replenishment of the GEF Trust Fund, (15 June 2022), GEF/C.62/03, 266.

¹⁹⁸ A limited number of participating SGP country programmes have been closed due to EU accession criteria, whilst others have been interrupted due to crisis and security considerations.

At the global level, the SGP is implemented by a Central Programme Management Team (CPMT) which is responsible to ensure coherence of the programme by applying a common set of operational guidelines and governance procedures. Each participating country recruits or appoints a National Coordinator (NC), and in most cases a programme assistant to provide a range of services such as capacity-building of prospective grantees, technical assistance, or monitoring and evaluation, to the SGP projects in their country, and reporting at the global level. These national coordination units are supported by either the UNDP country office or an alternative National Host Institution such as an NGO or an environmental trust fund.¹⁹⁹ In each country, a National Steering Committee (NSC) is responsible for decisions on the development of a Country Programme Strategy (CPS) in alignment with the Rio Convention planning frameworks. The NSC is composed of volunteers, typically including representatives of civil society, government, academia, the private sector, UNDP, and other GEF agencies and donor governments.²⁰⁰ The decentralised NSC governance mechanism must have a non-governmental majority and is responsible for the selection and review process of the small grants, and the technical and substantive review of the proposals in relation to the strategic objectives of the SGP.²⁰¹

SGP proposals are submitted by NGOs, CBOs and Indigenous Peoples organisations, all of whom can directly access funds (in the sense of agency to community organization, without going through governments) once the project is awarded.²⁰² In cases where grassroots organisations are not yet registered, the SGP country teams assist them to become more formally recognised and open bank accounts. In so doing, funding operates in a highly decentralised way, with funds placed directly into the hands of the community which then decides where the funds can be applied most efficiently. The grants are usually paid in three or four instalments: at the initiation of the project, after a successful mid-term report, at completion of the project and the final report.²⁰³ The release of funds in tranches exerts some control on spending over the life of the project. Further, placing the funds directly into the hands of the civil society organisations allows local communities to engage directly in the design, appraisal, and evaluation of the projects.²⁰⁴ Transparency is seen as key and is achieved through the inclusion of civil society in the NSC. Indeed, this is a central principle of the SGP operational guidelines which all participating governments must adhere to when applying to participate in the programme. In certain cases, where some civil society members left the NSC, resulting in more government representatives than civil society ones, the role of the CPMT at the global level is to ensure that the governance procedures of the programme are adhered to.²⁰⁵ These outliers do not detract from the otherwise overwhelmingly positive representation civil society enjoys in the NSC governance model.

4. Disbursement Criteria and processes

As mentioned above, SGP funds are released directly to the relevant CBO/NGO or Indigenous Peoples organisations, with governments not involved in the disbursement the funds but granted representation in the NSC as part of the overall governance of the programme, typically through the GEF Operational Focal Point and other concerned ministries. STAR funds allocated to the SGP by the government are in monetary form, whilst in-kind co-financing can be non-monetary as it pertains to goods and services offered. Both monetary and non-monetary disbursement work in tandem to achieve the project's results, and noting that projects with higher co-financing support tend to have greater success.²⁰⁶ Non-monetary benefits from the SGP model extend beyond the project itself, with the

¹⁹⁹ GEF and UNDP, Third Joint GEF-UNDP Evaluation of the Small Grants Programme (GEF and UNDP, 2021), xi.

²⁰⁰ GEF, GEF SGP Operational Guidelines 5.

²⁰¹ GEF, GEF SGP Operational Guidelines 5.

²⁰² UNDP 'How to Apply' <<https://sgp.undp.org/about-us-157/how-to-apply.html>> accessed on 3 July 2023.

²⁰³ UNDP 'How to Apply' <<https://sgp.undp.org/about-us-157/how-to-apply.html>> accessed on 3 July 2023.

²⁰⁴ Marek Soanes and others, Delivering Real Change: Getting International Climate Finance to the Local Level, (IIED 2017) 6.

²⁰⁵ GEF and UNDP, Third Joint GEF-UNDP Evaluation of the Small Grants Programme (GEF and UNDP, 2021) 24.

²⁰⁶ Syezlin Hasan and others 'Identifying and Mitigating Risks to Completion of Small Grant Climate Change Adaptation Projects: Evidence from the Pacific' (2021) 12:55 Regional Environmental Change 55.

fostering of trust, dialogue ethos and a community of practice and knowledge.²⁰⁷ Furthermore, the SGP places a heavy focus on innovation and socio-economic benefits, as this is part of the UNDP's mandate and role as a provider of integrated solutions to achieve the sustainable development goals (SDGs).²⁰⁸ In terms of focal area disbursement, biodiversity remains the most funded area.²⁰⁹ Geographically, least developed countries (LDCs) and small island developing states (SIDS) represent the greatest number of participating countries, representing over half of the roster (out of 126 countries, 77 are LDC or SIDS).²¹⁰

Overall, the SGP appears to be highly regarded by its grantees. A joint GEF-UNDP evaluation concludes that 99% of projects were deemed to be satisfactory by respondents and lists recommendations to be incorporated into SGP 2.0.²¹¹ It also highlights the demand-driven nature of the SGP.²¹² Further monitoring and evaluation (M&E) can be found in the SGP annual reports which compile programme-level results.²¹³

5. Monitoring and Evaluation

The GEF policy on M&E states that each agency is responsible for project implementation and is directly accountable to the GEF Council. As a corporate programme of the GEF, the SGP provides an Annual Monitoring Report (AMR).²¹⁴ This ensures regular GEF oversight over the SGP.

Some issues were highlighted such as the need to revitalize the role of the SGP Steering Committee at the global level, or the lack of alignment between the sector-based GEF indicators and the locally focused SGP ones, leading to issues when trying to aggregate local data through the global lens.²¹⁵ With that said, some of these issues have possibly been exacerbated with the adoption of the 2019 M&E strategy that ties global country programme indicators to the GEF's Core Indicators.²¹⁶

From lessons learned in other funds, the SGP has adopted an innovative approach to address challenges in the flexibility of selection criteria. Almost all major climate change funds write their policies and procedures in English, presenting a barrier for many national and local institutions, particularly as the SGP operates in the national language of the country for the submission of project concepts and proposal.²¹⁷ Furthermore, the SGP has introduced numerous flexible options in the formats accepted for proposals, such as participatory videos and photo stories, which address issues of literacy of some rural populations.²¹⁸ SGP country teams are then responsible to summarize and extract data from their national portfolios of small grants projects and input the results into a common database which is available in three UN languages (English, French and Spanish).

6. Costs v. Benefits, Efficiency and Impact

There appears to be little or no research into costs against benefits for the SGP. However, the Annual Monitoring Reports submitted to the GEF Council highlights numerous benefits the SGP has

²⁰⁷ GEF and UNDP, Third Joint GEF-UNDP Evaluation of the Small Grants Programme (GEF and UNDP, 2021) 30.

²⁰⁸ GEF and UNDP, Third Joint GEF-UNDP Evaluation of the Small Grants Programme (GEF and UNDP, 2021)31.

²⁰⁹ GEF and UNDP, Third Joint GEF-UNDP Evaluation of the Small Grants Programme (GEF and UNDP, 2021) 28; GEF, Indicative GEF-8 Resource Allocation Table Following the Conclusion of the Replenishment Negotiations, (April 8, 2022), GEF/R.08/Misc.01.

²¹⁰ GEF and UNDP, Third Joint GEF-UNDP Evaluation of the Small Grants Programme (GEF and UNDP, 2021), 5.

²¹¹ GEF, 62nd GEF Council Meeting, Summary of the Negotiations of the Eighth Replenishment of the GEF Trust Fund, (15 June 2022), GEF/C.62/03, 244.

²¹² GEF and UNDP, Third Joint GEF-UNDP Evaluation of the Small Grants Programme (GEF and UNDP, 2021),16.

²¹³ GEF SPG, 'The GEF Small Grants Programme Results Report 2021-2022' (GEF and UNDP, 2022).

²¹⁴ GEF 'Project and Program Cycle Policy' (GEF 2018) OP/PL/01, 13.

²¹⁵ Sulan Chan and Juha I. Uitto, 'Small Grants, Big Impacts' in Juha I. Uitto (2nd ed), Evaluating Environment in International Development (Routledge 2021) ch.18, 224-234.

²¹⁶ GEF and UNDP, Third Joint GEF-UNDP Evaluation of the Small Grants Programme (GEF and UNDP, 2021) 59.

²¹⁷ Sejal Patel and others, Good Climate Finance Guide (International Institute for Environment and Development 2020) 41.

²¹⁸ Sejal Patel and others, Good Climate Finance Guide (International Institute for Environment and Development 2020) 41.

brought to local communities. For example, at least 267,010 hectares of marine habitat with improved practices on biodiversity, improved management of 5.6M hectares of terrestrial landscapes, amongst others, and all with a direct positive impact on the livelihoods of local communities.²¹⁹ ²²⁰ The M&E report for 2021-2022 concludes that the costs of delivering the fund as part of a decentralised mechanism (potentially 30% of the funding envelope) are worth the magnitude of social and environmental benefits that have been gained.²²¹

Over the past 30 years, the SGP has shaped partnership programmes and methodologies such as territorial-scale grant coordination for protected areas partnerships between UNESCO and the UN Foundation on World Heritage Sites, or the partnership between the Ministry of the Environment of Japan and the CBD Secretariat on socio-ecological production landscapes and seascapes, to cite a few.

Despite these numerous sub-programmes and partnership, the GEF reporting system falls short of fully capturing the scope of global environmental benefits.²²² The SGP now includes social inclusion central to projects for youth, women, Indigenous Peoples, and persons with disabilities. From this stemmed the creation of the Indigenous Peoples Fellowship Initiative, aiming to improve capacity of Indigenous communities in the focal areas of biodiversity and climate change.²²³

7. Research and Innovation

Innovation plays a fundamental role in the success of the SGP. Indeed, a recent survey reveals that technology was central to most projects²²⁴ As innovation is inextricably linked to project impact and central to GEF's vision. Through innovation, local communities not only conserve biodiversity and mitigate climate change, but also build their own local resilience and adaptation, which in turn can benefit other communities.

Still, the SGP project's local innovation linkages to the strategic directions of UNDP Country Programmes is still weak, as are projects' exit strategies and financial sustainability.²²⁵ Consequently, some promising projects were eventually cancelled due to a lack of a sustainability mechanisms.²²⁶ In 2022, UNDP launched a new local action theoretical framework and service offer to address this concern and attract additional investments and partnerships to crowd in and blend finance.

8. Key takeaways

- The Small Grants Programme of the GEF appears to be highly regarded by the grantees, reflecting its demand-driven and highly decentralised nature;
- Under the SGP, small grant funds are released directly to the relevant CBO/NGO or Indigenous Peoples organisations for projects focusing on access at the grass roots level.
- In turn, the 'grassroots' focus of the SGP has an impact on livelihood security through environmental, economic, social, and cultural dimensions.
- Its inclusion of bottom-up approaches has been highly praised, with flexibility to adapt to local conditions such that the risk appetite of the SGP may be higher than other, larger funds;
- The use of GEF focal areas to monitor and evaluate the SGP's bottom-up approach has led to some contradictions as local scale evaluation demands flexibility to adapt to local context.²²⁷

²¹⁹ GEF SGP, 'The GEF Small Grants Programme Results Report 2021-2022' (GEF and UNDP, 2022), 20.

²²⁰ GEF SGP, 'The GEF Small Grants Programme Results Report 2021-2022' (GEF and UNDP, 2022), 7.

²²¹ GEF and UNDP, Third Joint GEF-UNDP Evaluation of the Small Grants Programme (GEF and UNDP, 2021) 55.

²²² GEF and UNDP, Third Joint GEF-UNDP Evaluation of the Small Grants Programme (GEF and UNDP, 2021) 31.

²²³ UNDP, Indigenous Peoples Fellowship Initiative, < <https://sgp.undp.org/our-approach-153/indigenous-peoples-fellowship-initiative.html>> accessed on 6 July 2023.

²²⁴ GEF and UNDP, Third Joint GEF-UNDP Evaluation of the Small Grants Programme (GEF and UNDP, 2021) 40.

²²⁵ GEF and UNDP, Third Joint GEF-UNDP Evaluation of the Small Grants Programme (GEF and UNDP, 2021) 43.

²²⁶ GEF and UNDP, Third Joint GEF-UNDP Evaluation of the Small Grants Programme (GEF and UNDP, 2021) 43.

²²⁷ Sulan Chan and Juha I. Uitto, 'Small Grants, Big Impacts' in Juha I. Uitto (2nd ed), Evaluating Environment in International Development (Routledge 2021) ch.18, 224-234.

- The costs of delivering small grants to communities on the ground through a highly decentralised global mechanism have been qualified as worth the magnitude of social and environmental benefits that have been gained.²²⁸
- Social inclusion is a central goal of the Small Grants Programme, with the launch of numerous partnership programmes which support Indigenous Peoples, including towards channelling increased support to environmental human rights defenders (EHRDs) as needed as part of the UN Call to Action on Human Rights.

Least Developed Country Fund

1. Overview

Established in 2001 under the auspices of the United Nations Framework Convention on Climate Change (UNFCCC), the Least Developed Country Fund (LDCF) is the only facility that exclusively caters to helping least developed countries (LDCs) adapt to new climate realities.²²⁹ With the adoption of the Paris Agreement, the LDCF in tandem with the Special Climate Change Fund (SCCF) are mandated to achieve the goals set out in Paris.²³⁰ Both the LDCF and SCCF serve the UNFCCC and are accountable to the UNFCCC Conference of the Parties (COP).

Managed by the Global Environment Facility, the LDCF supports countries in implementing their National Adaptation Programs of Action (NAPAs) to address urgent adaptation needs. It also supports the implementation of National Adaptation Plans (NAPs) and the LDC work program under the UNFCCC. Working with partner agencies to enhance technical and institutional capacity at the national and local levels, the LDCF funds various adaptation priorities, reducing systemic barriers to progress whilst promoting innovation and engagement from the private sector. Within the current GEF-8 adaptation strategy, the LDCF will focus on agriculture, food security and health, water, climate information services, and nature-based solutions.²³¹

2. Funding

Funding for the LDCF relies on voluntary contributions from Parties to the UNFCCC.²³² As Parties are encouraged, rather than required, to contribute towards the fund, there is no set amount to be provided and no set replenishment period, causing contributions to arrive in a piecemeal fashion over a period of years. As a result, the - 'pledging was agreed as the selected LDCF resource mobilization modality, starting from the GEF-8 period. This modality requests donors that are able to do so to make multi-year pledging, based on the voluntary contribution model. As some donors have already been making multi-year contributions to the LDCF, other donors will also be encouraged to do so. This modality is in line with the Glasgow Climate Pact decision that recognized "the importance and the adequacy and predictability of adaptation finance" and invited "developed country Parties to consider multi-annual pledges."²³³

UNFCCC COP Decision 3/CP.11 provides further guidance on the operation of the LDCF. It holds the LDCF to cover the full costs of immediate adaptation needs and requests the GEF design

²²⁸ GEF and UNDP, Third Joint GEF-UNDP Evaluation of the Small Grants Programme (GEF and UNDP, 2021), 55.

