

## **Open letter to the Board of the Green Climate Fund**

### **Recommendations to improve the Green Climate Fund's Policy on the Protection of Whistleblowers and Witnesses**

Climate action is expanding and evolving, with hundreds of billions of dollars being invested in mitigation and adaptation programs. The Global Climate Fund (GCF) currently manages a portfolio comprising 253 projects across 129 countries, committing a total of USD 13.9 billion for climate action. By 2030, the GCF aims to manage USD 50 billion, with an increasing number of projects in the field.<sup>1</sup> Given the magnitude of this funding, there is a heightened risk of corruption, making it essential to implement strong governance frameworks that manage such risks and ensure climate finance reaches its intended destination and has the optimal impact on reducing carbon emissions and enabling adaptation.

Whistleblowing is the most effective way to prevent and uncover corruption and other malpractice. Whistleblowers' disclosures have exposed wrongdoing and fraud, saved millions in public funds, and helped avert disasters in areas such as health and the environment. A robust whistleblowing system is therefore a crucial element, enabling individuals to report wrongdoing and ensuring the prompt resolution of issues while protecting whistleblowers and witnesses from detrimental conduct.

The GCF adopted its [Policy on the Protection of Whistleblowers and Witnesses](#) (PPWW) in 2018. In June 2024, the GCF Independent Evaluation Unit (IEU) released its [evaluation](#) of the GCF's approach to whistleblower and witness protection, which is set to be discussed at the third meeting of the GCF Board on 23-25 October 2024. The evaluation offers findings and recommendations to guide decision-making on strengthening the GCF's Policy on the Protection of Whistleblowers and Witnesses (PPWW) and ensuring its effective implementation. It evaluates the policy's effectiveness, relevance, coherence, and sustainability based on its operationalisation and execution.

The IEU evaluation is thorough and insightful and is a major step toward strengthening GCF's whistleblower and witness protection system, ensuring that the organisation continues to promote accountability, encourage reporting, and protect those who speak up in the interest of the greater good. This evaluation sets a solid foundation for enhancing policies that can safeguard individuals, strengthen organisational resilience, and contribute to the long-term success of GCF's mission.

Transparency International (TI) fully supports the IEU's recommendations to the GCF, in particular to:

- align coherence across related GCF policies, and interpretation via coherent guidance, standards and manuals.
- clearly explain the list of eligible actions that constitute suspected Wrongdoing, and the eligibility requirements for protections under the PPWW.
- strengthen all potential users' awareness of the PPWW, reporting channels and classification, that is of GCF staff and consultants as well as of entities external to the GCF, ensuring the rights and responsibilities of all potential users are clearly explained.
- implement tailored capacity-building activities for DAEs to support their establishing and updating whistleblowing arrangements in line with the PPWW
- extend the provision of facilitated workshops to enable peer-to-peer learning for AEs, EEs and other counterparties.
- Develop evidence-based tools (such as checklists, reminders and regular feedback) and training packages for IEs, to enhance an effective cascade of alignment to the project level.

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<sup>1</sup> Independent Evaluation Unit (2024). *Independent Evaluation of the Green Climate Fund's Approach to and Protection of Whistleblowers and Witnesses*. Evaluation report No. 19 (June). Songdo, South Korea: Independent Evaluation Unit, Green Climate Fund.

- ensure periodic reporting on the implementation of the PPWW to the Board, including reviews of the PPWW, leveraging expertise from GCF stakeholders, in particular the AP, to provide input into this process.
- For future policy updates, assess the need for resources across the Fund, to ensure scaling up of required alignment and oversight capacity activities, in line with the growing GCF portfolio

Additionally proposes the following recommendations to the GCF Board for further enhancing the PPWW.

