

SUBMISSION

In relation to the notification on funding needs for the implementation of the Convention and its Protocols for the Seventh Replenishment Period (July 2018-June 2022) of the Global Environment Facility Trust Fund (Ref.: SCBD/MPO/AF/YX/84932)

Mr. Günter Mitlacher
CBD Expert Team Member
Assessment of Funding Needs
Expert Representing International NGOs

1 August 2016

Dear Mr. Mitlacher,

We appreciate the efforts of the Expert Team to conduct the assessment of funding needs for the seventh replenishment period of the Global Environment Facility (GEF) Trust Fund. Thank you for the opportunity to provide inputs to this important process.

This is a joint submission by the ICCA¹ Consortium (a non-profit association registered in Switzerland), with inputs from the Community Conservation Resilience Initiative (which is coordinated by the Global Forest Coalition, a member of the ICCA Consortium registered in the Netherlands). The vast majority of inputs were provided by indigenous peoples' and community-based organisations and networks, based on decades of work in several countries. We trust these will be considered as an important complement to the needs assessments of the CBD State Parties, pursuant to paragraph 4 of UNEP/CBD/SBI/1/L.2 on the financial mechanism.

In **Part I**, the submission offers comments on the draft assessment considered at the 1st meeting of the Subsidiary Body on Implementation (UNEP/CBD/SBI/1/INF/47). **Part II** sets out general recommendations concerning financial support for ICCAs and other forms of collective action. **Part III** identifies a range of specific funding needs and priorities to support ICCAs and collective action for biodiversity and nature conservation at the local, national, regional and international levels. Finally, the **Annex** identifies CBD COP decisions with provisions on ICCAs in the context of financing and financial mechanisms for protected areas, donor support and resource mobilisation; this is intended for information purposes and to complement Annex Table A in the Expert Team's assessment.

Please do not hesitate to contact me with any questions or clarifications needed. Thank you in advance for your consideration and we look forward to further contributing to this process.



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¹ 'ICCA' is the general abbreviation used to refer to 'indigenous peoples' and community conserved territories and areas, or alternatively, 'territories and areas conserved by indigenous peoples and local communities'. In some CBD decisions, they are also referred to as 'indigenous and community conserved areas', among other similar terms.

Part I: Comments on the draft assessment of funding needs for the seventh replenishment of the GEF Trust Fund (GEF-7) (UNEP/CBD/SBI/1/INF/47)

1. We appreciate the efforts undertaken by the CBD Expert Team and CBD State Parties to identify funding needs through the questionnaire for this assessment, national reports, national biodiversity strategies and action plans (NBSAPs), and other sources.
2. We would particularly like to acknowledge the vital financial support of the GEF Small Grants Program (GEF-SGP) for ICCAs² and other community conservation initiatives to date, and would like to underscore the critical importance of continuing and further expanding such support in GEF-7.
3. However, Indigenous peoples' and local communities' conservation efforts should not only be supported by GEF-SGP. Indigenous peoples and local communities should also have the opportunity to fully and effectively participate in medium and large GEF grants in close collaboration with State Parties and other actors. Such grants should also provide support for countries to **strengthen appropriate (sub-)national recognition of ICCAs and other community conservation efforts**, as per CBD COP Decision XI/14/A, para 9 (see Annex).
4. In addition, given the growing impacts of climate change and desertification on biodiversity and ecosystems upon which indigenous peoples and local communities depend, we encourage GEF to provide more small and medium grants to indigenous peoples' organisations and local NGOs for projects and activities that contribute to the achievement of the three Rio Conventions and other biodiversity-related conventions (Section V of INF/47 on synergies with other conventions). This could include, for example, adaptation to climate change through indigenous knowledge, addressing desertification through afforestation with native trees and natural regeneration, and halting monoculture tree plantations of exotic species. Implementation of other relevant international instruments such as the FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests and on Small-Scale Fisheries should also be considered as priorities for funding.
5. We also encourage CBD Parties and GEF to **extend GEF funding opportunities to indigenous peoples and traditional local communities in countries not currently eligible for GEF funds** (for example, indigenous peoples of the Arctic). Many indigenous peoples and traditional local communities in 'developed' countries face similar challenges to their cultures, livelihoods and territories and areas as those in 'developing' countries, but are generally unable to access financial support because of the mainstream economic status of the countries that include or overlap with their traditional territories.
6. INF/47 and the official document for this agenda item at SBI-1 (UNEP/CBD/SBI/1/8) suggested two approaches to conducting needs assessments and setting priorities for the financial mechanism and GEF-7: (a) a "top-down" approach in light of the Strategic Plan and Convention's Protocols; and (b) a "bottom-up" approach based on country submissions. However, no mention was made of the need to include indigenous peoples' and local communities' views, which is how 'bottom-up' is generally understood by civil society.

