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Overview of UNDP's Proposed Social and Environmental Compliance Review and Dispute Resolution Process

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This document provides a brief overview of the process UNDP has undertaken to consider and initiate the development of a Social and Environmental Compliance Review and Dispute Resolution Process. The overview intends to generate further discussion within UNDP and with partners and stakeholders that can surface additional and more specific challenges and recommendations. In particular, this document seeks further input from UNDP staff, especially those from Country Offices, Regional Bureaux and Regional Service Centres.

BACKGROUND

With the recognition of the need for social and environmental policies comes the need to ensure that the policies are well implemented and that communities who are meant to benefit from the policies have a voice in their implementation. Compliance review and dispute resolution processes have become a common part of the development landscape, at least since the establishment of the World Bank's compliance review panel in 1993. Similar compliance and dispute resolution processes have been developed at most of the international financial institutions and a growing number of bilateral financial institutions.¹

Dispute resolution processes have also been implemented in many programs and projects to give local stakeholders an avenue for raising their concerns and receiving a timely and constructive response. Many international agencies, civil society organizations, and governments believe such compliance and dispute resolution processes, along with the associated environmental and social policies, are critical for ensuring effective development outcomes on the ground.

A number of factors have recently converged to highlight the importance for UNDP to not only develop Social and Environmental Standards but also a process to ensure that: 1) UNDP complies with these Standards and other applicable policies and procedures; and 2) stakeholders affected by UNDP projects have access to appropriate dispute resolution processes. Driving factors include UNDP's interest in:

- Supporting the realization of the rights and interests of stakeholders in UNDP-supported programmes and projects, especially vulnerable groups such as indigenous people, by affording them transparent and constructive channels for raising project- and programme-related concerns;
- Supplementing existing opportunities for stakeholder engagement and dispute resolution at the country or project level;
- Enhancing UNDP's current Accountability Framework, by strengthening tools to ensure compliance with the environmental and social elements of UNDP policies and procedures; and
- Reflecting best practices at other international development institutions, and pioneering the development of accountability mechanisms within the United Nations system.

Additionally, environmental and climate finance is increasingly subject to social and environmental safeguard and compliance and dispute resolution requirements, for example:

- The **Global Environment Facility (GEF)** requires implementing agencies, including UNDP, to comply with the [GEF Policy on Agency Minimum Standards on Environmental and Social](#)

¹ See "[International Accountability Mechanisms Benchmarking](#)"

[Safeguards](#), which outlines a set of requirements for social and environmental standards and a compliance review and dispute resolution process;

- The **World Bank-hosted Forest Carbon Partnership Facility (FCPF)**² requires its Delivery Partners, including UNDP, to comply with the [FCPF Common Approach to Environmental and Social Safeguards for Multiple Delivery Partners](#), which outlines a set of requirements for social and environmental standards and a compliance review and dispute resolution process;
- The **Adaptation Fund (AF)** has adopted an [Environmental and Social Policy](#) that requires Fund recipients to have in place social and environmental standards and make available a grievance mechanism for project affected people.
- The **Board of the Green Climate Fund (GCF)** has noted ‘convergence on the need to develop a guiding framework and procedures for the accreditation process of the Fund that ...defines the Fund’s own fiduciary principles and standards and environmental and social safeguards’ and plans to initiate the development of these safeguards in 2014. Further, the Fund will provide readiness and preparatory support to enable implementing entities and intermediaries to meet the Fund’s environmental and social safeguards, in order to directly access the Fund.³

In parallel with these multilateral financial mechanisms, over recent years several bilateral donors have begun to require social and environmental safeguard measures be in place for project funding, signaling a broader trend in this direction that goes beyond environmental and climate finance. There is also strong demand from stakeholders and civil society for all institutions involved in development to have effective safeguards and accountability measures in place.

THE PROCESS TO DATE

In April 2011, UNDP undertook a process to develop a proposal for UNDP to establish a Social and Environmental Compliance Review and Dispute Resolution Process with two functions:

- A **compliance review** process to respond to claims that UNDP is not in compliance with applicable social and environmental policies; and
- A **dispute resolution process** that ensures individuals, peoples, and communities affected by UNDP programmes and projects have access to appropriate dispute resolution procedures for hearing and addressing project-related disputes.

A draft proposal was prepared outlining options for how UNDP could establish a compliance review and dispute resolution process and the implications of doing so. The proposal based its recommendations on internal consultations with key UNDP staff and on 20 years of lessons and best practices of other institutions with such mechanisms. The proposal was designed to ensure that the proposed processes were tailored to UNDP’s organizational structure, type of operations, legal restrictions, relevant policies, existing accountability framework, and institutional culture.

² See www.forestcarbonpartnership.org.

³ See [Decisions of the Board – Fifth Meeting of the Board, 8-10 October 2013](#)

The proposal was presented to the UNDP Associate Administrator in October 2011, where approval was provided to proceed with establishing an interim Social and Environmental Compliance Review and Dispute Resolution Process for projects funded by the Forest Carbon Partnership Facility (FCPF) and the Global Environment Facility (GEF) and to initiate a broader consultative process on a corporate mechanism.