## SUMMARY OF TI RECOMMENDATIONS

- **Policy revision:** The GCF should revise its PPWW to align with best practices, incorporating recommendations from the IEU and TI. Such revision should involve civil society organizations and other key stakeholders, including through timely, comprehensive public consultations.
- **Scope:** The policy should cover reports of any unlawful, abusive, or harmful act or omission relating to GCF operations and provide a list of examples of reportable conduct.
- **Conditions for protection:** Whistleblowers should only be required to reasonably believe that the information reported is true at the time of reporting to benefit from protection. Their motives or “good faith” should not enter into consideration.
- **Anonymous reporting:** The PPWW should explicitly protect whistleblowers who report anonymously and are subsequently identified.
- **External reporting**
  - The GCF should extend its protection against retaliation to whistleblowers who report to national authorities, without setting restrictions or extra burden.
  - Protection against retaliation should also be extended, in certain circumstances, to whistleblowers who made public disclosures, for example to CSOs or the media.
- **Awareness raising**
  - Awareness training on the PPWW should be mandatory for all personnel. Managers should also be regularly trained on the receipt and handling of whistleblowing reports.
  - The IIU should develop comprehensive guidance materials in multiple languages for external stakeholders.
  - The PPWW should be referenced in the GCF Code of Conduct and other relevant policies.
  - The PPWW should provide information on the process of handling of reports, and the GCF Investigation Standards should be made available in the six official UN languages.
  - The GCF should commit to taking corrective actions – including preventing further wrongdoing, sanctioning perpetrators, addressing damages, and correcting systemic issues that allowed the misconduct to occur – if an investigation reveals wrongdoing.
- **Reporting channels**
  - The PPWW should be updated with correct and current contact details.
  - The IIU online reporting platform should be available in multiple languages.
- **Review process:** There should be a formal process for reviewing decisions concerning reports of wrongdoing and complaints of retaliation, including decisions to disclose the identity of a reporting person.
- **Communication with whistleblowers**
  - Whistleblowers should receive an acknowledgement of their reports within a short timeframe and be kept informed throughout the follow-up process about actions taken in response.
  - Whistleblowers should have the opportunity to clarify their reports or provide additional information during the investigation, as well as raise any concerns about the protection of their identity or potential retaliation.

- **Confidentiality**
  - Confidentiality should extend to information from which the identity of a whistleblower or witness may be directly or indirectly deduced.
  - Accredited Entities should be required to report only credible allegations of wrongdoing received through their whistleblowing channels, limiting the information to high-level summaries. The transmission of identifying information should adhere to the same confidentiality standards as those within the GCF, requiring explicit consent from whistleblowers, witnesses, and any parties granted confidentiality unless exceptional circumstances.
- **Retaliation:** The definition of retaliation should be expanded to include omissions and include a non-exhaustive list of examples of detrimental conduct.
- **Burden of proof:** there should be a presumption of retaliation when a person demonstrates that they made a report of suspected wrongdoing, or cooperated with an investigation, and that they suffered detrimental conduct.
- **Restorative actions:** The PPWW should outline a broader range of restorative actions to address the harm suffered by whistleblowers, witnesses and other protected parties.
- **Monitoring, review and accountability:**
  - The IIU should collect and publish annually more comprehensive statistical data on reports of wrongdoing and complaints of retaliation received.
  - The GCF Board should ensure that the IIU complies with review and reporting requirements.

## DETAILED ANALYSIS AND RECOMMENDATIONS

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### SCOPE OF THE POLICY

An organisation's whistleblowing policy must clearly define who can report, what can be reported, and who should be protected under the whistleblowing system. The personal scope of the PPWW — that is, who can report suspected wrongdoing — is extensive and aligns with best practices. However, the material scope — what can be reported — requires clarification.

The PPWW allows reports of "Wrongdoing", which is defined as conduct that violates GCF policies or that involves significant risk to the GCF because it is harmful to its interests, reputation, operations or governance. The policy further specifies that wrongdoing includes, but is not limited to, misconduct, Prohibited Practices and conflicts of interest. However, "misconduct" is not clearly defined, and the relevant GCF policies are not listed, leaving potential whistleblowers, particularly external ones, uncertain about what falls within the PPWW's scope. This lack of clarity can deter whistleblowers and may expose reporting individuals to retaliation if they mistakenly believe they are protected under the PPWW. Surveys and interviews conducted by the IEU corroborate these concerns.

#### Recommendation

The definition of wrongdoing should be broadened to include any unlawful, abusive, or harmful act or omission. The PPWW should also provide a non-exhaustive list of examples of reportable conduct. This list should include:

- criminal offences
- breaches of legal obligations (national and international)
- dangers to public and occupational health and safety
- dangers to the environment
- human rights violations

- child exploitation or abuse
- gender-based violence, harassment, bullying and discrimination
- corruption in all its forms, including bribery, money laundering, sexual corruption, embezzlement, misappropriation, abuse of authority, obstruction of justice and illicit enrichment
- insider trading, tax evasion or breaches of antitrust law and international trade sanctions
- conflicts of interest
- fraudulent financial disclosures
- gross waste or mismanagement
- detrimental conduct against whistleblowers and other protected parties
- concealment of wrongdoing, including interfering or attempting to interfere with whistleblowing