We understand that in a traditional multilateral context, country submissions could be considered "bottom-up". However, the CBD procedures and dozens of COP Decisions make

² GEF-SGP identified ICCAs as a funding priority in both its 5th and 6th Operational Phases (2011-2018) and has disbursed funds to hundreds of ICCA-related projects around the world.

special provision for the participation of indigenous peoples and local communities, who are an integral part of achieving the CBD, its Protocols and the Strategic Plan for Biodiversity. Thus, 'bottom-up' should be understood more broadly and particularly in light of the role of indigenous peoples and local communities.

7. Given the substantial contributions and the unique, context-specific needs of indigenous peoples and local communities, we strongly urge CBD Parties, in the work on the financial mechanism, to **include explicit provision for indigenous peoples and local communities to identify and contribute their own needs and priorities** to the 4-year framework of programming priorities for GEF-7 and subsequent GEF replenishments.

For example, if Parties support the expert team's recommendation to establish a funding needs assessment panel and formalised process to assess financial requirements for GEF replenishments (Section VI of INF/47), we urge Parties to include specific provision for the participation of indigenous peoples and local communities in such a panel and process. In addition, we encourage the expert team to recommend in Section VI of INF/47 that Parties' finance plans and resource mobilisation strategies include funding needs and priorities identified by indigenous peoples and local communities.

We also urge GEF and SGP National Coordinators to ensure the effective participation of representatives of indigenous peoples and local communities from diverse regions in each country when developing national priorities and strategies.

8. We urge the expert team to recommend **participation of indigenous peoples and local communities in assessments of the performance of the financial mechanism**, including through qualitative metrics. Much of the assessments of its performance are based on quantitative metrics and on State Parties' own reports (such as those listed in Section III.1 of INF/47), which often fail to provide for full and effective participation of indigenous peoples and local communities.
9. Regarding Annex Table A of the Expert Team's assessment, we would like to suggest that **additional CBD decisions** be considered. In particular, we would like to recall provisions in the following decisions that specifically refer to funding priorities, GEF and indigenous peoples and local communities, namely, VIII/18, VIII/24, IX/18/B, X/24, XI/14/A, XII/3 and XII/12/B (please see the Annex for more details).

Part II: Recommendations concerning financial support for ICCAs and other forms of collective action

1. At COP 12, CBD Parties recognised ICCAs as **forms of collective action** – invoking the extensive work of Nobel Laureate Elinor Ostrom – and non-market-based approaches that help achieve the CBD as a whole (see Annex). Voluntary and non-monetary systems upon which ICCAs are often based are an important alternative to mainstream market-based approaches, the latter of which tend to undermine the complex social and cultural systems at the heart of ICCAs.³ These and other COP Decisions (see Annex) provide a useful basis for national level engagement between indigenous peoples, local communities and their supporting organisations and CBD Parties in efforts to secure appropriate financial support for ICCAs.
2. Towards this, we would like emphasise that the **quality and ‘delivery’** of financial support is far more important than the quantity of financial support, especially in the context of funding for ICCAs and collective action for biodiversity and nature conservation. In particular, indigenous peoples and local communities themselves are best placed to identify relevant funding needs and priorities.
3. Financial incentives for conservation can support ICCAs and collective action, but they should be **used with great caution**, seeking to maintain and strengthen community independence and integrity.
4. At minimum, projects and initiatives supported through GEF should **fully respect the rights of indigenous peoples, local communities and women**, including to self-determination, self-governance and free, prior and informed consent, and other procedural and substantive rights embedded in (*inter alia*) the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), the Convention on Elimination of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, and the FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests and on Small-Scale Fisheries.
5. GEF should provide an effective and responsive **complaints and grievance mechanism**, in the event that indigenous peoples and local communities feel aggrieved by GEF funding or GEF-financed projects.
6. Furthermore, financial incentives (even where appropriate) may not be sufficient to support ICCAs and collective action. Legal, policy, social, technical and other forms of recognition and support are also important. All forms of recognition and support should be adapted to specific local contexts and subject to the self-determination and free, prior and informed consent of the peoples and communities concerned.⁴