²²⁹ GEF 'Least Developed Countries Fund-LDCF' <https://www.thegef.org/what-we-do/topics/least-developed-countries-fund-ldcf> accessed on 10 July 2023; UNFCCC Conference of the Parties (COP) 'Decision 7/CP.7 Funding Under the Convention' (29 October-10 November 2001) FCCC/CP/2001/13/Add.1, 1(c).

²³⁰ GEF 'Least Developed Countries Fund-LDCF' <https://www.thegef.org/what-we-do/topics/least-developed-countries-fund-ldcf> accessed on 10 July 2023.

²³¹ GEF 'Least Developed Countries Fund-LDCF' <https://www.thegef.org/what-we-do/topics/least-developed-countries-fund-ldcf> accessed on 10 July 2023.

²³² UNFCCC Conference of the Parties (COP) 'Decision 7/CP.7 Funding Under the Convention' (29 October-10 November 2001) FCCC/CP/2001/13/Add.1, 1(c).

²³³ See GEF, 'GEF Programming Strategy on Adaptation to Climate Change for The Least Developed Countries Fund and The Special Climate Change Fund for the GEF-8 Period of July 1, 2022, To June 30, 2026, And Operational Improvements' (31 May 2022) GEF/LDCF.SCCF.32/04/Rev.01, para 167 – 168.

and implement a co-financing scale to support the implementation of countries' NAPA.²³⁴ For co-financing, the GEF designed the following scheme: Business as usual (BAU) development consists in the cost of a project before climate change adaptation is taken into consideration. This cost is used to calculate the level of co-financing necessary to include climate change adaptation, therefore mainstreaming LDCF funds into large-scale investments for greater impact and the benefits of the economies of scale.²³⁵ However, the LDCF portfolio struggles to achieve similar levels to that of other GEF administered funds due to the absence of a target ratio for matching co-financing arrangements. An Independent Evaluation also found that climate change adaptation is difficult to 'sell' to the private sector, particularly in LDCs.²³⁶ Donor agencies and recipient country governments are currently the main providers of co-financing.²³⁷

The World Bank, Trustee of the LDCF, had received over 90% of the USD\$2B of pledges by March 2023.²³⁸ To acquire funding under the LDCF, the LDC party is required to submit a NAPA, discussed in greater detail below, along with a concept note requesting the assistance of the GEF for implementation.²³⁹ Disbursement of the funds is subject to the review process described below.

3. Governance of the fund

The LDCF is headed by the LDCF/SCCF Council which oversees both funds. The composition of the Council mirrors that of the GEF Council itself, comprised of 14 members from donor constituencies and 18 from recipient constituencies, for some leading to a perception that least developed countries have little say in Fund governance.²⁴⁰ However, the LDC Group is always invited to Council meetings, and they are involved in strategy development negotiations.

4. Disbursement criteria and processes under the fund

The Cumulative LDCF funding decisions amount to a total of \$1,762.66 million in 2023. 'Projects support the implementation of priorities defined in NAPAs and national adaptation plans (NAPs), as well as other elements of the LDC work programme.'²⁴¹ Disbursement of funds – up to a cap of US \$20 million per LCD- is generally based on the NAPAs, which determine areas in need of urgent and immediate action with regard to climate change adaptation. The NAPA process recognises the importance of community-level input as local, grassroots communities are the main stakeholders.²⁴² All LDC parties to the UNFCCC are eligible for access to the fund, which operates on an equitable rather than a 'first come, first served' basis, with proposals assessed on criteria

²³⁴ UNFCCC COP 'Decision 3/CP.11/ Further Guidance for the Operation of the Least Developed Countries Fund' FCCC/CP/2005/5/Add.1 3.

²³⁵ GEF, 'Accessing Resources Under the Least Developed Countries Fund (GEF 2011)14.

²³⁶ GEFIEO, 'Least Developed Countries Fund: 2020 Program Evaluation' (GEFIEO 2022) 28.

²³⁷ GEF 34th LDCF/SCCF Council Meeting Agenda Item 03 'Work Program for the Least Developed Countries Fund and Special Climate Change Fund' June 29, 2023, 16.

²³⁸ The World Bank Group. 'Trust Fund for Least Developed Countries Fund for Climate Change Schedule of Funds Available as of March 2023 <https://fiftrustee.worldbank.org/content/dam/fif/funds/ldc/SummaryStatusReports/LDCF_MR_03_23.pdf> accessed on 15 July 2023 ; GEF 34th LDCF/SCCF Council Meeting Agenda Item 05 'Progress Report on the Least Developed Countries Fund and the Special Climate Change Fund' June 29, 2023, 9.

²³⁹ UNFCCC 'National Adaptation Programmes of Action' <<https://unfccc.int/topics/resilience/workstreams/national-adaptation-programmes-of-action/introduction>> accessed on 16 July 2023.

²⁴⁰ Janna Tenzing and others, 'A Vision for the Least Developed Countries Fund in a Post-Paris Climate Regime' (International Institute for Environment and Development 2016) 4.

²⁴¹ GEF, 'Progress Report on the Least Developed Countries Fund and the Special Climate Change Fund' (13 June 2023) GEF/LDCF.SCCF.35/05, 11 (references omitted).

²⁴² UNFCCC 'National Adaptation Programmes of Action' <<https://unfccc.int/topics/resilience/workstreams/national-adaptation-programmes-of-action/introduction>> accessed on 16 July 2023.

including conformity with existing national policies and institutional support,²⁴³ scalability, learning and knowledge management, national priorities, and potential risks.²⁴⁴

From inception to the end of March 2023, 12 GEF agencies have been involved in 333 LDCF projects and programmes, with UNDP taking the lead in this regard, with a 47% share.²⁴⁵ Work commenced under GEF-7 to ensure a more equitable distribution across GEF agencies, and this work is continuing under GEF-8.²⁴⁶ In terms of geographical distribution, the latest Work Programme for the fund allocates 64% of funds to Africa, 33% to Asia and the remainder to other global projects.²⁴⁷

5. Monitoring and Evaluation

The GEF's Results Based Management Framework encourages a results-oriented culture rather than an approval culture.²⁴⁸ As part of this framework, an Annual Monitoring Review (AMR) is required as the principal instrument for reporting and further monitoring and evaluation come from project implementation reports, portfolio risk assessments, and knowledge management strategies. The latter is important for generating and utilising lessons learned.²⁴⁹ Moreover, the GEF is required to report to the UNFCCC COP on the implementation of its decisions as well as the preparation of NAPAs.²⁵⁰

Some have highlighted LDCF's inability to eliminate risks, citing NAPAs as a tool for guidance to prioritise adaptation investments that can be successful when able to scale up investments. As a consequence, small-scale but sometimes important investments can end up inadequately financed or deprioritised.²⁵¹

6. Costs of governing the relevant fund

Of the US\$1,751.17M cumulative funding decisions approved by the GEF CEO and LDCF/SCCF Council, 9% were used for fees and 1% for corporate activities and administrative expenses, which means that 90% of funds are allocated towards projects, both preparation and implementation²⁵² These figures have remained consistent throughout the lifecycle of the fund. that the efficient use of funds can be attributed in part to the requirement for the evidence-based approach in the NAPA, bypassing the need for new research.²⁵³ In terms of effectiveness, most projects are reported well-implemented and executed, with some improvement still needed in the coordination

²⁴³ Benjamin K. Sovacool, Björn-Ola Linner, and Richard J.T. Klein, 'Climate Change Adaptation and the Least Developed Countries Fund (LDCF): Qualitative Insights from Policy Implementation in the Asia-Pacific' (2017) 140 *Climate Change* 209, 212; UNFCCC COP 'Decision 6/CP.9 Further Guidance for the Operation of the Least Developed Countries Fund' (1-12 December 2003) FCCC/CP/2003/6/Add.1, 3(a).

²⁴⁴ Marli Kasdan, Laura Kuhl, Pradeep Kurukuluriya, 'The Evolution of Transformational Change in Multilateral Funds Dedicated to Financing Adaptation to Climate Change' (2021) 13 *Climate and Development*, 427, 430.

²⁴⁵ GEF, 'Progress Report on the Least Developed Countries Fund and the Special Climate Change Fund' (13 June 2023) GEF/LDCF.SCCF.35/05.

²⁴⁶ GEF, 'Progress Report on the Least Developed Countries Fund and the Special Climate Change Fund' (13 June 2023) GEF/LDCF.SCCF.35/05.

²⁴⁷ GEF 34th LDCF/SCCF Council Meeting Agenda Item 03 'Work Program for the Least Developed Countries Fund and Special Climate Change Fund' (29 June 2023) GEF/LDCF.SCCF.34/03, 10.

²⁴⁸ GEF Council, 'Results-Based Management Framework' (GEF 2007) GEF/C.3/11.

²⁴⁹ GEF LDCF/SCCF Council Meeting, 'Results-Based Management Framework' 18 November 2010, GEF/LDCF.SCCF.9/Inf 5

²⁵⁰ UNFCCC COP 'Decision 6/CP.9 Further Guidance for the Operation of the Least Developed Countries Fund' (1-12 December 2003) FCCC/CP/2003/6/Add.1, 6 (5).

²⁵¹ Benjamin K. Sovacool, Björn-Ola Linner, and Richard J.T. Klein, 'Climate Change Adaptation and the Least Developed Countries Fund (LDCF): Qualitative Insights from Policy Implementation in the Asia-Pacific' (2017) 140 *Climate Change* 209, 220.

²⁵² The World Bank Group, 'Least Developed Countries Fund (LDCF) Financial Report Prepared by the Trustee' (World Bank Group, 2022).

²⁵³ UNFCCC, 'National Adaptation Programmes of Action (n.d.) <https://unfccc.int/topics/resilience/workstreams/national-adaptation-programmes-of-action/introduction> accessed 9 October 2023.

between executing partners, recruiting staff and consultants as changing project arrangements and staff turnover can contribute towards project delays.²⁵⁴

The 2022 AMR also highlighted a high level of satisfaction with development outcomes with a cumulative 17M beneficiaries for increased resilience, livelihood, physical assets and natural systems, and 4,000 institutions with stronger capacities through 2,000 sub-national plans and processes.²⁵⁵

However, the maximum ‘ceiling’ of funding, despite its recent increase, can make it difficult to achieve the LDCF’s mandate to fully finance the cost of adaptation, without a requirement for matching co-financing²⁵⁶, particularly for governments that already struggle to attain the relevant financial contributions to effectively fund climate change adaptation.²⁵⁷ The current figure of \$1.8B in grants awarded²⁵⁸ So far falls short of the estimated \$10-100B needed to fully adapt LDCs to the most harmful effects of climate change.²⁵⁹

7. Research and innovation

A 2020 Independent Evaluation noted that the recently approved reduced vulnerability and increased resilience through innovation and technology transfer to new areas, new uses, and if a replicable way. This is standing in line with the overarching GEF strategic objectives.²⁶⁰

Further, under both the LDCF and the SCCF, the GEF launched the Challenge Program for Adaptation Innovation in 2019 to ‘catalyse innovation to harness the power of private sector actors for achieving adaptation results and from which lessons learned can be applied across funds²⁶¹

8. Key takeaways

- LDCF relies on voluntary contributions from Parties to the UNFCCC, which have been piecemeal. However, pledging has been agreed as the selected LDCF resource mobilization modality, starting from the GEF-8 period and encouraging donors that are able to do so make multi-year pledges;
- The LDCF/SCCF Council oversees the Fund, with an occasional perception that LDCs are not well represented in Fund governance despite consistent invitations to join meetings;
- Funding disbursement operates on an equitable basis rather than ‘first come, first served’ in an effort to reduce perceptions of competition experienced in other funds;
- Proposals are assessed on various criteria including conformity with existing national policies and institutional support.

Special Climate Change Fund (SCCF)

1. Overview

In 2001, Parties to the United Nations Framework Convention on Climate Change (UNFCCC)²⁶² recognised that there was a dire need for ‘funding, including funding that is *new and additional* to contributions which are allocated to the climate change focal area of the Global

²⁵⁴ GEFIEO ‘Least Developed Countries Fund: 2020 Program Evaluation’ (GEFIEO 2022).

²⁵⁵ GEF 32nd LDCF/SCCF Council Meeting ‘Least Developed Countries Fund and Special Climate Change Fund FY21 Annual Monitoring Review (GEF 2022) < <https://www.thegef.org/sites/default/files/documents/2022-07/LDCF%20SCCF%20AMR.pdf>>.

²⁵⁶ Benjamin K. Sovacool, Björn-Ola Linner, and Richard J.T. Klein, ‘Climate Change Adaption and the Least Developed Countries Fund (LDCF): Qualitative Insights from Policy Implementation in the Asia-Pacific’ (2017) 140 Climate Change 209, 219.

²⁵⁷ Tina Stege, ‘Transformational Change is Needed in the Adaptation Finance Landscape for LDCs and SIDS’ (IIED 2023) <<https://www.iied.org/transformational-change-needed-adaptation-finance-landscape-for-ldcs-sids>> accessed on 14 July 2023.

²⁵⁸ GEF ‘Least Developed Countries Fund-LDCF’ <https://www.thegef.org/what-we-do/topics/least-developed-countries-fund-ldcf> accessed on 10 July 2023.

²⁵⁹ Karoline Hægstad Flåm and Jon Birger Skjærseth, ‘Does Adequate Financing Exist for Adaptation in Developing Countries?’ (2009), 9 Climate Policy, 109, 110

²⁶⁰ GEF, ‘Accessing Resources Under the Least Developed Countries Fund (GEF 2011).

²⁶¹ GEF 32nd LDCF/SCCF Council Meeting, ‘Update on the Climate Program for Adaptation Innovation Under the Least Developed Countries Fund and Special Climate Change Fund’ (23 June 2023) GEF/LDCF.SCCF.32/Inf.04.

²⁶² 1992 United Nations Framework Convention on Climate Change (adopted 9 May 1992, entered into force 21 Mar 1994) UNTS 1771 (UNFCCC).

Environment Facility (GEF)', so that vulnerable nations may more adequately and predictably address the negative impacts of climate change.²⁶³ By virtue of the Marrakesh Accords, the Special Climate Change Fund (SCCF), one of the world's first multilateral climate adaptation finance instruments, was established.²⁶⁴ The SCCF is said to have 'emanated from the desire of a majority of developing countries to create new institutional arrangements separate from the GEF Trust Fund that would be more responsive to their priorities.'²⁶⁵

2. Funding and funds management

Financing is to be provided via windows: the Adaptation window (SCCF Fund-A),²⁶⁶(ii) the Technology Transfer window (SCCF Fund-B),²⁶⁷ Mitigation (SCCF-C) and Economic Diversification (SCCF-D),²⁶⁸ with no funds allocated to the last two windows to date. In part, the narrow scope of SCCF projects and the limited scale of overall funding may have impacted perceptions of its attractiveness as a funding modality.²⁶⁹ Indeed, as recently as 2021, the SCCF was described as 'semidormant' by the Independent Evaluation Office, which recommended that the GEF Secretariat develop a 'proactive action plan to revitalize the fund.'²⁷⁰ Accordingly, while the SCCF is formally part of the financial mechanism for the climate regime, having been granted an important role in serving the Paris Agreement, the lack of certainty regarding funding has reduced its ability to perform this role. However, the SCCF itself remains backed by the UNFCCC COP and its Parties, and recently received substantial contributions from eight separate donor countries for a total of \$105.6 million in pledges to both LDCF and SCCF respectively.²⁷¹

In terms of the funding to the SCCF, 'cumulative pledges amounted to \$396.17 million as of March 31, 2023 of which 91.6 percent had been received.'²⁷² In terms of costs/benefits of the fund, the 2023 GEF report to the COP noted that USD\$320.50M out of the USD\$363.22M committed relates to project preparation and implementation, USD\$31.07M to fees, and USD\$11.66M to corporate activities and administrative expenses.²⁷³ In terms of effectiveness, the last independent review of the SCCF noted that its overall performance, 'is comparable with that of the GEF Trust Funds, with 79 percent of completed SCCF projects rated in the satisfactory range for outcomes.'²⁷⁴

²⁶³ UNFCCC COP, 'Decision 7/CP.7 Funding under the Convention' (21 January 2002) FCCC/CP/2001/13/Add.1.