## CONDITIONS FOR PROTECTION

The PPWW defines “whistleblower” as any person or entity, who, in good faith and on reasonable grounds, reports, attempts to report, is believed to be about to report, or is believed to have reported suspected wrongdoing, and “Witness” as any person or entity who cooperates in good faith, or is believed to be about to cooperate, or is believed to have cooperated with an investigation and provided information or evidence. While the GCF should be commended for including potential whistleblowers and witnesses in these definitions, the requirement that individuals report or cooperate “in good faith” to receive protection conflicts with international standards and best practices. The term “good faith” can be misinterpreted as referring to the personal motivations of the whistleblower, rather than their belief that the information provided is accurate.<sup>2</sup>

### Recommendations

The PPWW should be amended to eliminate the “good faith” requirement and replace it with a standard based on the whistleblower’s reasonable belief that the information provided is true at the time of reporting. Additionally, the provision addressing “False or Malicious Reports” should be revised to focus solely on situations where the individual knew that the information reported was false. Terms such as “malicious,” “deliberately misleading,” or “for the purpose of...” should be removed from the policy. It is essential to clarify that whistleblowers who report information they believe to be true at the time, even if they later turn out to be mistaken, will still be protected. Transparency International recommends adopting the terms “knowingly false report” and “knowingly reporting false information” for greater clarity.

Furthermore, the GCF Investigation Standards Policy should also be amended to remove any references to the motives of the whistleblower or witness when providing information. It is important to ensure that the definition of false reports in the Investigation Standards aligns with that in the PPWW, as this alignment currently does not exist.

## Protection of anonymous whistleblowers

The GCF commendably accepts anonymous reports, but the PPWW does not explicitly protect whistleblowers who are later identified after making an anonymous report.

### Recommendation

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<sup>2</sup> The Council of Europe specifies that their Recommendation on Protection of Whistleblowers “has been drafted in such a way as to preclude either the motive of the whistleblower in making the report or disclosure or of his or her good faith in so doing as being relevant to the question of whether or not the whistleblower is to be protected.” (Council of Europe, *Protection of Whistleblowers, Recommendation CM/Rec(2014)7* and *Explanatory Memorandum* (2014)). When revising its 2009 *Recommendation for Further Combating Bribery of Foreign Officials* in 2021, the OECD removed the good faith requirement to afford protection.

The PPWW should explicitly state that whistleblowers who report anonymously and are subsequently identified are protected under the policy.

## Protection of external reporting

The PPWW extends protections against retaliation to individuals who reports wrongdoing to “an entity outside of the established internal mechanisms”, under certain conditions. However, the PPWW does not define or give example of “entities outside of the established internal mechanisms”, making this provision difficult to apply. The lack of clarity, combined with stringent conditions, limits the practical use of this external reporting mechanism. This may explain why GCF personnel are often unaware of their ability to report externally, as indicated by the IEU’s findings.

### Recommendations

The PPWW should clearly define “external entities”, specifying the type of entities that are included, such as national authorities, international organisations, and civil society organisations (CSOs).

The PPWW should enable whistleblowers to report directly to national authorities without restriction or extra burden, providing them with protection without requiring prior internal reporting or the fulfilment of additional conditions, in accordance with current international standards and best practices.<sup>3</sup>

Protection should also be extended to whistleblowers who make public disclosures, for example to CSOs or the media, provided that **any** of the following conditions apply:

- The reporting is necessary to prevent a significant threat to public health, safety **or the environment**, substantive damage to GCF operations, or violations of national or international law.
- The internal mechanisms are inadequate, creating risks of retaliation or evidence destruction, or a prior internal report has not been addressed within six months.<sup>4</sup>

## AWARENESS RAISING

Information and communication measures are key to ensure awareness among relevant stakeholders and accountability of the organisation regarding the IWS.

### Communication measures

Information about the GCF WWPP should be widely accessible and inclusive, considering the needs of various stakeholders, including persons with disabilities. However, the IEU found that awareness of the PPWW among GCF personnel is notably low, especially when compared to the Sexual Exploitation, Sexual Abuse, and Sexual Harassment (SEAH) policy.

Information on the PPWW is available on the GCF website, specifically within the section dedicated to the IIU, which is easily accessible from the homepage. However, the menu and key sections are only in English, making it less accessible to non-English speakers. The GCF investigation standards, a key resource for whistleblowers and witnesses, are also available in English. In addition, available materials on reporting<sup>5</sup> and retaliation<sup>6</sup> are overly simplistic.<sup>7</sup>

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<sup>3</sup> See, for example, EU Directive 2019/1937 of 23 October 2019 on the protection of persons who report breaches of Union law, Article 10; and Transparency International, *A Best Practice Guide for Whistleblowing Legislation*, 2018, p.38.