³ Ibarra JT and others (2011), ‘When formal and market-based conservation mechanisms disrupt food sovereignty: impacts of community conservation and payments for environmental services on an indigenous community of Oaxaca, Mexico’ 13(3) International Forestry Review 318; Lovera S and others (2013), *Non-market-based Approaches to Reducing Deforestation and Forest Degradation*. Global Forest Coalition, ICCA Consortium and Econexus.

⁴ Jonas H, A Kothari and H Shrumm (2012), *Legal and Institutional Aspects of Recognizing and Supporting Conservation by Indigenous peoples and Local Communities: An analysis of international law, national legislation, judgements, and institutions as they interrelate with territories and areas conserved by Indigenous peoples and local communities (Synthesis Report)*; Kothari A and others (eds) (2012), *Recognising and Supporting Territories and Areas Conserved By Indigenous Peoples and Local Communities: Global Overview and National Case Studies*. CBD Technical Series No. 64, Secretariat of the Convention on Biological Diversity, ICCA Consortium, Kalpavriksh, and Natural Justice.

7. In addition to financial and other forms of support for locally identified needs and priorities, effective recognition and support for ICCAs and collective action also require **structural changes in the current global economic and financial system**, which prioritises continued economic growth at the expense of genuine sustainable development. Such changes include the **eradication of perverse incentives** for industrial activities (such as large-scale logging, monoculture plantations, fisheries, and mining) that undermine ICCAs at a broad scale, and the redirection of such incentives to support ICCAs and truly sustainable livelihoods and alternative economies.⁵ It also requires shifting the current mainstream approach to biodiversity and nature conservation – namely, state-controlled protected areas – to **more equitable and diverse forms of conservation** outside of state protected area systems, particularly ICCAs and indigenous peoples' territories more broadly.
8. We **oppose** the current push for **financialisation and commodification of nature**, including so-called innovative financial mechanisms, which further strengthen the influence of the global financial sector over biodiversity and its many public functions and values and often propose false solutions to climate change (for example, REDD+ and Bioenergy with Carbon Capture and Storage). Not only do they marginalise and compromise the rights and interests of countries in the global South, but they also marginalise and trigger harmful impacts on indigenous peoples, local communities and women who depend upon biodiversity for their identity, culture and livelihoods.
9. We support the following statement of civil society organisations to the Financing for Development Summit in 2015: *"We caution that the optimism towards private finance to deliver a broad sustainable development agenda is misplaced. Civil society and a number of Member States have consistently raised serious concerns on the unconditional support for [public-private partnerships] and blended financing instruments. Without a parallel recognition of the developmental role of the State and clear safeguards to its ability to regulate in the public interest, there is a great risk that the private sector undermines rather than supports sustainable development."*

⁵ Lovera and others (2013).

Part III: Recommendations concerning funding needs and priorities for ICCAs and collective action

This section highlights several overarching priorities and recommendations for GEF funding. These were identified primarily by members and staff of the ICCA Consortium, with select inputs from the Community Conservation Resilience Initiative,⁶ and drawn from previous regional and global processes.⁷

1. *Funding needs and priorities at the regional and international levels:*

- (a) Participation and leadership of ICCA custodians, particularly women, in regional and international fora, programmes, networks, conferences and other decision-making processes that affect them in the fields of the environment, human rights, sustainable development and international investment and financing
- (b) Development, strengthening and maintenance ICCA Regional Learning Networks – especially in Mesoamerica, West and Central Africa, East and Southern Africa, and Southeast Asia – to strengthen the capacity of indigenous peoples and local communities to respond to threats and opportunities, develop alliances and common advocacy strategies, and consolidate experiences and lessons learned for sharing in relevant national and international fora
- (c) Regional community exchanges and skill-sharing workshops on tools and methods (such as Indigenous Territorial Management Plans in Latin America) for community organising, planning, documentation, governance and management, monitoring, strategic advocacy and policy engagement, and communication and outreach