²⁶⁴ UNFCCC COP, 'Decision 7/CP.7 Funding under the Convention' (21 January 2002) FCCC/CP/2001/13/Add.1, para 1(c)(ii) and para 2.

²⁶⁵ A. Ballesteros and others, 'Power, Responsibility, and Accountability: Re-Thinking the Legitimacy of Institutions for Climate Finance (2010) 1 Climate Law 261, 267.

²⁶⁶ UNFCCC COP, 'Decision 5/CP.7 Implementation of Article 4, paragraphs 8 and 9 of the Convention (decision 3/CP.3 and Article 2, paragraph 3, and Article 3, paragraph 14, of the Kyoto Protocol) (21 January 2002) FCCC/CP/2001/13/Add.1, para 8.

²⁶⁷ UNFCCC COP, 'Decision 4/CP.7 Development and transfer of technologies (decisions 4/CP.4 and 9/CP.5) (21 January 2002) FCCC/CP/2001/13/Add.1, para 3.

²⁶⁸ N. Amerasinghe and others, 'The Future of The Funds Exploring the Architecture of Multilateral Climate Finance' (World Resources Institute: 2017), 26.

²⁶⁹ GEF, '2021 Program Evaluation of The Special Climate Change Fund' (December 1, 2021) GEF/LDCF.SCCF.31/E/01/Rev.01, 48, para 138.

²⁷⁰ GEF, '2021 Program Evaluation of The Special Climate Change Fund' (December 1, 2021) GEF/LDCF.SCCF.31/E/01/Rev.01 6, para 17.

²⁷¹ GEF, 'Countries pledge added support to GEF funds for urgent climate adaptation' (GEF, 15 November 2022) <<https://www.thegef.org/newsroom/press-releases/countries-pledge-added-support-gef-funds-urgent-climate-adaptation>> last accessed 11 July 2023. See also UNFCCC COP, 'Decision 13/CP.27 Long-term climate finance' (17 March 2023) FCCC/CP/2022/10/Add.2, paras 5, 8-11.

²⁷² GEF, 'Progress Report on the Least Developed Countries Fund and the Special Climate Change Fund' (13 June 2023) GEF/LDCF.SCCF.35/05, 3.

²⁷³ GEF, 'Report of the Global Environment Facility to the Conference of the Parties' (22 September 2023) FCCC/CP/2023/6, 117

²⁷⁴ GEF, '2021 Program Evaluation of The Special Climate Change Fund' (December 1, 2021) GEF/LDCF.SCCF.31/E/01/Rev.01, iii.

3. Disbursement criteria and processes under the fund and support for Innovation

In terms of projects funded by the SCCF, the 2023 progress report²⁷⁵ stated that water, agriculture, and climate information are the sectors with the greatest focus, followed by nature-based solutions. 13 GEF agencies have been involved in SCCF projects to date, with the World Bank holding the largest share of such projects, at 26%, and 94 projects have been approved, including 21 Multi-Trust Fund Projects (MTFs). During the last reporting period, three projects had been approved to a total value of \$1.41 million in SCCF finance. All of these projects are, ‘MTFs with the LDCF supported through the Challenge Program for Adaptation Innovation.’ 2022 review of regional distribution of resources showed a balance among regions with Latin America and the Caribbean (LAC), Africa and Asia and the Pacific receiving about 33, 33 and 25 percent of funding commitments, respectively.²⁷⁶

Following the Independent Evaluation Office’s finding in 2021 that the SCCF was in a semi-dormant state, the GEF programming strategy for the SCCF has refocused the Fund to play to its strengths, noting that the ‘SCCF-A is well-placed to serve the needs of the many highly vulnerable, non-LDC SIDS, that are not able to access adaptation support from the LDCF and which need to compete with other developing countries for funds from other sources of climate finance (and) that SCCF-B is well-placed to support innovation and technology transfer for adaptation.’²⁷⁷ As such, ‘(t)he SCCF in the GEF-8 period will ... focus on key areas of comparative advantage and gaps in the multilateral climate financing architecture, which will be implemented through the existing SCCF windows. This strategic focus is two-fold: (1) to address critical climate change adaptation priorities for SIDS; and (2) technology transfer private sector engagement. Within this focus, global and regional collaborative action for systems transformation and South-South sharing for across LDC and non-LDC contexts will be supported.’²⁷⁸ However, the most recent progress report (mid 2023) on the LDCF and the SCCF noted that, ‘the SCCF’s window B focused on technology transfer, innovation, and provide sector engagement, is still under-resourced despite its demonstrated strong potential for impact and engagement of non-traditional partners in the GEF.’²⁷⁹ Accordingly, ‘(t)he lack of funds in SCCF window B continues to *limit the GEF’s programming potential* to address climate adaptation priorities, particularly for countries that are not LDCs or small island developing states (SIDS), as well as for the areas of technology transfer, innovation, and private sector engagement.’²⁸⁰

For private sector engagement more generally and according to the GEF 2022 annual monitoring review²⁸¹, both the LDCF and the SCCF have been identified as tending to ‘exhibit lower levels of private sector engagement than the general GEF project portfolio’. This has been linked to the ‘limited opportunities to develop value chain partnerships or linkages with the formal marketplace.’ Such challenges are, ‘closely tied to the economic context of the LDCs generally, and the individual countries that may lack access to private sector resources or have limited economic diversification and thus reduced opportunities for significant co-finance, resource mobilization, technical and capacity development.’

²⁷⁵ GEF, ‘Progress Report on the Least Developed Countries Fund and the Special Climate Change Fund’ (13 June 2023) GEF/LDCF.SCCF.35/05.

²⁷⁶ GEF, [FY22 Annual Monitoring Review of the LDCF and SCCF](#).

²⁷⁷ GEF, ‘GEF Programming Strategy On Adaptation to Climate Change for The Least Developed Countries Fund and The Special Climate Change Fund for the GEF-8 Period of July 1, 2022, To June 30, 2026, And Operational Improvements’ (31 May 2022) GEF/LDCF.SCCF.32/04/Rev.01, 12.

²⁷⁸ See GEF, ‘GEF Programming Strategy on Adaptation to Climate Change for the Least Developed Countries Fund and The Special Climate Change Fund for the GEF-8 Period of July 1, 2022, To June 30, 2026, And Operational Improvements’ (31 May 2022) GEF/LDCF.SCCF.32/04/Rev.01, para 175.

²⁷⁹ GEF, ‘Progress Report on the Least Developed Countries Fund and the Special Climate Change Fund’ (13 June 2023) GEF/LDCF.SCCF.35/05, 11.

²⁸⁰ GEF, ‘Progress Report on the Least Developed Countries Fund and the Special Climate Change Fund’ (13 June 2023) GEF/LDCF.SCCF.35/05, 24.

²⁸¹ GEF, ‘FY22 Annual monitoring review of the Least Developed Countries Fund and the Special Climate Change Fund’ (1 June 2023) GEF/LDCF.SCCF.34/04.

4. Key takeaways

- Past uncertainty in funding by donors to fulfil the present mandate of the SCCF is being refocused towards addressing critical climate change adaptation priorities for SIDS and technology transfer private sector engagement;
- A lack of funds in respect of SCCF window B do, however, continue to hamper the programming potential of the SCCF to achieve its vision;
- Technology transfer may be a useful alternative to monetary funding, particularly within the context of adaptation in SIDS. However, technology co-development is seen as preferable to technology transfer;
- Both the LDCF and the SCCF have been identified as tending to exhibit lower levels of private sector engagement than the general GEF project portfolio, potentially because adaption-focused work is difficult to ‘sell’ to the private sector.

Adaptation Fund

1. Overview

The origins of the Adaptation Fund can be traced to Article 12.8 of the Kyoto Protocol which directs that ‘a share of the proceeds from certified project activities is used to cover administrative expenses as well as to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation.’ Following this, Parties agreed at the UNFCCC COP 7 to the creation of an Adaptation Fund ‘to finance concrete adaptation projects and programmes’,²⁸² alongside the creation of the Least Developed Countries Fund (LDCF) and the Special Climate Change Fund (SCCF). The Adaptation fund now serves the Paris Agreement²⁸³ and targets ‘developing country Parties to the Kyoto Protocol or the Paris Agreement that are particularly vulnerable to the adverse effects of climate change including low-lying and other small island countries, countries with low-lying coastal, arid and semi-arid areas or areas liable to floods, drought and desertification, and developing countries with fragile mountainous ecosystems.’²⁸⁴

2. Operation, Governance, Funding

The decision in which the fund is established does not set out detailed governance modalities, but rather stating that the ‘Adaptation Fund shall be operated and managed by an entity entrusted with the operation of the financial mechanism of the Convention, under the guidance of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, with guidance to be provided by the Conference of the Parties in the period prior to entry into force of the Kyoto Protocol.’²⁸⁵ While some developed countries had originally proposed that the Fund should be managed by the GEF, developing countries largely opposed this so that the operating entity of the Fund is the Adaptation Fund Board (AFB). The AFB meets twice a year and is composed of 16 members with 16 alternates.²⁸⁶ Its membership consists of the following;

- ‘(a) Two representatives from each of the five United Nations regional groups;
- (b) One representative of the small island developing States;
- (c) One representative of the least developed country Parties;
- (d) Two other representatives from the Parties included in Annex I to the Convention (Annex I Parties);
- (e) Two other representatives from the Parties not included in Annex I to the Convention

²⁸² UNFCCC COP, ‘Decision 10/CP.7 Funding Under the Kyoto Protocol’ (21 January 2002) FCCC/CP/2001/13/Add.1.

²⁸³ UNFCCC, ‘Adaptation Fund’ <<https://unfccc.int/Adaptation-Fund>> accessed on 9 October 2023.

²⁸⁴ Adaptation Fund, ‘Strategic Priorities, Policies, and Guidelines of the Adaptation Fund (SPPG) (Annex to the OPG) (14 October 2022) para 12.

²⁸⁵ UNFCCC COP, ‘Decision 10/CP.7 Funding Under the Kyoto Protocol’ (21 January 2002) FCCC/CP/2001/13/Add.1.

²⁸⁶ Adaptation Fund, ‘Board’ <<https://www.adaptation-fund.org/about/governance/board/>> accessed on 9 October 2023.

(non-Annex I Parties).’

Its membership is such that developing countries are in the majority.²⁸⁷ The AFB is supported in its work by three committees: the Ethics and Finance Committee, the Project and Programme Review Committee and the Accreditation Panel. Secretariat services are provided by the GEF with the World Bank selling certified emission reductions (CERs) and managing the Adaptation Trust Fund, which holds the financial resources of the Adaptation Fund, and distributes them according to the mandates of the AFB.²⁸⁸

The way in which funds have accrued to the Adaptation Fund has changed since its establishment.²⁸⁹ It was originally to be financed a contribution of 2% of the share of proceeds of certified emission reductions (CERs) issued from activities under the clean development mechanism (CDM) of the Kyoto Protocol²⁹⁰ as well as donations from governments and private entities.²⁹¹ According to a 2015 independent evaluation²⁹², financing via CERs was intended to, ‘free (the Fund) from dependence on voluntary contributions.’ Accordingly, the Fund had the potential to provide what was, for the ‘first time within climate finance global architecture, a real example on how adaptation could be funded through levies on carbon emissions.’ However, the collapse of carbon market prices raised concerns regarding the model of sustainability of resource mobilisation.

In 2012, the fund became eligible to receive a 2% ‘share of the proceeds levies on the first international transfers of assigned amount units (AAUs) and the issuance of emission reduction units (ERUs) for projects under Article 6 of the Kyoto Protocol.’²⁹³ While a step in the right direction, this supplementary financing mechanism was unlikely to address the shortfall in finances in the short to medium term,²⁹⁴ with other resource mobilisation strategies such as donations required. In 2017, the Adaptation Fund’s Resource Mobilisation Strategy emphasized the need to engage the private sector and charitable foundations as potential sources of funding, and the current Resource Mobilisation Strategy (2022 to 2025) has recognised that further sources of funding will need to be pursued.²⁹⁵

Still, the AF has been heavily reliant on voluntary contributions and while, ‘between 2017 and 2021 the AF succeeded in meeting the resource mobilization targets set by its Board,’ a recent review noted that ‘the unstable revenue from CERs and the voluntary nature of contributions calls into question the predictability and sustainability of the Fund.’²⁹⁶ Unlike other international funds such as the GEF, there is no formal replenishment process though a few countries such as Sweden have made multi-year funding pledges to the Adaptation Fund.²⁹⁷

²⁸⁷ Adaptation Fund, ‘Board’ <<https://www.adaptation-fund.org/about/governance/board/>> accessed on 9 October 2023.

²⁸⁸ Adaptation Fund, ‘Trustee’ <<https://www.adaptation-fund.org/about/governance/trustee/>> accessed on 9 October 2023.

²⁸⁹ Albeit its operationalisation was delayed for several years until 2010 due to discussions on its governance structure etc. See discussion in Marco Grasso, ‘The Role of Justice in the North-South Conflict in Climate Change: The Case of Negotiations on the Adaptation Fund’ (2010) 11 International Environmental Agreements: Politics, Law and Economics 361-377.

²⁹⁰ UNFCCC, ‘Adaptation Fund’ <<https://unfccc.int/Adaptation-Fund>> accessed on 9 October 2023; 1997 Kyoto Protocol to the United Nations Framework on Climate Change (adopted on 11 December 1997, entered into force 16 February 2005) article 12.8.

²⁹¹ Adaptation Fund, ‘About the Adaptation Fund’ <<https://www.adaptation-fund.org/about/>> accessed on 9 October 2023; TANGO International and Overseas Development Institute, ‘Independent Evaluation of the Adaptation Fund’ (World Bank, 2015), 29.

²⁹² TANGO International and Overseas Development Institute, ‘Independent Evaluation of the Adaptation Fund: First Phase Evaluation Report’ (World Bank, 2015).

²⁹³ UNFCCC, ‘Adaptation Fund’ <<https://unfccc.int/Adaptation-Fund>> accessed on 9 October 2023; UNFCCC CMA, ‘Report of the Conference of the Parties Serving as the Meeting of the Parties to the Kyoto Protocol on Its Eighth Session, Held in Doha from 26 November to 8 December 2012 (28 February, 2013) FCCC/KP/CMP/2012/13/Add.1.

²⁹⁴ TANGO International and Overseas Development Institute, ‘Independent Evaluation of the Adaptation Fund: First Phase Evaluation Report’ (World Bank, 2015), 30; see also Adaptation Fund Board (AFB), ‘Decisions of the Twenty-Third Meeting of the Adaptation Fund Board’ (10 April 2014) AFB/B.23/7, para 154.