<sup>4</sup> See, for example, EU Directive 2019/1937 of 23 October 2019 on the protection of persons who report breaches of Union law, Article 15.

<sup>5</sup> <https://iiu.greenclimate.fund/sites/default/files/document/iiu-standee-062519.pdf>

<sup>6</sup> <https://irm.greenclimate.fund/sites/default/files/document/retaliation-brochure.pdf>

<sup>7</sup> TI does not have access to the GCF intranet so cannot comment on the accessibility of information about the PPWW internally.

## Recommendations

The GCF should mandate awareness training for all personnel, both at induction and regularly, as part of broader integrity training, similar to the SEAH policy.

The IIU should develop comprehensive guidance materials in multiple languages for external stakeholders.

The PPWW should be referenced in the GCF Code of Conduct and other relevant policies within the GCF's integrity, transparency, and accountability systems, either by including a direct link to the PPWW or incorporating a dedicated section where appropriate.

## Information to provide

The PPWW lacks sufficient detail on how it interacts with other internal reporting or complaint systems, such as grievance mechanisms. This creates confusion, and GCF personnel do not know how to differentiate acts of wrongdoing from other issues, or which GCF office (IIU, IRM, HR, or Ombudsperson) should handle specific reports.

The PPWW also does not provide sufficient detail how reports are handled. Merely stating that reports will be handled in line with relevant policies is not sufficient.

## Recommendations

The IIU should develop or amend existing guidance material that clarify the distinctions between the PPWW and other internal reporting systems, providing guidance on which types of concerns are best addressed through which system. The PPWW should reference these materials.

Additionally, the PPWW should offer more comprehensive information on the handling of reports, including key steps and timeframes, such as the receipt of reports, initial assessment, investigation, and closure. The policy should explicitly refer to the GCF Investigation Standards, which offer detailed guidance on these processes. To ensure accessibility, these standards should be made available in the six official UN languages.

Furthermore, the PPWW should specify that if an investigation reveals wrongdoing, the GCF will take corrective actions, including preventing further wrongdoing, sanctioning perpetrators, addressing damages, and correcting systemic issues that allowed the misconduct to occur.

Organisations should provide information that is clear, easily accessible and inclusive,<sup>8</sup> covering the following:

- roles and responsibilities related to the IWS, including who is accountable for it
- the scope of the IWS, including in relation to other internal reporting or complaint systems, such as grievance mechanisms, with guidance about which reporting or complaint system is best suited to receive and handle which types of concern
- the conditions for qualifying for protection under the IWS
- contact details for the internal information and reporting channels
- the procedures applicable to the reporting of wrongdoing, including for:
  - requests for clarification or further information
  - acknowledgement of receipt
  - feedback to the whistleblower the nature of the follow-up, including main steps – such as initial assessment, investigation, closure of the case - and corresponding timeframe
- the confidentiality and anonymity regime, including legal exceptions and practical limitations
- the type of protection and support measures your organisation provides to whistleblowers, including the procedures and remedies to address detrimental conduct

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<sup>8</sup> Clarity and accessibility might require the information to be available in different languages.

- how personal data will be processed, how long it will be retained and for what purpose
- confidential, independent advice channels available outside the organisation, free of charge, such as those run by national authorities, trade unions or CSOs

*Transparency International (2022), Internal Whistleblowing Systems – Best Practice Principles*

## PROCEDURES TO RECEIVE AND HANDLE REPORTS OF WRONGDOING

### Reporting channels

The PPWW allows for multiple reporting channels, including oral and written reports made both online and offline. However, some of the contact details in the PPWW are outdated. The IIU offers an online reporting platform, but it is available only in English.

#### Recommendation

The PPWW should be updated with correct and current contact details.

The online reporting platform should be made available in multiple languages to accommodate all relevant stakeholders.<sup>9</sup>

### Reporting to line managers

The PPWW states that “subject to protections available, any supervisor, manager, or other individual of the GCF who receives a report of suspected wrongdoing made in good faith is obligated to transmit such a report without delay to the IIU.” It is commendable that the PPWW designates line managers as potential recipients of whistleblowing reports. However, the IEU has noted that, in practice, this obligation is not always fulfilled, likely due in part to a lack of awareness. Additionally, the responsibility of determining whether the conditions related to “protection available” and “good faith” have been met can serve as a deterrent for managers.