2. *Funding needs and priorities at the national level:*

- (a) Research and synthesis of the national situation on ICCAs, including (among other things): (i) identification of documented and ‘potential’ ICCAs; (ii) spatial analysis of links between ICCAs and areas of high biodiversity and conservation value; and (iii) analysis of national and sub-national policies, laws and institutions that affect or could support ICCAs, in order to identify strengths and gaps as the basis for policy advocacy and engagement
- (b) National and sub-national consultations, dialogues, symposia and other events to build common understanding and appreciation of ICCAs among indigenous peoples and local communities, NGOs, government agencies, policy makers, academics, political parties, spiritual and religious leaders and/or other stakeholders
- (c) Exchange visits between custodians of undocumented ICCAs and relevant government officials and other stakeholders with custodians of documented and registered ICCAs to help overcome misperceptions about the reality of ICCAs and communities on the ground

⁶ Inputs were provided by members and partners of the ICCA Consortium and Community Conservation Resilience Initiative from the following countries: Mexico, Costa Rica, Bolivia, Brazil, Paraguay, Colombia, South Africa, Namibia, Madagascar, Tanzania, Senegal, the Democratic Republic of the Congo, Russian Federation, Nepal, Vietnam, the Philippines, Malaysia, Indonesia and the Solomon Islands.

⁷ Including Borrini-Feyerabend, G., et al. (2010) *Bio-cultural diversity conserved by indigenous peoples and local communities— examples and analysis*. ICCA Consortium and Cenesta for GEF SGP, GTZ, IIED and IUCN/CEESP: Tehran; Kothari and others (2012); ICCA Consortium presentation: “Is this a good ‘ICCA initiative’?” at GEF SGP Regional Workshop, Bangkok 14 Feb 2015; Global Forest Coalition (2015) *Fostering Community Conservation Conference Report*, 31 August-4 September 2015, Durban.

- (d) Development, strengthening and maintenance of national ICCA networks, federations and/or working groups and the capacity of ICCA custodians and local support organisations to engage and leverage such networks, including formal registration, where appropriate
- (e) National and sub-national exchanges and skill-sharing workshops for ICCA custodians on tools and methods for community organising, planning, documentation, governance and management, monitoring, strategic advocacy and policy engagement, and communication and outreach – and further resources to put these skills and tools into practice in support of their respective ICCAs
- (f) Development and maintenance of national ICCA registries (e.g. as complements to national protected area systems) and contribute ICCA documentation to UNEP-WCMC ICCA Registry
- (g) Strengthening policy and legal recognition and protection of ICCAs, including through:
 - i) Technical legal assistance and paralegal training for ICCA custodians and supporting organisations;
 - ii) Resources for ICCA custodians to secure collective land and resource title / tenure that is inalienable, indivisible and established in perpetuity;
 - iii) Recognition of and support for customary laws and justice systems (including sanctions against violators) as both effective and culturally appropriate;
 - iv) Resources for ICCA custodians to effectively participate in and implement existing supportive provisions in domestic law (e.g. demarcation and recognition of Ancestral Domains in the Philippines)
 - v) Resources for ICCA custodians to effectively participate in and implement existing supportive international law at the national level (e.g. preparation of CBD NBSAPs, Aichi Target indicators and national reports);
 - vi) Resources to advocate legislators and policy-makers for new and innovative forms of recognition for ICCAs and collective rights;
 - vii) Establishment and honouring of localised agreements and mechanisms to recognise the rights of ICCA custodians (e.g. in the context of conventional protected areas overlapping with ICCAs); and
 - viii) Pursuit of mediation, litigation and other forms of dispute resolution and redress where harms have been suffered
- (h) Halting the further expansion of conventional protected areas and conservation programmes where they overlap with ICCAs and indigenous peoples' territories more broadly without their free, prior and informed consent, and recognise and devolve governance and management to ICCA custodians in situations of such overlap
- (i) Halting all forms of violence against environmental activists and recognise civil society groups as allies in the struggle for more democratic governance systems
- (j) Social recognition and support for ICCAs and their collective institutions and organisations (e.g. through public events, awards and positive media coverage), where appropriate and desired by the ICCA custodians