²⁹⁵ Adaptation Fund Board (AFB), ‘Resource Mobilization Strategy’ 2022-2025 (14 October 2022) AFB/B.39/6/Add.1/Rev.2.

²⁹⁶ UNFCCC, ‘Fourth Review of the Adaptation Fund’ (3 November 2022) FCCC/TP/2022/1.

²⁹⁷ Adaptation Fund Board (AFB), ‘Resource Mobilization Strategy’ 2022-2025 (14 October 2022) AFB/B.39/6/Add.1/Rev.2, 8.

In terms of the breakdown of funding into the Adaptation Fund, as of June 2022, payments received into the Adaptation Fund comprised \$211.80 million from CERs and \$982 million from voluntary contributions. A further \$41,26 million had been received by way of return on investments of Trust Fund balances.²⁹⁸ In contrast to certain other funds, the Adaptation Fund, ‘can only receive resources to its overall budget without the opportunity for contributors to direct funding i.e., to a specific window.’ While this could potentially be identified as a weakness it does make for relatively simple governance processes and provides the AFB the flexibility to decide on priorities for funding).²⁹⁹ In this sense, it is not as donor led.

The Adaptation Fund serves the Paris Agreement, including Article 6.6 which directs that, ‘a share of the proceeds from activities under the mechanism referred to in paragraph 4 of this Article is used to cover administrative expenses as well as to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation.’ In this regard, the CMA (Conference of the Parties serving as the meeting of the Parties to the Paris Agreement) directed that the Adaptation Fund shall be financed by proceeds from the mechanism to be established under Article 6.4.³⁰⁰ This financing will be received via;

- “(a) A levy of 5 per cent of A6.4ERs at issuance;
- (b) A monetary contribution related to the scale of the Article 6, paragraph 4, activity or to the number of A6.4ERs issued, to be set by the Supervisory Body;
- (c) After the mechanism becomes self-financing, a periodic contribution from the remaining funds received from administrative expenses ... after setting aside the operating costs for the mechanism and an operating reserve, at a level, and with a frequency to be determined by the CMA.”

The 16.4ERs mentioned above are in essence recognised carbon credits that can be traded by countries and companies alike. While still to be operationalised, the Article 6.4 mechanism will allow for the creation of an international carbon credit market.³⁰¹ These projects will be overseen by a Supervisory Body. The most recent mobilisation strategy of the Adaptation Fund notes that ‘details of administrative system to make the Article 6.4 mechanism (...) work are complex and are expected to take time to implement, and it is not yet clear how much resources will be generated and provided for the Adaptation Fund.’³⁰² The Adaptation Fund has little control over ‘the broader climate finance architecture.’

3. Disbursement Criteria and processes

The AF disburses funding for projects across nine areas including agriculture, forests, and water management.³⁰³ Funding for adaptation ‘is on a full adaptation cost basis to address the adverse effects of climate change’, so that co-financing is not required. The AFB, when considering applications for funding, is takes into account their ‘(c)consistency with national sustainable development strategies and adaptation planning processes, including, where appropriate, national adaptation plans (NAPs), nationally determined contributions (NDCs), adaptation communications, national development plans, poverty reduction strategies, national communications and national adaptation programmes of action (NAPAs) and other voluntary adaptation reports and relevant instruments, where they exist’, making coherence, complementarity and support for existing national approaches and policies central to their approach.

²⁹⁸ UNFCCC, ‘Adaptation Fund’ < <https://unfccc.int/Adaptation-Fund>> accessed on 9 October 2023.

²⁹⁹ Adaptation Fund Board (AFB), ‘Resource Mobilization Strategy’ 2022-2025 (14 October 2022) AFB/B.39/6/Add.1/Rev.2, 7.

³⁰⁰ UNFCCC COP, ‘Decision 13/CMA.1, ‘Matters relating to the Adaptation Fund’ (19 March 2019)

UNFCCC/PA/CMA/2018/3/Add.2 https://unfccc.int/sites/default/files/resource/cma2018_3_add2_new_advance.pdf#page=2.

³⁰¹ UNFCCC COP, ‘Decision 1/CMP.14, para. 2.

³⁰² Adaptation Fund Board, ‘Resource Mobilization Strategy 2022 - 2025’ (14 October 2022) AFB/B.39/6/Add.1/Rev.2

https://www.adaptation-fund.org/wp-content/uploads/2022/11/AFB.B.39.6.Add.1.Rev.2.AF-RM-Strategy_adopted_Nov.8.pdf

³⁰³ Adaptation Fund, ‘Project Sectors’ < <https://www.adaptation-fund.org/projects-programmes/project-sectors/>> accessed on 0 October 2023.

Criteria for project proposal evaluation include economic, social and environmental benefits, monitoring and evaluation and impact assessment and gender equality and the empowerment of women and girls.³⁰⁴ Furthermore, the AFB will consider at level of vulnerability, the level of urgency, equity in terms of access to the Fund, capacity for lessons to be learned regional co-benefits, multisectoral or cross sectoral, and adaptive capacity of the relevant Party.³⁰⁵

A number of programmes exist under the Fund for the fiscal year 2024:

- “(a) US\$ 100 million to fund regional projects and programme proposals, including requests for project formulation grants to prepare regional project and programme concept or fully developed project documents;
- (b) US\$ 30.3 million to fund enhanced direct access projects and programmes, including requests for project formulation grants to prepare fully developed enhanced direct access project documents;
- (c) US\$ 30.3 million to fund large innovation projects and programmes, including requests for project formulation grants to prepare fully developed large innovation project documents;
- (d) US\$ 1.5 million to fund small innovation grants;
- (e) US\$ 1 million to fund learning grants;
- (f) US\$ 1 million to fund project scale-up grants.”³⁰⁶

The applications for funding are submitted by a national, regional or multilateral accredited implementing entity in English.³⁰⁷ An Accreditation Panel supports the work of the Adaptation Fund Board, and a fast-track process for accreditation exists.³⁰⁸

By June 2022 14 multilateral (MIEs), 9 regional (RIEs), and 34 national (NIEs) implementing entities, 10 of which were LDCs and 7 were SIDS had received accreditation, and 132 projects had been approved, 79 are being or have been implemented by MIEs, 38 by NIEs and 15 by RIEs.³⁰⁹ Despite the high number of projects approved to MIEs, a cap of 50% financing for proposals submitted by MIEs was set in 2010 by the AFB.³¹⁰

The Adaptation Fund was the first multilateral climate fund to introduce ‘direct access’,³¹¹ whereby ‘national implementing authorities are able to directly access financing and manage all aspects of climate adaptation and resilience projects, from design through implementation to monitoring and evaluation.’³¹² Two forms of direct access under the Adaptation Fund have been identified as a ‘unique niche’ within climate funding, allowing NIEs to build the necessary capacity required to, ‘access significantly higher levels of adaptation finance.’ Indeed, the principle of ‘ownership matters’ is a principle for impact and effectiveness as set out in the Adaptation Fund’s Medium-Term Strategy for 2023 to 2027.³¹³

³⁰⁴ Adaptation Fund, ‘Strategic Priorities, Policies, and Guidelines of the Adaptation Fund (SPPG) (Annex to the OPG) (14 October 2022), para 17.

³⁰⁵ Adaptation Fund, ‘Strategic Priorities, Policies, and Guidelines of the Adaptation Fund (SPPG) (Annex to the OPG) (14 October 2022), para 18.

³⁰⁶ Adaptation Fund Board (AFB), ‘Report of the Fortieth Meeting of the Adaptation Fund Board’ (8 May 2023) AFB/B.40/14, 32 – 33.

³⁰⁷ Adaptation Fund, ‘Apply for Funding’ <<https://www.adaptation-fund.org/apply-funding/>> accessed on 9 October 2023.

³⁰⁸ Adaptation Fund, ‘Accreditation’ <<https://www.adaptation-fund.org/apply-funding/accreditation/>> accessed on 9 October 2023.

³⁰⁹ UNFCCC, ‘Fourth Review of the Adaptation Fund’ (3 November 2022) FCCC/TP/2022/1, 12.

³¹⁰ UNFCCC, ‘Fourth Review of the Adaptation Fund’ (3 November 2022) FCCC/TP/2022/1, 12.

³¹¹ Britta Horstmann, ‘Operationalizing the Adaptation Fund: Challenges in Allocating Funds to the Vulnerable’ (2011) 11 Climate Policy 1086-1096.

³¹² Adaptation Fund, ‘Direct Access’ <<https://www.adaptation-fund.org/about/direct-access/>> accessed on 9 October 2023

³¹³ Adaptation Fund, ‘Medium Term Strategy 2023 - 2027’ (December 2022) available at <https://www.adaptation-fund.org/wp-content/uploads/2022/12/Medium-Term-Strategy-2023-2027.pdf> accessed 9 October 2023.

4. Costs v. Benefits, Efficiency and Impact

The Fund has been recognised as providing a niche in climate adaptation funding, with its direct access modality and support for projects on a full costs' basis. There is, however, recognition that while the Fund, 'in line with its mandate, has contributed to the increase in developing countries' access to adaptation finance... the extent to which adaptation costs can be met is limited by the amount of financing available.'³¹⁴ Therefore, the extent to which funds can be assured in years to come, particularly given the expected need for more funds to be allocated to adaptation activities in the future, will ultimately determine its future success.

The adoption of a social and environmental policy in 2013 (revised in 2016 aims to ensure, among other things, that 15 principles are upheld in projects under the Adaptation Fund, namely; 'compliance with the law, access and equity, marginalized and vulnerable groups, human rights, gender equality and women's empowerment, core labour rights, indigenous peoples, involuntary resettlement, protection of natural habitats, conservation of biological diversity, climate change, pollution prevention and resource efficiency, public health, physical and cultural heritage, and lands and soil conservation.'³¹⁵ However, the way in which funds are to be raised for the Adaptation Fund do raise concerns for human rights and the rights of IPLCs, including prior informed consent in respect to projects likely to be taken under Article 6.4.³¹⁶ This does point to the Adaptation Fund existing in a wider climate and funding ecosystem over which it has little control.

5. Monitoring and evaluation

The Adaptation Fund has recently updated its Evaluation Policy for 2023³¹⁷ and will support seven overlapping principles in Fund evaluations: relevance and utility, credibility and robustness, equitable and gender-sensitive, transparency, impartiality and objectivity, complementarity, and complexity – sensitive and adaptive.³¹⁸ The criteria applied in Fund evaluations are: relevance, coherence, effectiveness, efficiency, impact, equity, adaptive management, scalability, human and ecological sustainability and security.³¹⁹ In 2019, the Technical Evaluation Reference Group of the Adaptation Fund (AF-TERG) became operational as an, 'independent advisory group, accountable to the Board, established to ensure the independent implementation of the Fund's evaluation framework.'³²⁰

Learning is central to the vision of the AFB with four reviews so far demonstrating its prioritisation of 'learning by doing and the Adaptation Fund's Medium-Term Strategy for 2023 to 2027'³²¹ presenting 'learning and sharing' as a strategic pillar. As such, the Fund aims to support the testing of new practices, tools, and technologies for effective adaptation and pragmatic learning and sharing, especially through south-south collaboration.³²²

6. Research and Innovation

Innovation is identified as another strategic pillar set out in the Adaptation Fund's Medium Term Strategy with an innovation taskforce to support the innovation vision of the Adaptation Fund Board.³²³ An Innovation Facility provides funding for different types of grant modalities: small grants

³¹⁴ UNFCCC, 'Fourth Review of the Adaptation Fund' (3 November 2022) FCCC/TP/2022/1, 16.

³¹⁵ UNFCCC, 'Fourth Review of the Adaptation Fund' (3 November 2022) FCCC/TP/2022/1,12.

³¹⁶ UNFCCC, 'Article 6.4 Mechanism' <<https://unfccc.int/process-and-meetings/the-paris-agreement/article-64-mechanism> > accessed on 9 October 2023.

³¹⁷ Adaptation Fund, 'Evaluation Policy of the Adaptation Fund' (17 May 2022) AFB/EFC.29/6/Rev.1.

³¹⁸ Adaptation Fund, 'Evaluation Policy of the Adaptation Fund' (17 May 2022) AFB/EFC.29/6/Rev.1, 9-10.

³¹⁹ Adaptation Fund, 'Evaluation Policy of the Adaptation Fund' (17 May 2022) AFB/EFC.29/6/Rev.1, 11-12.

³²⁰ UNFCCC, 'Fourth Review of the Adaptation Fund' (3 November 2022) FCCC/TP/2022/1, 19.

³²¹ Adaptation Fund. Medium Term Strategy 2023-2027 (Adaptation Fund, 2022), 28.

³²² Adaptation Fund Board, 'Resource Mobilization Strategy 2022 - 2025' (14 October 2022) AFB/B.39/6/Add.1/Rev.2

https://www.adaptation-fund.org/wp-content/uploads/2022/11/AFB.B.39.6.Add.1.Rev.2.AF-RM-Strategy_adopted_Nov.8.pdf para 12.

³²³ Adaptation Fund. Medium Term Strategy 2023-2027 (Adaptation Fund, 2022), 26.

of up to USD\$250,000 available to either the NIEs³²⁴ or entities that are not accredited with the Fund such as civil society organizations, businesses, youth, researchers, sub-national governments - supported by the AF Adaptation Innovation Accelerator administered by UNDP and UNEP³²⁵ - and larger grants of up to \$5 million available to all IEs.³²⁶ Projects funded under the Innovation Facility, and which present a focus on partnerships, iterative learning and adaptive management have so far been successful.³²⁷

However, a recent evaluation of the Adaptation Fund's focus on 'learning in relation to innovation appears fragmented, and no overarching strategy for learning about innovation was identified. Existing approaches, instruments and mechanisms have not yet been applied to or tailored for innovation.'³²⁸

7. Key Takeaways

- Direct access is a key innovation to promote country ownership over adaptation projects, a 'unique niche' within climate funding;
- The governance and funding structure of the Adaptation Fund was designed not to be donor led, and was seen as an innovative resource mobilization model, with accrual funds from CERs, though there are risks inherent in a more market based financial model.

The Green Climate Fund

1. Overview

At the 15th meeting of the Conference of the Parties (COP) to the United Nations Framework Convention on Climate Change (UNFCCC), developed nations committed to mobilize US\$100 billion per annum to developing nations by 2020 to support meaningful adaptation and mitigation actions, exercising transparency on implementation.³²⁹ The "world's largest climate fund"³³⁰, the Green Climate Fund (GCF)³³¹

2. Operation, Governance and Funding

The GCF is designated as an operating entity of the financial mechanism under the UNFCCC and is accountable to and functions under the guidance of the UNFCCC COP.³³² Its Governing Instrument (GI sets out the objective of the GCF as being to 'promote the paradigm shift towards low-emission and climate-resilient development pathways by providing support to developing countries to limit or reduce their greenhouse gas emissions and to adapt to the impacts of climate change, taking into account the needs of those developing countries particularly vulnerable to the adverse effects of climate change.'³³³

The GCF may receive contributions from developed countries party to the UNFCCC as well as public, non-public, and alternative sources. Such sources include non-Party countries, entities, and

³²⁴ Adaptation Fund, 'NIE Small Grants for Innovation' <<https://www.adaptation-fund.org/apply-funding/innovation-grants/nie-small-grants-for-innovation/>> accessed on 9 October 2023.