#### Recommendations

The GCF should provide regular training for managers on the receipt and handling of whistleblowing reports. This training should cover essential topics, including how to recognize whistleblowing reports, the scope of the IWS and the relevant legal framework, proper handling of the information received—emphasizing the importance of maintaining confidentiality, data protection, and record-keeping—and effective listening and feedback techniques.

Line managers should refer whistleblowers to the IIU, rather than transferring reports themselves, allowing whistleblowers to decide whether to submit their report. Additionally, the PPWW should explicitly state that whistleblowers who report wrongdoing to their manager will be protected under the policy.

### Review process

System for reviewing decisions related to the handling of whistleblowing reports and complaints of retaliation promote fairness and accountability in the way cases are handled. The current PPWW lacks such review system.

#### Recommendations

The PPWW should introduce a formal process for reviewing decisions concerning:

- closure of the case or referral to another procedure
- the conduct or outcome of any follow-up or investigation actions
- the conduct or outcome of any investigation of a complaint of retaliation

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<sup>9</sup> Reporting software routinely offer this feature, such as GlobaLeaks, a free open-source software, which supports over 90 languages and Right-to-Left languages.

- any decision to disclose the identity of a reporting person.

In addition, the PPWW should include a provision informing GCF personnel that they can always appeal decisions through the ILO Administrative Tribunal (ILOAT).

## Communication with whistleblowers, and their participation

According to a GCF personnel survey, staff are reluctant to report suspected wrongdoing due to doubts about effective investigation and resolution. The PPWW commendably follows best practices by informing whistleblowers about investigation outcomes, including whether wrongdoing has been substantiated and any disciplinary measures taken. However, it does not provide regular updates throughout the process. As a result, whistleblowers may feel unsure about the status of their reports, leading to a lack of confidence in the system.

### Recommendations

Whistleblowers should be kept informed throughout the investigation process and given opportunities to provide input. The PPWW should ensure that whistleblowers receive acknowledgment of their reports within a short timeframe and are kept informed throughout the follow-up process. This includes providing regular updates, starting within three months of the initial report, and continuing at key stages of the investigation. Whistleblowers should also have the opportunity to clarify their reports or provide additional information during the investigation, as well as raise any concerns about the protection of their identity or potential retaliation. Regular feedback should also include information about actions taken in response to the report, protective measures for whistleblowers, and timelines for further updates.

As knowledgeable and interested stakeholders, whistleblowers should be kept informed throughout the process and have meaningful opportunities to provide input to the follow-up on their report.

- Organisations should acknowledge receipt of a whistleblowing report within a strict, short timeframe,<sup>10</sup> and include information about:
  - the possibility for the whistleblower to clarify their report and provide additional information or evidence
  - the timeframe within which the whistleblower will be contacted with potential requests for clarification or further information and given feedback on the follow-up of their report
  - the whistleblower's responsibilities, such as maintaining confidentiality over the identity of the person concerned
  - the IWS – for example, sharing awareness-raising material and the organisations' whistleblowing and whistleblower protection policy.
- Communication with the whistleblower should take place regularly throughout the follow-up process. Whistleblowers should, at any time, be able to:
  - clarify their report and provide additional information or evidence – albeit without obligation to do so
  - share their concerns about risks of detrimental conduct and the protection of their identity.
- Communication with the whistleblower should include regular and timely feedback:
  - Feedback should be provided for the first time within three months of receipt of the report, and not later than completion of the assessment of the report – whichever comes first.
  - Feedback should then be provided at the main steps in the follow-up process and at least every three months.
- Feedback to the whistleblower should include information on:

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<sup>10</sup> The EU Directive on Whistleblower Protection set the deadline at seven days.



- the actions envisaged or taken as follow-up to the report, the grounds for such follow-up, and the foreseen timeframe<sup>11</sup>
- measures taken to protect the whistleblower's identity or anonymity; the available support and, where relevant, measures taken to protect them against detrimental conduct
- when the whistleblower can expect further feedback on the follow-up of their report.

*Transparency International (2022), Internal Whistleblowing Systems – Best Practice Principles.*

## SUPPORT AND PROTECTION FOR WHISTLEBLOWERS AND WITNESSES

A variety of measures is necessary to ensure effective protection of whistleblowers and other parties at risk, including protecting their identity, prohibiting, preventing and addressing detrimental conduct, and providing support. The PPWW covers all these elements, but certain aspects could be improved.