3. *Funding needs and priorities at the local / community level:*

- (a) In addition to national and regional exchanges and learning networks (see sub-section nos. 1 and 2 above), community-specific skill-building on participatory filmmaking and

photography, basic research and documentation methodologies, GPS/GIS mapping and 3-dimensional modelling, cultural peace-building, and engagement with local and district-level government officials

- (b) Documentation of the customary and local laws, institutions, languages, knowledge systems, practices, values, livelihoods, food sovereignty systems, and artefacts underlying the relationships between indigenous peoples and communities and their territories and areas (including through community mapping and boundary demarcation, and development of outreach materials such as high quality videos and social media campaigns)
 - This should be done by ICCA custodians themselves, with appropriate technical and communication support of others, and with particular attention paid to supporting indigenous and community youth and elders to work together in such documentation
- (c) Documentation and assessment of the status of various species, habitats and ecosystems in ICCAs (for example, watershed health⁸) and of the contributions of ICCAs and collective action to conservation, as part of showcasing ICCA custodians as critical partners in conservation
- (d) In addition to documentation and registration of ICCAs in national registries and the UNEP-WCMC ICCA Registry (see sub-section no. 2 above), support for community-determined projects and programmes for ICCAs already in national and international ICCA registries (e.g. reforestation and restoration, health and education)
- (e) Support for indigenous peoples and local communities (particularly youth) to strengthen their pride in and communicate their worldviews, ways of life, leadership structures and self-determined development pathways as viable and sustainable alternatives to mainstream economic development, and to resist the mainstream narratives and ideals of 'development'
- (f) Capacity building of customary and community decision-making structures to strengthen leadership and governance, strategic planning, organisational and financial management, equitable benefit sharing, conflict resolution, and communications
- (g) Support for indigenous peoples and local communities to develop and implement governance, management and development plans to assert rights and responsibilities over their territories, areas and natural resources and ensure long-term sustainability of their ICCAs (e.g. through *planes de vida* (life plans) and community protocols)
- (h) Community-determined learning and educational opportunities (including early childhood education and cultural centres) in indigenous and local languages, to ensure inter-generational transmission and revitalisation of customary and local laws, institutions, languages, knowledge systems, practices, values, livelihoods and artefacts
- (i) Leadership development, including of indigenous and local community women and youth, to take up political positions at local and national levels to better influence and support policies and initiatives in favour of ICCAs and collective action
- (j) Support for food and water sovereignty systems (particularly traditional agriculture and shifting cultivation, fishing and pastoralism) and decriminalisation of related livelihoods and economies (e.g. seed exchanges and collection and sale of non-timber forest products)

⁸ For one model, please refer to: http://www.snowchange.org/pages/wp-content/uploads/2015/01/koltat_7taulua_p.pdf