³²⁵ Adaptation Fund, 'Medium Term Strategy 2023 - 2027' (December 2022) available at <https://www.adaptation-fund.org/wp-content/uploads/2022/12/Medium-Term-Strategy-2023-2027.pdf> accessed 9 October 2023, 26.

³²⁶ Adaptation Fund, 'Large Innovation Projects' <<https://www.adaptation-fund.org/apply-funding/innovation-grants/large-grants-for-innovation/>> accessed on 9 October 2023.

³²⁷ Adaptation Fund, 'Medium Term Strategy 2023 - 2027' (December 2022) available at <https://www.adaptation-fund.org/wp-content/uploads/2022/12/Medium-Term-Strategy-2023-2027.pdf> accessed 9 October 2023, 27.

³²⁸ Adaptation Fund, Thematic Evaluation of the Fund's Approach to Support Innovation for Climate Change Adaptation (October 2022) AFB/EFC.30/10, 36.

³²⁹ UNFCCC Conference of the Parties (COP), 'Decision 2/CP.15 Copenhagen Accord' (30 March 2010) FCCC/CP/2009/11/Add.1, para 8.

³³⁰ GCF, 'GCF-1 Progress Report: GCF's first replenishment period 2020-2023' (April 2023), p20-25.

³³¹ Green Climate Fund, Portfolio Dashboard' <<https://www.greenclimate.fund/projects/dashboard>> accessed on 9 October 2023

³³² UNFCCC COP, 'Decision 3/CP.17 Launching the Green Climate Fund' (15 March 2012) FCCC/CP/2011/9/Add.1, Annex, para 4.

³³³ Green Climate Fund, Governing Instrument for the Green Climate Fund, (Green Climate Fund, 2011), para 2.

foundations.³³⁴ Initial resource mobilisation saw USD\$10.3B in pledges and a first replenishment round saw \$10 billion in pledges.³³⁵ A second replenishment round is to take place in October 2023. The World Bank acts as trustee.

The fund is managed by a dedicated Board which has full control over its funding decisions.³³⁶ The Board has 24 members, ‘composed of an equal number of members from developing and developed country Parties. Representation from developing country Parties will include representatives of relevant United Nations regional groupings and representatives from small island developing States (SIDS) and least developed countries (LDCs).’³³⁷ The Board has been recognised as effective in pursuing the mandate of the GCF, despite differences of opinion affecting the overall strategic vision.³³⁸ The Board is supported in its work by a Secretariat, an Accreditation Panel, an Independent Technical Advisory Panel, an Independent Evaluation Unit, an Independent Redress Mechanism Unit, an Independent Integrity Unit, and several committees including an Investment, an Ethics, and an Audit Committee, as well as independent mechanisms helping to provide accountability.

The Fund is a ‘partnership institution’ in the sense that it operates through a network of accredited entities and delivery partners that work directly with developing countries, represented through GCF national designated authorities (NDAs) or focal points. They propose projects and programmes to the GCF for funding and implement them once approved. The NDAs and focal points are appointed by country governments to serve as the interface between each country and the Fund.³³⁹ This expanding network of partners includes development banks, UN agencies, international financial institutions, civil society organisations and development finance institutions.³⁴⁰

The GCF has a strong mandate in respect of the private sector, as enshrined in its Governing Instrument with this work being conducted through the GCF Private Sector Facility.³⁴¹ The aim of the Private Sector Facility is ‘to catalyse private climate finance in a manner fully aligned with a country-driven approach to meet the needs of developing countries.’³⁴² Those private actors often have direct involvement in the design and implementation processes of projects and are invited to send two active observers to Board meetings, placing them on the same footing as civil society representatives.³⁴³ It has however been recognised that national level priorities need better translation into ‘bankable’ projects to attract investment.³⁴⁴ From a more critical perspective found in some of the literature on the GCF, the Fund constitutes, ‘part of a general trend of at least partly privatizing development

³³⁴ Green Climate Fund, ‘Resource Mobilisation’ <<https://www.greenclimate.fund/about/resource-mobilisation>> accessed on 9 October 2023.

³³⁵ Green Climate Fund, ‘Resource Mobilisation’ <<https://www.greenclimate.fund/about/resource-mobilisation>> accessed on 9 October 2023.

³³⁶ Green Climate Fund, Governing Instrument for the Green Climate Fund, (Green Climate Fund, 2011), para 5.

³³⁷ Green Climate Fund, Governing Instrument for the Green Climate Fund, (Green Climate Fund, 2011), para 9.

³³⁸ Green Climate Fund Independent Evaluation Unit, Second Performance Review of the Green Climate Fund (Green Climate Fund Independent Evaluation Unit, 2023) 18.

³³⁹ Green Climate Fund Independent Evaluation Unit, Second Performance Review of the Green Climate Fund (Green Climate Fund Independent Evaluation Unit, 2023).

³⁴⁰ Jonas Bertilsson, ‘Organising Stakeholder Participation in Global Climate Governance: The Effects of Resource Dependency and Institutional Logics in the Green Climate Fund’ (2023) 32 *Environmental Values* 555, 562.

³⁴¹ Green Climate Fund Board, ‘Private Sector Strategy’ (Green Climate Fund, 2022)

<https://www.greenclimate.fund/sites/default/files/document/private-sector-strategy>.

³⁴² Green Climate Fund, ‘Private Sector Financing’ (n.d.) <https://www.greenclimate.fund/sectors/private>.

³⁴³ Jonas Bertilsson, ‘Organising Stakeholder Participation in Global Climate Governance: The Effects of Resource Dependency and Institutional Logics in the Green Climate Fund’ (2023) 32 *Environmental Values* 555, 562.

³⁴⁴ Green Climate Fund, ‘Private Sector Strategy’ (2022) available at <https://www.greenclimate.fund/sites/default/files/document/private-sector-strategy.pdf>, which notes (at para 22) that, ‘As a country’s vision to transform development trajectories to limit global warming to 1.5 °C, NDCs are typically designed as policy signals for national climate priorities, rather than portfolios of bankable investment projects.’

cooperation, where projects are not just seen in terms of their contribution to the public good but also from the perspective of private investors and with respect to their profitability'.³⁴⁵

3. Disbursement Criteria and processes, costs v. benefits, efficiency and impact

Funding is disbursed via the accredited entities, or partnership institutions, all able to comply with a number of key conditions, including fiduciary standards, adherence to environmental and social policies, and gender considerations.³⁴⁶ While an entity must be accredited to receive funding, the GCF provides a simplified and improved access to funding, including direct access, whereby national and subnational entities in developing countries can apply directly to the GCF for funding, rather than having to work with an international agency.³⁴⁷ Indeed, direct access is a core part of the GCF's institutional identity focused on country ownership of projects and programmes³⁴⁸, a 'unique mandate in that unlike other climate funds, it can work directly with national agencies and sub-national agencies so long as these are endorsed by national governments.'³⁴⁹ This enhanced direct access was first piloted, and the GCF Strategic Plan for 2024 to 2027 decided its expansion.

Despite accreditation being open to a range of entities, funding has so far tended to be channelled 'predominantly through large international firms and multilateral organisations',³⁵⁰ in part due to the risks associated with smaller entities. Accordingly, in the second performance review by the Independent Evaluation Unit (2023), it was noted that, '(t)he approved project portfolio remains skewed towards international accredited entities (IAEs), and a relatively small number of direct access entities (DAEs)' have been successful in obtaining project funding via the GCF.³⁵¹ This practice has the potential to isolate marginalised groups and indigenous communities, and the fund also 'lacks a framework for defining the local level'³⁵², which could counter this. Ideally, practices should 'integrate local knowledge, avoid elite capture, reduce the dependency of local actors on external support, and increase agency and self-sufficiency... the effectiveness of adaptation ultimately depends on the local level'.³⁵³

In response to such concerns, the Fund has been working on a greater integration of stakeholders, including ILPCs, and has established an Indigenous People Advisory Group, which held its first meeting in September 2022.³⁵⁴ More generally, enhancements to direct access are envisaged under the GCF Strategic Plan for 2024 to 2027.³⁵⁵ This plan also describes the need to 'significantly

³⁴⁵ Jonas Bertilsson, 'Organising Stakeholder Participation in Global Climate Governance: The Effects of Resource Dependency and Institutional Logics in the Green Climate Fund' (2023) 32 *Environmental Values* 555, 563.

³⁴⁶ Green Climate Fund, 'Entity Accreditation' <<https://www.greenclimate.fund/accreditation>> accessed on 9 October 2023.

³⁴⁷ Green Climate Fund Independent Evaluation Unit, Second Performance Review of the Green Climate Fund (Green Climate Fund Independent Evaluation Unit, 2023); Molly Caldwell and Gaia Larsen, *Improving Access to the Green Climate Fund: How the Fund can Better Support Developing Country Institutions* (World Resources Institute, 2021).

³⁴⁸ Green Climate Fund, *Governing Instrument for the Green Climate Fund*, (Green Climate Fund, 2011).

³⁴⁹ Jyotsna Puri and Martin Prowse, 'What can the Green Climate Fund learn about innovation from institutional economics: Lessons for multilaterals' (August 2020) <<https://ieu.greenclimate.fund/blog/what-can-green-climate-fund-learn-about-innovation-institutional-economics-lessons#:~:text=The%20Green%20Climate%20Fund%20has,are%20endorsed%20by%20national%20governments>> Independent Evaluation Unit, accessed 9 October 2023.

³⁵⁰ Jyotsna Puri and Martin Prowse, 'What can the Green Climate Fund learn about innovation from institutional economics: Lessons for multilaterals' (August 2020) <<https://ieu.greenclimate.fund/blog/what-can-green-climate-fund-learn-about-innovation-institutional-economics-lessons#:~:text=The%20Green%20Climate%20Fund%20has,are%20endorsed%20by%20national%20governments>> Independent Evaluation Unit, accessed 9 October 2023.

³⁵¹ Green Climate Fund Independent Evaluation Unit, Second Performance Review of the Green Climate Fund (Green Climate Fund Independent Evaluation Unit, 2023), xx.

³⁵² Jessica Omukuti and others, 'The Green Climate Fund and its Shortcomings in Local Delivery of Adaptation Finance' (2022) 22 *Climate Policy* 1225, 1235

³⁵³ Jessica Omukuti and others, 'The Green Climate Fund and its Shortcomings in Local Delivery of Adaptation Finance' (2022) 22 *Climate Policy* 1225.

³⁵⁴ Green Climate Fund Board, Report on the Activities of the Secretariat (Green Climate Fund, 26 June 2023) GCF/B.36/Inf.14, Annex 6.

³⁵⁵ Green Climate Fund, *Strategic Plan for the Green Climate Fund 2024-2027* (Green Climate Fund, 2023).

expand deployment of the enhanced direct access (EDA) modality and other devolved financing approaches to enable more rapid access to finance for locally-led adaptation action, engaging affected communities, civil society and indigenous peoples in delivering to meet the needs of last mile beneficiaries’.

In terms of disbursement processes, funds are disbursed through thematic funding windows for adaptation and mitigation. In this regard, the GEF ‘invests across eight result areas, covering four mitigation and four adaptation strategic impact areas and strives to balance its funding equally between mitigation and adaptation and to scale up funding for ambitious projects informed by countries’ adaptation needs and mitigation potential. The GCF also provides funding for project preparation activities and climate finance readiness in developing countries.’³⁵⁶

The fund aims to prioritise those that are ‘particularly vulnerable’ to the adverse effects of climate change’.³⁵⁷ In this regard, the governing instrument directs that, ‘In allocating resources for adaptation, the Board will take into account the urgent and immediate needs of developing countries that are particularly vulnerable to the adverse effects of climate change, including LDCs, SIDS and African States, using minimum allocation floors for these countries as appropriate.’³⁵⁸ The second performance review of the GCF noted some successes in meeting this mandate, but points to remaining challenges in reaching the most vulnerable and least ready countries, with 42 still haven’t received GCF adaptation finance to date.³⁵⁹

4. Research and Innovation

The Fund enables and supports technology development and transfer, and capacity building.³⁶⁰ The most recent GCF Strategic Plan notes the need to provide further support for particular forms of innovation and directs to ‘seek to provide early-stage financing to new pre-commercially viable technologies, business models and climate initiatives and deploy first-loss anchor investments.’³⁶¹

There is also increasing recognition within the GCF of the need to promote more diverse forms of knowledge. Recently, the Indigenous People Advisory Group recommended ‘the inclusion of indigenous peoples experts in any advisory group and any engagement with holders of the best available knowledge’ and that ‘regular and periodic updates in the progress of further clarifying the role of data and information from traditional, local and indigenous knowledge and practices in the assessment of concept notes, project preparation funding applications and funding proposals.’³⁶²

5. Monitoring and Evaluation

The Fund adopted an Integrated Results Management Framework (IRMF) in 2021, which aims to bring clarity on the ‘roles and responsibilities for results management and reporting and establishes reporting requirements and processes for monitoring at the project/programme level.’ Three structural levels are to be evaluated as part of the IRMF:

- (a) GCF impact level – paradigm shift potential;
- (b) GCF outcome level comprising

³⁵⁶ Green Climate Fund Independent Evaluation Unit, Second Performance Review of the Green Climate Fund (Green Climate Fund Independent Evaluation Unit, 2023), 7.

³⁵⁷ Mofakkarul Islam, ‘Distributive Justice in Global Climate Finance – Recipients’ Climate Vulnerability and the Allocation of Climate’ (2022) 73 Global Environmental Change Volume 1, 3.

³⁵⁸ Green Climate Fund, Governing Instrument for the Green Climate Fund, (Green Climate Fund, 2011) para 52.

³⁵⁹ Green Climate Fund Independent Evaluation Unit, Second Performance Review of the Green Climate Fund (Green Climate Fund Independent Evaluation Unit, 2023) 108.

³⁶⁰ Mofakkarul Islam, ‘Distributive Justice in Global Climate Finance – Recipients’ Climate Vulnerability and the Allocation of Climate’ (2022) 73 Global Environmental Change Volume 1, 13.

³⁶¹ Green Climate Fund Board, ‘Green Climate Fund-Strategic Plan 2024-2027 Co-Chairs Proposal’ (Green Climate Fund, 2023) GCF/B.36/17/Rev.01.

³⁶² Green Climate Fund Board, Report on the Activities of the Secretariat (Green Climate Fund, 26 June 2023) GCF/B.36/Inf.14, 49.