A global consultation on the proposal was held from April to July 2011 (see [comment and response matrix](#)). Following the receipt of input from about 30 organizations, UNDP revised the original proposal (see [revised proposal](#)), which became the basis for further discussions.

INTERIM ARRANGEMENTS

As mentioned above, compliance review and dispute resolution functions are required as a condition for UNDP to be a delivery partner under the FCPF. In this regard, UNDP has agreed to make available an interim compliance review and dispute resolution process for FCPF-funded projects in Cambodia, Honduras, Papua New Guinea and Suriname. The interim approach has also been designed with the goal of providing lessons and expertise that will assist in the development and implementation of the corporate Compliance Review and Dispute Resolution Process.

COMPLIANCE REVIEW

In October 2012 the UNDP Administrator revised the Charter of the Office of Audit and Investigations (OAI) to include the mandate to investigate UNDP's compliance with applicable social and environmental policies and procedures. In February 2013 OAI established the Social and Environmental Compliance Unit (SECU) to respond to complaints that UNDP may not be meeting its social and environmental commitments during the interim phase (as outlined above).

The main purpose of the compliance review will be to investigate alleged violations of UNDP's environmental and social commitments in a project financed, or to be financed, by UNDP or any other project where UNDP policies apply. The compliance review may result in findings of non-compliance, in which case recommendations will be provided to the Administrator about how to bring the Project into compliance and, where appropriate, mitigate any harm resulting from UNDP's failure to follow its policies or procedures. In carrying out its compliance review functions, the compliance unit will need full access to UNDP personnel, policies and records. It will also need the authority to conduct site visits of UNDP-supported projects in order to carry out its fact-finding function.

For more detailed information on the Compliance Review, please see the [DRAFT - Standard Operating Procedures for UNDP's Social and Environmental Compliance Unit](#).

DISPUTE RESOLUTION PROCESS (DRP)

The Dispute Resolution Process (DRP) will enhance UNDP's approach to resolving socio-economic and environmental grievances that arise in the context of UNDP-supported activities. The DRP will establish a system for receiving complaints from people or communities affected by UNDP operations, and responding in ways that promote constructive resolution through a variety of dispute resolution methodologies. The system will ensure that complaints are logged, tracked and documented to ensure timely action and resolution.

Most grievances and disputes arising from UNDP-supported activities at the country level should be addressed by national implementing partners without direct UNDP involvement. UNDP has an

interest in ensuring that partners' dispute resolution mechanisms are accessible, fair, effective, and efficient.

During program and project design, it may become clear that a) there is a significant risk of grievances and disputes, and b) partners do not have effective grievance/dispute resolution capacity or procedures to manage this risk. In these cases, UNDP and partners will need to build capacity and procedures tailored to the project or program context. Such project- or program-specific dispute resolution mechanisms can also lay the groundwork for development of ongoing, organization- or sector-level mechanisms. Over time, UNDP should seek to build national capacity and minimize the use of its own staff and procedures for grievance and dispute resolution. UNDP has produced guidance on how to support national partners in strengthening their grievance and dispute resolution capacity in the context of REDD+.⁴

To the extent that a grievance or dispute raises concerns about UNDP's own actions or activities, the first response should be good faith efforts by the relevant CO staff and management to address and resolve the issue using normal procedures. In the course of UNDP country-level programme design and implementation, the vast majority of grievances or disputes that arise are appropriately and effectively resolved through discussion, correspondence, meetings and management decisions, without formal logging or tracking through a separate dispute resolution mechanism.

The DRP is intended to supplement these generally effective procedures and approaches. It offers a more formal opportunity for UNDP country-level programme and project stakeholders who feel their concerns have not been sufficiently reviewed or resolved to bring them to the attention of CO management at country level, with oversight and support from regional and corporate levels.

UNDP Country Offices have primary responsibility for ensuring that effective dispute resolution processes are available for UNDP's projects and programmes at the country level. Resident Representatives will be ultimately responsible for overseeing the receipt and handling of claims, but will be empowered to delegate authority to relevant staff as necessary.

The Regional Bureaux will have an important role in supporting CO action to address and resolve disputes and grievances received through the DRP. Regional Bureaux will receive notification of requests for dispute resolution within the region; have the option to proactively engage in discussion about the best way to proceed in addressing the request; and may be asked to provide guidance on the response, and/or to become directly involved in communication with national stakeholders.

Although UNDP will address requests for dispute resolution primarily at the country level, UNDP has a corporate-level interest in ensuring that these dispute resolution processes are responsive, treat claimants fairly, operate effectively, and generate useful lessons that can be used to improve UNDP's country-level operations. To meet these goals while maintaining a decentralized approach, there will be a function within the Bureau for Policy and Programme Support (BPPS) to backstop country level work on dispute resolution; provide capacity building through training and coaching; provide a corporate window for receiving requests for dispute resolution; maintain a global complaints database; and capture and communicate DRP lessons across UNDP.

⁴ See [FCPF/UN-REDD Guidance Note for REDD+ Countries: Establishing and Strengthening Grievance Redress Mechanisms](#)