- (k) Community implementation and communication of relevant international environmental, human rights and sustainable development instruments, including non-binding instruments such as UNDRIP and the FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests and FAO Voluntary Guidelines on Small-Scale Fisheries
- (l) Meetings and dialogues with local government officials to increase their awareness and understanding of ICCAs and indigenous peoples' and communities' rights, and how they can constructively support ICCA custodians
- (m) Supporting and elevating community struggles and locally grounded advocacy against unwanted and imposed activities in ICCAs such as mining, logging, industrial fishing and large-scale agribusiness plantations (also known as 'development aggression')
- (n) Development and use of tools and methodologies (such as the Whakatane Mechanism) to effectively address conflict, redress and restitution for indigenous peoples and local communities in situations of overlap between (i) ICCAs and protected areas, (ii) ICCAs and large-scale industries such as logging, monoculture plantations, mining and fisheries, and (iii) ICCAs and conflict or war zones
- (o) Mechanisms for custodians of ICCAs and civil society organisations to rapidly access flexible funds to support ICCAs as 'safe havens' for biodiversity conservation (e.g. through provision of basic services where governments fail to do so, mobilisation of community members and civil society when threatened by forced land acquisition or industrial activities, and protection of environmental and human rights defenders)
- (p) Protection of defenders of ICCAs and the commons who are being threatened, victimised and murdered, including by supporting their families and communities to continue their struggles and peaceful resistance, and advocating for justice and accountability for extra-judicial killings and disappearances
- (q) Support community efforts to restore, rehabilitate and increase the quality, functionality and connectivity of habitats and ecosystems, especially in ecologically sensitive areas (e.g. mangroves and coral reefs), areas affected by climate change and extreme weather events (e.g. floods, landslides, droughts and typhoons), and areas adversely impacted by imposed development policies and projects
- (r) Support for community surveillance, monitoring and management of natural resources and wildlife (e.g. key iconic species in African ICCAs such as lions and elephants)
- (s) Prevention and mitigation of human-wildlife conflict and conflicts arising over poaching and trade of wildlife and related products
- (t) Development of business plans and establishment and maintenance of income generating activities to support autonomous livelihoods (e.g. ethical wildlife conservation tourism, traditional medicinal plants nurseries, organic niche products)
- (u) Community-based renewable energy production (e.g. micro-hydro and solar power)

ANNEX: CBD COP Decisions with provisions on ICCAs in the context of financing and financial mechanisms for protected areas, donor support and resource mobilisation

After adopting the Programme of Work on Protected Areas (PoWPA) in 2004, Parties were invited to consider funding mechanisms to support ICCAs as part of financial plans for protected area systems⁹ and called for support for indigenous [peoples'] and local communities' conservation and sustainable use initiatives in implementation of PoWPA.¹⁰ In turn, Parties invited GEF to support ICCAs and ensure the immediate, full and effective participation of indigenous peoples and local communities in the development of relevant activities.¹¹ They urged multilateral donors and other funding organisations to make available adequate, timely and predictable funding for developing countries to (*inter alia*) improve management of existing protected areas, including ICCAs.¹² In 2010, Parties also identified ICCAs as one of the priorities for funding on conservation and protected areas,¹³ even listing them ahead of national and regional systems of protected areas. This suggested growing recognition of the critical importance of ICCAs to conservation and arguably an implicit acknowledgement of ICCAs as distinct from national protected area systems.

In 2012 and 2014, this acknowledgement was made explicit in Decisions on Article 8(j) and related provisions, which called for donor support for ICCAs in their own right, rather than as part of protected area systems. Parties were urged and donors invited to support indigenous peoples and local communities to develop community plans and protocols, to document, map and register their ICCAs and to prepare, implement and monitor their community conservation plans.¹⁴ The same Decisions stated that support should be provided for countries to strengthen their recognition of ICCAs.¹⁵ These Decisions underscored the importance of support for practical local action defined by communities themselves as well as national recognition and targeted international financial support. In essence, they adopted a more multi-faceted and integrated approach to recognising and supporting ICCAs than other Decisions concerning financing for ICCAs in the context of protected areas. They also implied that doing so will contribute to implementation of Article 8(j) and related provisions, the cornerstones of indigenous peoples' and local communities' rights in the context of the CBD.

COP 12 included another important development in the Decision on resource mobilisation. Parties recognised and are meant to encourage and support collective action by indigenous and local communities and non-market-based approaches – including (*inter alia*) through ICCAs – to mobilising resources for achieving the Convention's objectives¹⁶ and implementing Aichi Target 20 and associated financial targets.¹⁷

⁹ CBD Decision VIII/24, para 18(f)(vii).

¹⁰ CBD Decision VIII/24, para 27(c).

¹¹ CBD Decision VIII/18 (2006), para 29(e); CBD Decision VIII/24, para 22(e).

¹² CBD Decision IX/18/B (2008), para 6(a).

¹³ CBD Decision X/24 (2010), Annex, para 4.4(a).

¹⁴ CBD Decision XI/14/A (2012), para 9; CBD Decision XII/12/B (2014), para 5.

¹⁵ *ibid.*

¹⁶ CBD Decision XII/3 (2014), para 29.

¹⁷ CBD Decision XII/3, Annex IV/II/F, para 36.