- (i) reduced emissions and increased resilience (impact potential)
- (ii) enabling environment derived from activity-specific sub-criteria of paradigm shift potential in the initial investment framework;
- (c) project/programme level results.³⁶³

The Second performance review of GEF (2023) directed, however, that the IRMF be ‘urgently operationalised’ and that opportunities be created to allow the GCF to ‘start shifting towards a structure and resourcing that can encourage learning and feedback loops across projects, countries and agencies more systematically.’³⁶⁴

6. Key Takeaways

- The GCF has been able to attract considerable contributions via replenishment cycles;
- The GCF has championed direct access, and is currently reviewing how to enhance this mechanism;
- While disbursement of funds has not always been timely, this is improving;
- Funding has been largely channelled through large organisations, with the potential to exclude marginalised groups and indigenous communities. However, work to overcome this is underway;
- There is increasing recognition of the need to promote more diverse forms of knowledge, a point of direct relevance to how we conceive of research and innovation. Recent recommendations of the Indigenous People Advisory Group urge the fund to address those gaps;³⁶⁵

International Finance Facility for Immunisation

1. Overview

The International Finance Facility for Immunization (IFFIm) is an innovative financing mechanism established in 2006 which provides financing to Gavi, the Vaccine Alliance.³⁶⁶ The key idea behind IFFIm – a company and charity incorporated in England - is that countries make long term, legally binding pledges to provide aid funding which the World Bank then ‘front loads’ and turns into so-called ‘vaccine bonds,’³⁶⁷ sold on capital markets. Proceeds from these bonds are then used to purchase vaccines which are used by Gavi for children in developing countries. The proceeds are also used to fund investment in developing countries health systems and support vaccine campaigns. Since its establishment in 2006, IFFIm has provided \$US 5.8 billion to Gavi, representing 18% of their overall funding.³⁶⁸ IFFIm has also been heavily involved in the response to Covid-19, serving as the mechanism by which donors can provide funding to Gavi’s Advance Market Commitment (AMC) under COVAX.³⁶⁹

2. Governance

In contrast to the governance structures of some of the other funds in this study, IFFIm has a simple governance structure which encompasses a board of trustees – comprised of representatives of ‘banking, capital markets, the health sector and supranational and development finance’³⁷⁰ – and which is assisted by an Audit Committee; Gavi performs IFFIm’s administrative functions; and the World Bank manages the treasury.³⁷¹ Gavi, the Vaccine Alliance, is a public-private partnership (PPP)

³⁶³ Green Climate Fund, Integrated Results Management Framework (Green Climate Fund, 2021).

³⁶⁴ Green Climate Fund Independent Evaluation Unit, Second Performance Review of the Green Climate Fund (Green Climate Fund Independent Evaluation Unit, 2023) xxvi.

³⁶⁵ Green Climate Fund Board, Report on the Activities of the Secretariat (Green Climate Fund, 26 June 2023) GCF/B.36/Inf.14, 49

³⁶⁶ For a useful overview of the history of the Facility, see Georgia Levenson Keohane and Saadia Madsbjerg, ‘The Innovative Finance Revolution’ (2016) 95 (4) Foreign Affairs 161.

³⁶⁷ IFFIm, ‘About IFFIm’ (n.d.) <https://iffim.org/about-iffim> accessed 9 October 2023.

³⁶⁸ IFFIm, ‘Impact’ (n.d.) <https://iffim.org/impact> accessed 9 October 2023.

³⁶⁹ IFFIm, ‘Impact’ (n.d.) <https://iffim.org/impact> accessed 9 October 2023.

³⁷⁰ IFFIm, ‘Governance’ (n.d.) <https://iffim.org/governance> accessed 9 October 2023.

³⁷¹ Sarah Hughes-McLure & Emma Mawdsley (2022) Innovative Finance for Development? Vaccine Bonds and the Hidden Costs of Financialization, *Economic Geography*, 98:2, 145-169, DOI: 10.1080/00130095.2021.2020090.

which, in addition to receiving funds via IFFIm, also receives significant funding from the Bill and Melinda Gates Foundation, which provides direction and oversight for the strategic direction of the fund. The WHO, UNICEF, the World Bank, and the Bill and Melinda Gates Foundation each hold permanent seats on Gavi's board, while representatives from Gavi partners (implementing countries, civil society, the pharmaceutical industry and country donors) sit on the board on a time limited basis.³⁷²

3. Funding and disbursement

The funding model behind IFFIm is based upon the issuance of bonds via capital markets. A useful example is provided by IFFIm in terms of the advantages of their funding model:

“(A s)overeign donor pledges US\$ 200 million paid in US\$ 10 million tranches annually over 20 years. Without IFFIm, Gavi would be limited to spending only this US\$ 10 million each year and would have to wait 20 years before seeing its full impact.

But backed by these pledges, IFFIm issues its vaccine bonds on the international capital markets. Capital market investors buy these bonds for an attractive rate of return, which makes funds immediately available to IFFIm.”³⁷³

The bonds are paid back via the donors' - which are sovereign states - long-term pledges. In this sense, IFFIm doesn't represent additional official development assistance (ODA) but rather represents what has been conceptualised as a 'restructuring' of such aid into long term commitments.³⁷⁴ Accordingly, in the words of Moon and Omole, 'IFFIm can be seen as a way to increase the short-term availability of financing, while also reducing volatility and improving the predictability of aid flows. It does not increase total amounts of aid, but rather makes larger amounts available sooner.'³⁷⁵ Due to the backing of sovereign states, such bonds are seen as attractive to private investors, and have won numerous investor awards. Their backing by donor countries also helped the bonds achieve the highest rate credit rating, AAA, currently at AA-.³⁷⁶

The countries that have committed funds to IFFIm do so under a Finance Framework Agreement³⁷⁷ where donors -- one of eleven sovereign states, called 'grantors'³⁷⁸ -- commit to provide funds to the initiative over a number of years.³⁷⁹ These commitments are legally binding with grantors

³⁷² <https://www.gavi.org/our-alliance/governance/gavi-board>.

³⁷³ IFFIm, 'About IFFIm' (n.d.) <https://iffim.org/about-iffim> accessed 9 October 2023.

³⁷⁴ Suerie Moon and Oluwantosin Omole, 'Development Assistance for Health: Critiques and Proposals for Change' (April 2013) available at https://www.chathamhouse.org/sites/default/files/public/Research/Global%20Health/0413_devassistancehealth.pdf accessed 9 October 2023, 43.

³⁷⁵ Suerie Moon and Oluwantosin Omole, 'Development Assistance for Health: Critiques and Proposals for Change' (April 2013) available at https://www.chathamhouse.org/sites/default/files/public/Research/Global%20Health/0413_devassistancehealth.pdf accessed 9 October 2023, 29.

³⁷⁶ IFFIm, 'Ratings Reports' (n.d.) <https://iffim.org/investor-centre/ratings-reports> accessed 9 October 2023.

³⁷⁷ For discussion, see WHO Collaborating Center Global Consultation on Equity Models for a Pandemic Agreement in support of the World Health Organization and the Intergovernmental Negotiating Body, 'Advancing a World Together Equitably' (February 2023). <https://fnih.org/wp-content/uploads/2023/04/Advancing-a-World-Together-Equitably---O'Neill-FNIH-UNAIDS---February-2023.pdf> accessed 9 October 2023, 10.

³⁷⁸ As set out in the last Trustees report (for the year ending 31st December 2022), the grantors were, 'the Republic of France, the Republic of Italy, the State of the Netherlands, the Kingdom of Norway, the Republic of South Africa, the Kingdom of Spain, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland, the Commonwealth of Australia, and the Federative Republic of Brazil. In March 2023, Canada became IFFIm's eleventh Grantor with a long-term pledge of C\$ (CAD) 125 million;' IFFIm, 'IFFIm Annual Report of the Trustees and Consolidated Financial Statements' (31 December 2022) <https://iffim.org/sites/default/files/trustees-reports/IFFIm-2022-Trustees-Report-and-Financial-Statements.pdf> accessed 9 October 2023, 13 to 14.

³⁷⁹ WHO Collaborating Center Global Consultation on Equity Models for a Pandemic Agreement in support of the World Health Organization and the Intergovernmental Negotiating Body, 'Advancing a World Together Equitably' (February 2023).

having waived immunity from liability,³⁸⁰ Although they can still be subject to market volatility which impacts the ‘fair value’ of pledges.³⁸¹ Disbursement of funds is to Gavi which has financed Country-Specific Programmes, including New and Underused Vaccine Support (“NVS”) programmes, Non Country-Specific Programmes, including the COVAX AMC, and Investment Cases, including the building of a Yellow Fever stockpile.³⁸²

4. Monitoring and Evaluation

The IFFIm has a board of trustees responsible for preparing yearly reports on, among other things, its activities and its financial status.³⁸³ Independent evaluation of IFFIm took place in 2011³⁸⁴ with the review noting that IFFIm offered ‘a second-best solution to the development financing problem’ caused by donors not meeting ‘their international aid commitments and provided the resources required to achieve the Millennium Development Goals (MDGs) up front.’ Since 2014, the Foreign, Commonwealth Development Office (FCDO), as IFFIm’s largest donor, has been assessing the performance of IFFIm as a financial mechanism. In 2023, the FCDO has awarded IFFIm with an A+ score, ‘reflecting the continued strong performance of IFFIm over 2021 and 2022’.³⁸⁵ This is the fifth successive year that IFFIm received the highest score. In essence, the financial flexibility via frontloading that IFFIm provides Gavi allows for the delinkage of its immunisation programmes from the timing of payments from grantors. This is important given uncertainties in development financing. For donors, it also provides the options to either disburse the entire sum now or spread payments over the years in a way that meets their respective budgetary needs and affordability. It should also be noted that the most recent Gavi replenishment round exceeded its goals, as did the recent GEF replenishment (discussed earlier), perhaps indicating an uptick in upfront development commitments.

5. Key takeaways

- The countries that have committed funds to IFFIm do so not under an international treaty law, but rather under a Finance Framework Agreement;
- IFFIm has been very successful in front-loading long-term aid commitments to provide funding via the issuance of Vaccine Bonds to Gavi, the Vaccine Alliance, to pursue its goals;
- Investors in vaccine bonds need to be paid – with interest – and fees associated with the issuance of bonds also need to be factored in;
- The issuance of bonds is not cost free, and these do need to be considered when designing financial mechanisms for resource mobilisation.

<https://fnihi.org/wp-content/uploads/2023/04/Advancing-a-World-Together-Equitably---O'Neill-FNIH-UNAIDS---February-2023.pdf> accessed 9 October 2023, 10.

³⁸⁰ WHO Collaborating Center Global Consultation on Equity Models for a Pandemic Agreement in support of the World Health Organization and the Intergovernmental Negotiating Body, ‘Advancing a World Together Equitably’ (February 2023).

<https://fnihi.org/wp-content/uploads/2023/04/Advancing-a-World-Together-Equitably---O'Neill-FNIH-UNAIDS---February-2023.pdf> accessed 9 October 2023, 10.

³⁸¹ The most recent Trustees report notes, ‘US\$ 474 million in fair value losses on sovereign pledges, primarily comprised of (1) losses due to higher interest rates, which resulted in the application of higher discount rates in the valuation of sovereign pledges, and (2) losses on pledges denominated in currencies other than the United States dollar due to the strengthening of the United States dollar in 2022. This decrease due to the fair value losses and payments received from Grantors was partially offset by new sovereign pledges’ see IFFIm, ‘IFFIm Annual Report of the Trustees and Consolidated Financial Statements’ (31 December 2022) <https://iffim.org/sites/default/files/trustees-reports/IFFIm-2022-Trustees-Report-and-Financial-Statements.pdf> accessed 9 October 2023, 14.

³⁸² IFFIm, ‘IFFIm Annual Report of the Trustees and Consolidated Financial Statements’ (31 December 2022) <https://iffim.org/sites/default/files/trustees-reports/IFFIm-2022-Trustees-Report-and-Financial-Statements.pdf> accessed 9 October 2023, 11 to 12.

³⁸³ IFFIm, ‘Trustees Reports and Financial Statements’ (n.d.) <https://iffim.org/investor-centre/trustee-reports-financial-statements> accessed 9 October 2023.

³⁸⁴ IFFIm 2011 independent evaluation <https://iffim.org/news/independent-evaluation-confirms-iffim-success> accessed 1 November 2023.

³⁸⁵ <https://devtracker.fcdo.gov.uk/projects/GB-1-111073/documents>.

Land Degradation Neutrality Fund

1. Overview

The LDNF was founded to address the loss of 25% of the world's arable land over the last two decades due to mismanagement³⁸⁶ and the threat of another 12 million hectares of productive land being degraded every year³⁸⁷ and the ecosystem services it represents,³⁸⁸ including through SDG 15.3: '(b) by 2030, combat desertification, restore degraded land and soil, including land affected by desertification, drought and floods, and strive to achieve a land degradation-neutral world.' The Land Degradation Neutrality Fund (LDNF) is co-promoted by the finance firm Mirova which uses capital and savings to invest in a 'real, sustainable and value-creation economy'³⁸⁹ and the United Nations Convention to Combat Desertification (UNCCD).³⁹⁰ It was therefore created to address such land degradation and operates as a finance fund accepting contributions from private and public donors, specifically institutional investors, pension funds and private foundations.³⁹¹

The LDNF aims to restore land in developing countries and promote sustainable farming and agriculture in conjunction with local and indigenous communities by encouraging private donors to invest in long-term environmental and social change.³⁹² The LDNF supports large scale projects that produce 'appropriate risk adjusted returns and complying with robust environmental and social standards'.³⁹³

2. Funding

The LDNF has various public and private investors have exceeded USD\$200 million and include the European Investment Bank, the Agence Française de Développement (AFD), the United Kingdom Government and the Government of Canada,³⁹⁴ and private funders such as the North American private investor Fondation, the Foundation de France, and insurance companies BNP Paribas Cardiff, Allianz, BPCE Vie and Garance.³⁹⁵ The fund is 'close-ended' and invests in both equity and debt.³⁹⁶ It operates a 'blended finance' model whereby it aims to 'blend public donor finance (as well as philanthropic funding), with funding from private investors, in a bid to make investments more attractive. The fund will then invest in projects that aim to tackle land degradation whilst simultaneously generating profits that can be used to repay investors.'³⁹⁷ In essence, it aims to operate as an 'impact investment fund that invests in profit-generating sustainable land management and land restoration projects worldwide to reduce or reverse land degradation, (with the fund

³⁸⁶ Mirova, Land Degradation Neutrality Fund Impact Report 2021 (Mirova, 2021) 6.

³⁸⁷ Mirova, Land Degradation Neutrality Fund Impact Report 2021 (Mirova, 2021) 6.

³⁸⁸ See discussion in Chris Chancellor, 'The Land Degradation Neutrality Fund: A Guide for Civil Society' (January 2019) both ENDS Discussion paper, https://www.bothends.org/uploaded_files/document/The_LDNF_Guide.pdf

³⁸⁹ <https://www.mirova.com/en/about-us/our-identity> accessed 9 October 2023.

³⁹⁰ Mirova, Land Degradation Neutrality Fund Impact Report 2021 (Mirova, 2021) <www.mirova.com/sites/default/files/2022-11/Rapport-impact-LDN-2021-EN.pdf> accessed 23 July 2023, 4.

³⁹¹ World Bank, 'Restoration Financing in the Middle East and North Africa', (undated) <<https://documents1.worldbank.org/curated/en/892321576482873799/pdf/Restoration-Financing-in-the-Middle-East-and-North-Africa-Region.pdf>> 3, 4, accessed 21 July 2023.

³⁹² Global Affairs Canada, 'Canada announces support to combat land degradation and desertification in developing countries' (2021) <www.canada.ca/en/global-affairs/news/2021/01/canada-announces-support-to-combat-land-degradation-and-desertification-in-developing-countries.html> accessed 25 July 2023.

³⁹³ Mirova, Land Degradation Neutrality Fund Impact Report 2021 (Mirova, 2021) 6.

³⁹⁴ Naoki Mori and André Mader, Mobilising private finance for biodiversity (Institute for Global Environmental Strategies, 2021)

³⁹⁵ United Nations Convention to Combat Desertification, 'Land Degradation Neutrality Fund: Projects and Programmes' <<https://www.unccd.int/land-and-life/land-degradation-neutrality/impact-investment-fund-land-degradation-neutrality>> accessed on 9 October 2023.

³⁹⁶ Nazia Begum, 'EIB and AFD Invest in Mirova's Land Degradation Fund (Project Finance, 2017) <<https://www.proquest.com/docview/1987334121?pq-origsite=primo&accountid=14116>> accessed 27 July 2023

³⁹⁷ See discussion in Chris Chancellor, 'The Land Degradation Neutrality Fund: A Guide for Civil Society' (Both Ends, January 2019) https://www.bothends.org/uploaded_files/document/The_LDNF_Guide.pdf 1.

providing) long-term financing, using debt and equity, with expectations in terms of economic/financial return and environmental and social impact .³⁹⁸

The establishment of this type of fund was born from concerns that public funding of activities to address land degradation might be insufficient.³⁹⁹ Hence, blended finance may be thought of in general terms as having two dimensions; ‘access to concessional finance and involvement of different combinations of stakeholders [...] (a)mong different participants of blended finance are philanthropists, commercial private participants such as institutional investors (pension funds, insurance companies), banks, and corporations.’⁴⁰⁰

3. Governance

The LNDF is not an intergovernmental body established by Treaty law but rather is a Luxembourg Special Limited Partnership.⁴⁰¹ Mirova is the fund manager, with the LNDF overseen by a Strategic Board, alongside an Investment Committee which has decision-making competence over the running of the Fund.⁴⁰² In terms of disbursement, the public-private funding model, ‘aims to invest the money into projects that it deems to be ‘bankable’. Capital then flows back into the fund as projects generate revenue, and then this is redistributed to original investors with interest, as well as reinvested in further LDN-related projects.’⁴⁰³ Public finance therefore provides the more risky element of any investment, giving some level of protection to private investors.⁴⁰⁴ To achieve this, the Fund ‘uses a layered structure, leveraging public money to increase private sector investment in sustainable development. The layered structure offers appropriate risk return profiles for different investors in view of junior shares de-risking more senior tranches, which results in encouraging investment from private investors.’⁴⁰⁵ Ideally, ‘investment tickets are between USD\$10 million and USD\$30 million.’⁴⁰⁶

To date, the LDNF has focused its investments in sustainable land use including agroforestry, regenerative and sustainable agriculture and sustainable forestry on degraded lands.⁴⁰⁷ Its targets for each of these sectors in terms of capital investment is 60% sustainable agriculture, 30% sustainable forestry and 10% other sustainable land management sectors.⁴⁰⁸ In March 2021, LDNF reached \$208 million⁴⁰⁹ and it has been able to invest in projects in countries including Morocco, Brazil, Nicaragua,

³⁹⁸ UNCCD, ‘Committee for the Review of the Implementation of the Convention, 19th Session, Operationalization of the Land Degradation Neutrality Fund - Report by the Global Mechanism’ (19 November 2020) ICCD/CRIC (19)3, 3.

³⁹⁹ See discussion in Chris Chancellor, ‘The Land Degradation Neutrality Fund: A Guide for Civil Society’ (Both Ends, January 2019) https://www.bothends.org/uploaded_files/document/The_LDNF_Guide.pdf.

⁴⁰⁰ R U Arora and T Sarker, ‘Financing for Sustainable Development Goals (SDGs) in the Era of COVID-19 and Beyond’ (2023) 35 Eur J Dev Res 1–19.

⁴⁰¹ See UNCCD, ‘Committee for the Review of the Implementation of the Convention, 19th Session, Operationalization of the Land Degradation Neutrality Fund - Report by the Global Mechanism’ (19 November 2020) ICCD/CRIC (19)3.

⁴⁰² For a useful overview, see Chris Chancellor, ‘The Land Degradation Neutrality Fund: A Guide for Civil Society’ (Both Ends, January 2019) https://www.bothends.org/uploaded_files/document/The_LDNF_Guide.pdf 9-10.

⁴⁰³ Chris Chancellor, ‘The Land Degradation Neutrality Fund: A Guide for Civil Society’ (Both Ends, January 2019) https://www.bothends.org/uploaded_files/document/The_LDNF_Guide.pdf 6.

⁴⁰⁴ Chris Chancellor, ‘The Land Degradation Neutrality Fund: A Guide for Civil Society’ (Both Ends, January 2019) https://www.bothends.org/uploaded_files/document/The_LDNF_Guide.pdf 6.

⁴⁰⁵ UNCCD, ‘Committee for the Review of the Implementation of the Convention, 19th Session, Operationalization of the Land Degradation Neutrality Fund - Report by the Global Mechanism’ (19 November 2020) ICCD/CRIC (19)3, 4.

⁴⁰⁶ UNCCD, ‘Committee for the Review of the Implementation of the Convention, 19th Session, Operationalization of the Land Degradation Neutrality Fund - Report by the Global Mechanism’ (19 November 2020) ICCD/CRIC (19)3, 4.

⁴⁰⁷ Mirova, ‘Mirova’s Land Degradation Neutrality Fund exceeds \$200m of commitments for its final close’ (2021) <www.mirova.com/en/news/ldn-land-degradation-neutrality-fund-exceeds-200-million-dollars> accessed 9 October 2023.

⁴⁰⁸ Mirova, ‘Land Degradation Neutrality Fund’ (2022) available at https://www.idhsustainabletrade.com/uploaded/2022/04/2022_03-LDN-Fund_Brochure-Q1-2022-Update.pdf accessed 10 October 2023.

⁴⁰⁹ Mirova, ‘Mirova’s Land Degradation Neutrality Fund exceeds \$200m of commitments for its final close’ (2021) <www.mirova.com/en/news/ldn-land-degradation-neutrality-fund-exceeds-200-million-dollars> accessed 9 October 2023.

Ghana and Sierra Leone.⁴¹⁰ While this may seem like a large sum in the abstract, concerns have, however, been raised regarding the availability of funds from the LNDNF.⁴¹¹

4. Disbursement

The Mirova Impact Report 2021 indicates that every project considered for investment undergoes a three-step analysis.⁴¹² This includes:

- 1) An initial analysis of eligibility for investment under the LDNF
- 2) A desk review and discussions with a potential project developer (a detailed environmental and social impact questionnaire is accessible to the public, together with a technical report on how potential projects are selected)⁴¹³
- 3) A detailed due diligence process which includes a site visit with experts or local support

The outcomes of this process are said to be,

“a final view on the impact and ESG performance of the operation, a defined Environmental and Social Action Plan in agreement with the developer to fill potential gaps or improve further risk management, and an agreement on a monitoring plan to keep track of impact and ESG performance over the years.”⁴¹⁴

5. Monitoring and Evaluation

After an investment is made, the projects are monitored closely by the investors and quarterly reporting is undertaken, including field. As the process for selecting projects is highly complex, assistance is given from the Land Degradation Neutrality Fund Technical Assistance Facility (TAF).⁴¹⁵ The TAF is managed by the Sustainable Trade Initiative IDH, ‘an international non-governmental organization specializing in sustainable supply chains, with extensive expertise in smallholder agriculture, supply chains and innovative finance.’ The TAF also provides supports in project development and monitoring: ‘support(ing) the LDN Fund investees to strengthen their projects’

⁴¹⁰ Mirova, 'Land Degradation Neutrality Fund Impact Report 2021' (2021) <www.mirova.com/sites/default/files/2022-11/Rapport-impact-LDN-2021-EN.pdf> accessed 23 July 2023.

⁴¹¹ IISD, 'Daily report for 16 May 2022 - 15th Session of the Conference of the Parties of the UNCCD (COP15)' (16 May 2022) <https://enb.iisd.org/convention-combat-desertification-unccd-cop15-daily-report-16may2022> accessed 9 October 2023.

⁴¹² Mirova, 'Land Degradation Neutrality Fund Impact Report 2021' (Mirova, 2021) <www.mirova.com/sites/default/files/2022-11/Rapport-impact-LDN-2021-EN.pdf> accessed 23 July 2023, 13; See also Mirova, Land Degradation Neutrality Initiative: Guidance for Project Developers (Mirova, 2020) <<https://www.mirova.com/sites/default/files/2020-08/Guidance%20for%20project%20developers.pdf>>.; See also Mirova, 'Natural Capital – LDN expertise: Summary of ESG Policy' (Mirova, January 2020).

<<https://www.mirova.com/sites/default/files/2020-08/LDN%20Initiative%20Summary%20of%20ESG%20Policy.p>df> accessed 9 October 2023.

⁴¹³ Alex Zvoleff and others, Land Degradation Neutrality Fund Impact Monitoring Methodology (Mirova, 2020), 7 "General monitoring requirements: All projects receiving LDN Fund financing are expected to monitor and report on productivity, land cover, and soil organic carbon (SOC) • The minimum frequency of monitoring that is recommended varies depending on the indicator: o Land productivity: monitor and report annually on Land cover: at minimum, monitor and report every 4 years at minimum of Soil organic carbon: at minimum report on SOC assessment strategy at beginning of project, and report on SOC end of project as appropriate given the chosen assessment strategy"

⁴¹⁴ Mirova, 'Land Degradation Neutrality Fund Impact Report 2021' (2021) <www.mirova.com/sites/default/files/2022-11/Rapport-impact-LDN-2021-EN.pdf> accessed 23 July 2023.

⁴¹⁵ “The five-year global GEF project titled, “Land Degradation Neutrality Fund Technical Assistance Facility,” led by Mirova in collaboration with the Global Mechanism of the United Nations Convention to Combat Desertification (UNCCD) and other partners will support the Technical Assistance Facility to provide project preparedness and technical assistance services to build a strong portfolio of transformative projects for the UNCCD Land Degradation Neutrality Fund (LDNF).” WWF, 'Land Degradation Neutrality Fund Technical Assistance Facility' <www.worldwildlife.org/projects/land-degradation-neutrality-fund-technical-assistance-facility> accessed 24 July 2023.

environmental and social impacts, reduce risks of the investment, and monitor progress on key impact indicators, including setting LDN baselines and annual reporting on the LDN indicator.⁴¹⁶

6. Efficiency, Management and Impact

While the LDNF has been set up to address the world-wide problem of land degradation funding solutions to land degradation has numerous additional benefits, including the economic value which comes from using land in a sustainable and proper manner, increased biodiversity and enhanced food security, which can in turn address poverty, social instability and conflict resolution or avoidance.⁴¹⁷ Yet one of the recognized benefit from the LDNF is that it promotes and encourages inclusivity and gender equality. In this regard, and in terms of environmental and social standards more generally, the LDNF aims to adhere to both the International Finance Corporation (IFC) Performance Standards and the IFC Environmental, Health, Safety Guidelines as well as the Voluntary Guidelines on the Governance of Tenure of Land Fisheries and Forests, the United Nations Guiding Principles on Business and Human Rights, relevant national law, and ILO Core Conventions. There is also a complaint and compliance mechanism in place, with a view to ensuring, ‘that project-affected populations have formal ways to voice their concerns and identify and correct the causes for grievance. ‘More generally, part of the LDNF’s due diligence involves consideration of whether a project sufficiently aligns with the development objectives of the relevant country. However, while ‘(i)t is expected that the Fund will invest mainly in countries that have made a national voluntary LDN commitment, ... this commitment is not required for an investment to be considered.’⁴¹⁸

The 2021 Impact Report noted above indicates that the work being undertaken is of potential benefit to Indigenous peoples and local communities and provides long-term benefits to these groups.⁴¹⁹ The ESG standards of the Fund do require informed consent of ‘landowners’ and do mandate against forced evictions.^{420 421} The nature of the LDNF funding means that smaller projects, or projects at an earlier stage of development, may find it more difficult to get access to funds. However, the TAF - financed by donors - provides technical assistance with respect to the development of project proposals and emphasises the development and sharing of lessons of successful models for sustainable land management investment.⁴²²

7. Key takeaways

- The LDNF provides an interesting insight into the use of alternative financing mechanisms to fund investment in land restoration activities in developing countries; promote sustainable farming and agriculture in conjunction with local and indigenous communities; to encourage private donors to invest in these objectives to enable a long-term environmental and social change;
- The LDNF was created in part due to a concern that public funding would not be sufficient to address the global challenge of land degradation and uses blended finance to fund projects relevant to its mandate.

⁴¹⁶ UNCCD, ‘Committee for the Review of the Implementation of the Convention, 19th Session, Operationalization of the Land Degradation Neutrality Fund - Report by the Global Mechanism’ (19 November 2020) ICCD/CRIC (19)3, 6.

⁴¹⁷ Mirova, ‘Land Degradation Neutrality Fund Impact Report 2021’ (2021) <www.mirova.com/sites/default/files/2022-11/Rapport-impact-LDN-2021-EN.pdf> accessed 23 July 2023, 4.

⁴¹⁸ UNCCD, ‘Committee for the Review of the Implementation of the Convention, 19th Session, Operationalization of the Land Degradation Neutrality Fund - Report by the Global Mechanism’ (19 November 2020) ICCD/CRIC (19)3, 5.

⁴¹⁹ Mirova, ‘Land Degradation Neutrality Fund Impact Report 2021’ (2021) <www.mirova.com/sites/default/files/2022-11/Rapport-impact-LDN-2021-EN.pdf> accessed 23 July 2023.

⁴²⁰ <https://www.mirova.com/sites/default/files/2020-08/LDN%20Initiative%20-Summary%20of%20ESG%20Policy.pdf>

⁴²¹ UNCCD, ‘Committee for the Review of the Implementation of the Convention, 19th Session, Operationalization of the Land Degradation Neutrality Fund - Report by the Global Mechanism’ (19 November 2020) ICCD/CRIC (19)3, 5.

⁴²² Mirova, ‘Land Degradation Neutrality Fund’ (2022) available at https://www.idhsustainabletrade.com/uploaded/2022/04/2022_03-LDN-Fund_Brochure-Q1-2022-Update.pdf accessed 10 October 2023.

- It has invested in projects in countries including Morocco, Brazil, Nicaragua, Ghana and Sierra Leone.
- The nature of the funding model however means that smaller projects, or projects at an earlier stage of development, may find it more difficult to access funding.

The Lion's Share Fund

1. Overview, operation, and mutual supportiveness

The Lion's Share Fund ('the Fund') was launched in 2018 as an initiative of UNDP with Sir David Attenborough as a special ambassador.⁴²³ The underpinning concept behind the Fund is that when celebrity's image is used in an advertising campaign, that individual gets paid. Yet, animals in their habitat receive no remuneration from advertisers when their images are used.⁴²⁴ The Fund was therefore set up with the aim of tackling the current wildlife conservation and animal welfare crises by redirecting advertising funds towards biodiversity protection and sustainable animal-care practices.⁴²⁵ Under the Fund, brands who use pictures of animals to promote goods and services, even if they are computer generated or animated, can gain partnership status by contributing a fixed 0.5 percent of media expenditure to the Fund from advertisements that feature an animal. In addition to donating this 0.5 percent, companies can also opt to contribute a percentage of revenue collected from these advertisements to the Fund, or to donate 'media space' to boost public awareness.⁴²⁶

It has been said that the Fund will work to contribute to the Sustainable Development Goals, in particular Goal 14, Life Underwater, and Goal 15, Life on Land,⁴²⁷ and in this sense, is supportive of such goals. The Fund is open to any company, including private sector corporations, philanthropists, foundations, and global/ local non-governmental organisations.⁴²⁸ Since it was set up, the Fund has grown into a global alliance of over 50 brands, including Mars Inc., Gucci, Cartier, Lacoste, The Guardian, The Economist, Guinness Book of World Records and Australian Made.⁴²⁹

2. Funding

Although brands are able to contribute more than the required 0.5% towards the Fund, most of the current partner brands donate just below the required amount.⁴³⁰ Options exist for media companies and smaller companies to join with an alternative model considered on a case by case basis.⁴³¹ Between 2018 and 2021 the majority of contributions (83.5%) came solely from Mars Inc., the founding partner of the Lion's Share Fund.⁴³² In 2020, the Lion's Share Fund contributors did not meet their committed contributions of \$5 million.⁴³³

⁴²³ Jim Waterston, 'David Attenborough launches wildlife fund for advertisers', (Guardian, 21 June 2018)

<www.theguardian.com/media/2018/jun/21/david-attenborough-launches-wildlife-fund-lions-share-for-advertisers> accessed 3 July 2023.

⁴²⁴ United Nations MPTF Office Partners Gate, The Lions Share Fund <<https://mptf.undp.org/fund/lms00>> accessed 19 June 2023.

⁴²⁵ United Nations MPTF Office Partners Gate, The Lions Share Fund <<https://mptf.undp.org/fund/lms00>> accessed 19 June 2023.

⁴²⁶ United Nations MPTF Office Partners Gate, The Lions Share Fund <<https://mptf.undp.org/fund/lms00>> accessed 19 June 2023

⁴²⁷ United Nations, 'UNDP announces The Lion's Share fund to tackle crisis in wildlife conservation and animal welfare'

<www.un.org/sustainabledevelopment/blog/2018/06/undp-announces-the-lions-share-fund-to-tackle-crisis-in-wildlife-conservation-and-animal-welfare/> accessed 22 June 2023.

⁴²⁸ United Nations MPTF Office Partners Gate, The Lions Share Fund <<https://mptf.undp.org/fund/lms00>> accessed 19 June 2023

⁴²⁹ Conserving Wildlife with the Lion's Share Fund <www.lbbonline.com/news/conserving-wildlife-with-the-lions-share-fund> accessed 22 June 2023.

⁴³⁰ Conserving Wildlife with the Lion's Share Fund <www.lbbonline.com/news/conserving-wildlife-with-the-lions-share-fund> accessed 22 June 2023

⁴³¹ Conserving Wildlife with the Lion's Share Fund <www.lbbonline.com/news/conserving-wildlife-with-the-lions-share-fund> accessed 22 June 2023.

⁴³² ICF Consulting Services Limited, Digital Sequence Information (DSI): lessons from multilateral mechanisms - Final report (Job Number 30302584, 2021) 25-26.

⁴³³ ICF Consulting Services Limited, Digital Sequence Information (DSI): lessons from multilateral mechanisms - Final report (Job Number 30302584, 2021) 45.

Donors and the Fund are found to benefit each other from the added revenue for the Fund and the good corporate social responsibility for the companies.⁴³⁴ The Lion's Share reports that some companies also partnered with the Fund for reasons related to employee retention, as well as alignment with the CEO's direction for their company, including corporate commitments to nature and/or climate. However, so far and the Fund has had difficulty in reaching its funding targets, particularly during the pandemic.

3. Governance, Monitoring and Evaluation

The Fund is administered by the UN Multi-Partner Trust Fund Office⁴³⁵ which is described as the Administrative Agent of the Fund. It is 'responsible for the receipt, administration and management of contributions from donors, disbursement of funds to Participating Organizations, and consolidation and dissemination of progress reports to donors.'⁴³⁶ The Fund is overseen by a Steering Board which provides strategic oversight and direction to the Fund.⁴³⁷ A steering committee provides, 'management oversight of all operational and technical aspects of the initiative' while a Secretariat manages project proposals. Monitoring and evaluation is facilitated by an Indicator Based Performance Assessment which measures, among other things, behavioural change among consumers and businesses.⁴³⁸

4. Disbursement Criteria and processes

So far, the fund has raised over \$US6 million⁴³⁹, supporting more than a dozen conservation projects in 15 countries, predominantly in South America, Asia, and Africa. The funds are not earmarked for specific species; instead, they are allocated to projects chosen by conservation experts from a pool of grant applicants. The Lion's Share draws on the knowledge and experience of the UNDP to distribute funds,⁴⁴⁰ working with UNDP technical experts, as well as with officials in UN Country Offices and National Coordinators for the GEF Small Grants Programme. All projects and programmes consider human well-being and support activities that strengthen community development.

There are four funding streams⁴⁴¹ that make up the Fund, with awards made via a transparent, competitive bidding process.⁴⁴² The funding streams are as follows:

1. Community-based action and grassroots work: several small grants were selected and implemented through targeted calls for proposals. In response to the COVID-19 pandemic, The Lion's Share launched the Resilience in Wildlife Community Grants in partnership with the GEF-Small Grants Programme, ultimately supporting 9 regions dependent on wildlife-based tourism. To accelerate socio-economic recovery in local communities, the projects provided support for training and skill development, alternative sources of income and expansion of food sources⁴⁴³.

⁴³⁴ ICF Consulting Services Limited, Digital Sequence Information (DSI): lessons from multilateral mechanisms - Final report (Job Number 30302584, 2021), 25-26.

⁴³⁵ United Nations MPTF Office Partners Gateway, 'Dynamic Portfolio for Investing in the SDGs Worldwide' <<https://mptf.undp.org/trust-fund-overview/dynamic-portfolio-investing-sdgs-worldwide>> accessed on 9 October 2023

⁴³⁶ United Nations MPTF Office Partners Gateway, 'The Lion's Share Fund' <<https://mptf.undp.org/fund/lns00>> accessed on 9 October 2023.

⁴³⁷ United Nations MPTF Office Partners Gateway, 'The Lion's Share Fund' <<https://mptf.undp.org/fund/lns00>> accessed on 9 October 2023.

⁴³⁸ The Lion's Share 2021 Fund Report, Annex 1.

⁴³⁹ United Nations MPTF Office Partners Gateway, 'The Lion's Share Fund: Overview' <<https://mptf.undp.org/fund/lns00>> accessed on 9 October 2023.

⁴⁴⁰ Conserving Wildlife with the Lion's Share Fund <www.lbbonline.com/news/conserving-wildlife-with-the-lions-share-fund> accessed 22 June 2023.

⁴⁴¹ The Lion's Share Fund Consolidated Annual Progress Report 2022 <<https://mptf.undp.org/fund/lns00>> accessed 4 July 2023.

⁴⁴² ICF Consulting Services Limited, Digital Sequence Information (DSI): lessons from multilateral mechanisms - Final report (Job Number 30302584, 2021), 46.

⁴⁴³ The Lion's Share, 2020 Fund (2020) <https://mptf.undp.org/sites/default/files/documents/40000/35226> accessed 9 October 2023.

2. Transformative partnerships: long terms support for wildlife conservation through coordinated and concerted action among members of civil society, the private sector and government.

3. Crisis-flash point: funding in this stream aims to respond to wildlife crises requiring urgent and targeted assistance, ‘including emergencies related to restoring critical habitats for wildlife and supporting time-sensitive actions.’

4. The Lion’s Share award which ‘[r]ecognizes and promotes successful conservation and animal welfare initiatives by individuals or through innovation, entrepreneurship, bravery, conservation advertisements, and advocacy campaigns.’

In addition to traditional grants, the Fund has led and engaged in a series of events and global campaigns, including public engagement activities and targeted awareness campaigns aiming towards the generation of a new scale of awareness as well as behavioural change and public support for conservation of nature Costs v. Benefits and the Efficiency of the Trust and Impact

Despite the difficulties in reaching funding goals, Fund has actively pursued a range of strategic partnerships. Whilst some companies are willing to voluntarily contribute to the Fund, further work is needed to reach more companies using animal images in their advertisements.⁴⁴⁴

Companies generally tend to commit to long term conservation projects only if doing so is likely to generate significant profits for them. It has been noted that, which is not the case for supporting species conservation, possibly as the public is not very knowledgeable about biodiversity loss. As a result, high Fund visibility is a vital element to mobilising consumers.

There have been discussions about whether companies should be legally bound to pay to use images of specific animals in advertising, yet it has been noted that there would be difficulty in this as animals have no legal personhood. Similarly, many companies use Computer Generated Image (CGI) animals, which clearly has the potential to undermine any potential obligation around using animals in advertising. Nevertheless, it has been acknowledged that if such a mandate were to exist, it would be a boost to conservation: if the 14 companies on the Forbes 2000 list using big cats paid 0.1–1% of their profits, between US\$200 million and US\$2 billion a year could be raised for conservation.⁴⁴⁵ It has been said that, even without such laws, another advantage of the Fund is that it is giving biodiversity loss the same level of visibility as the climate crisis amongst the business community.⁴⁴⁶

Another issue with a fee on the use of animals in advertising is how much to charge. Founding member of the Lion’s Share’s Nielsen calculate this information but since companies have struggled to verify estimates of such expenditure as there is typically no procedures to track advertisements featuring animals. The experience of the Lion’s Share Fund is that companies have not been interested in any type of fee being applied in the use of animals in advertisements– whether directly or as a fee applied on top of any marketing fee payable to marketing firms.

While targeting companies that utilise animals for advertising and marketing is at the very heart of The Lion’s Share concept, the model itself limits the potential pool of both public and private sector partners that could contribute. Further, the model does not account for the evolving rhetoric around the use of animals in advertisements – whether animals should be used in ads at all. Given the persistent challenges to capitalize the Fund with the original model, the Fund is undergoing a structural transition that will be announced by early 2024.

⁴⁴⁴ ICF Consulting Services Limited, Digital Sequence Information (DSI): lessons from multilateral mechanisms - Final report (Job Number 30302584, 2021) 25 & 26.

⁴⁴⁵ Katarina Zimmer, 'Should Companies with Animal Mascots Pay for Species Conservation?' (Ensia, 22 November 2022) <<https://ensia.com/features/companies-animal-mascots-pay-species-conservation-biodiversity-lions-share-fund/>> accessed 22 June 2023.

⁴⁴⁶ Katarina Zimmer, 'Should Companies with Animal Mascots Pay for Species Conservation?' (Ensia, 22 November 2022) <<https://ensia.com/features/companies-animal-mascots-pay-species-conservation-biodiversity-lions-share-fund/>> accessed 22 June 2023.

5. Takeaways

- The Lion’s Share Fund provides an interesting case study on engaging business in conservation protection, and achievement of certain SDGs, via a fund administered by the UN Multi-Partner Trust Fund Office;
- The business model of the Fund poses a challenge as there is insufficient verifiable data on the estimate of 0.5% of advertising budget that utilizes animals. Further, it is ultimately the decision of the private sector partner on which budgets are used for donations (there is no way to ensure that marketing budgets are used);
- Take up by businesses of the opportunity of partnership with the Fund has been slow. There hence seems a limit to corporate generosity and the sustainability of the fund is largely dependent upon the continued support of its largest donor, Mars Inc. There is increasing interest from the private sector to engage in environmental initiatives however, companies’ CSR strategies tend to focus on their own supply chains rather than global initiatives;
- High Fund visibility is a vital element to mobilising consumers and the general public;
- A legally binding requirement to pay to use animals in advertising is an interesting proposal, through its potential operationalisation raises question marks over animal personhood and more generally, how funds from a vast range of users can be successfully captured and accrued; the experience of the Fund is that companies are reluctant to agree to a fee;
- Given the persistent challenges to capitalize the Fund with the original model, the Fund is undergoing a structural transition that will be announced by early 2024.

Planet Impact Fund

Formed over 20 years ago by the private sector, the 1% for the Planet organization describes itself as a ‘global network with thousands of businesses and environmental organizations working together to support people and the planet.’⁴⁴⁷ Its formation was premised upon the fact that since companies profit from the planet, they should give back in a way that helps the planet.⁴⁴⁸

The organization has a Board that determines its strategic direction, while the Secretariat oversee the day-to-day management. The 1% for the Planet organization includes the Planet Impact Fund and aims to ‘combine (...) the power of philanthropy with a robust portfolio of environmentally focused investments to support nature-based solutions and other vital strategies for our planet and future generations.’ The Fund itself is managed by the National Philanthropic Trust,⁴⁴⁹ a public charity registered in the United States ‘dedicated to providing philanthropic expertise to donors, foundations and financial institutions.’⁴⁵⁰ Anyone without a potential conflict of interest may donate, including individuals.⁴⁵¹

therefore, revenue of the organization in 2022 was \$6,749,384.⁴⁵² Total expenses were \$5,892,486.⁴⁵³ ⁴⁵⁴ Around 10% of total assets of the Planet Impact Fund are disbursed every year to ‘vetted environmental nonprofits’ with funding granted according to four impact areas; 1) Rights to

⁴⁴⁷ <https://www.onepercentfortheplanet.org> (n.d.) accessed 9 October 2023.

⁴⁴⁸ 1% for the Planet, ‘Our Story’(n.d.) <https://www.onepercentfortheplanet.org/about/story> accessed 9 October 2023.

⁴⁴⁹ The National Philanthropic Trust (n.d.) <https://www.nptrust.org> accessed 9 October 2023.

⁴⁵⁰ The National Philanthropic Trust (n.d.) <https://www.nptrust.org> accessed 9 October 2023.

⁴⁵¹ 1% for the Planet, ‘Planet Impact Fund’ (n.d.) <https://www.onepercentfortheplanet.org/planet-impact-fund> accessed 9 October 2023.

⁴⁵² 1% for the Planet, ‘Annual Report 2022’ (n.d.) https://global-uploads.webflow.com/634735ad1c3cc168fc2117a1/648b38463b5f2f1c9e664f41_2022%20One%20Percent%20for%20the%20Planet%20Annual%20Report.pdf accessed 9 October 2023.

⁴⁵³ 1% for the Planet, ‘Annual Report 2022’ (n.d.) https://global-uploads.webflow.com/634735ad1c3cc168fc2117a1/648b38463b5f2f1c9e664f41_2022%20One%20Percent%20for%20the%20Planet%20Annual%20Report.pdf accessed 9 October 2023.

⁴⁵⁴ 1% for the Planet, ‘Planet Impact Fund’ (n.d.) <https://www.onepercentfortheplanet.org/planet-impact-fund> accessed 9 October 2023.

Nature, 2) Conservation & Restoration, 3) Resilient Communities 4) Just Economies.⁴⁵⁵ The rest is invested according to advisory services from CapShift.⁴⁵⁶ The investment strategy supports ‘companies developing innovative solutions to combat climate change, protect resources and drive environmental stewardship, while screening out companies that have heightened exposure to climate-related risks or fossil fuels.’⁴⁵⁷ Its investment strategy therefore aims to promote research and innovation, where possible.

⁴⁵⁵ See 1% for the Planet, ‘Annual Report 2022’ (n.d.) https://global-uploads.webflow.com/634735ad1c3cc168fc2117a1/648b38463b5f2f1c9e664f41_2022%20One%20Percent%20for%20the%20Planet%20Annual%20Report.pdf accessed 9 October 2023.

⁴⁵⁶ <https://capshift.com> (n.d.) accessed 9 October 2023.

⁴⁵⁷ 1% for the Planet, ‘Planet Impact Fund’ (n.d.) <https://www.onepercentfortheplanet.org/planet-impact-fund> accessed 9 October 2023.