### Confidentiality over the identity of whistleblowers and witnesses

One of the most effective ways of protecting a whistleblower or witness against retaliation is to protect their identity. The PPWW provides for strong confidentiality protections, but certain aspects could be improved. In small organisations, or when some facts are known only to a few, some pieces of information could allow people to identify the whistleblowers.

#### Recommendations

Confidentiality of the identity of whistleblowers, witnesses and their close family members and associates should be the principle, without requiring a specific request from them to maintain confidentiality.<sup>12</sup>

Confidentiality should extend to identifying information, that is information from which the identity of a whistleblower or witness may be directly or indirectly deduced.<sup>13</sup>

The PPWW should specify that if a report is made through non-designated channels, the recipient should immediately direct the whistleblower to the proper reporting channels where possible and maintain the confidentiality of the whistleblower's identity and the content of the report.

### Confidentiality when Accredited Entities notify the GCF of suspected Prohibited Practices

The obligation of Accredited Entities to “promptly inform the GCF of reports of suspected Prohibited Practices” raises concerns about maintaining the confidentiality over the identity of whistleblowers and witnesses, especially since the GCF appears to require extensive information. Some AE recommended, in line with best practice, that the GCF should only be notified of credible allegations, rather than upon receiving every report, and that the information shared should be high-level to protect identities.

#### Recommendation

The GCF should revise the PPWW and relevant protocols to ensure that Accredited Entities report only credible allegations, limiting the information to high-level summaries. The transmission of identifying information must adhere to the same confidentiality standards as those within the GCF, requiring explicit consent from whistleblowers, witnesses, and any parties granted confidentiality, unless exceptional circumstances, as specified in PPWW paragraphs 44 and 45.

<sup>11</sup> When the organisation can only provide limited feedback to a whistleblower, the reasons for such limited details should be clearly explained (e.g. the organisation's duties of confidentiality to other personnel, or other legal limitations).

<sup>12</sup> Paragraph 41 should be deleted.

<sup>13</sup> See for example International Bar Association and Government Accountability Project, *Are whistleblowing laws working? A global study of whistleblower protection litigation*, 2021, p. 18.

## **Prohibition of retaliation**

The PPWW clearly states that the GCF does not tolerate retaliation against whistleblowers and witnesses, and that retaliation is a prohibited practice. The PPWW's definition of retaliation is comprehensive but could be further strengthened. While it includes both direct and indirect actions against whistleblowers and witnesses, it does not account for detrimental omissions. In addition, the definition being quite abstract, clearer guidance is needed on what constitutes retaliation.

### **Recommendation**

The definition of retaliation should be expanded to include omissions, ensuring that all forms of detrimental conduct, whether active or passive, are covered. Additionally, the PPWW should provide a non-exhaustive list of examples of detrimental conduct, including:<sup>14</sup>

- suspension, dismissal or contract termination.
- Failure to renew or convert employment contracts.
- constructive discharge
- demotion or withholding of promotion
- transfer of duties, reduction or limitation of work assignments, change in working hours
- unfair selection for tasks or attendance at events, withholding of training
- restrictions on or removal of available resources, such as budgets or human resources
- reduction in remuneration or withholding of payment
- negative performance assessment or employment reference
- unwarranted inspection or investigation of duties, or disclosure of the result of such inspections
- imposition or administering of any disciplinary measure, reprimand or other penalty
- coercion, intimidation, harassment or ostracism
- discrimination, or disadvantageous or unfair treatment
- boycotting or block-listing
- early termination or cancellation of a contract for goods or services
- disclosure of the whistleblower's identity
- prosecution or legal action
- physical or psychological violence
- smearing, discrediting or humiliating of a person by questioning their mental health, professional competence, reliability or honesty.

## **Support and protection measures**

Although the PPWW commendably provides for protection measures, including interim protection, it does not specify the types of measure available. The IEU reported that common protection measures for GCF personnel are to reassign the complainant to a different team, which conflict with best practice, especially after the complaint of retaliation was upheld.

### **Recommendation**

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<sup>14</sup> See for example UNODC, Convention against Corruption, Resource Guide on Good Practices in the Protection of Reporting Persons, 2015, p. 45-47; EU Directive on Whistleblower Protection, Article 19.

The PPWW should include a list of possible protection measures, ensuring that whistleblowers are fully aware of the options available to them. These measures should include reassigning the perpetrator to another team – rather than reassigning the person who suffered retaliation.

The GCF should provide support services to whistleblowers, such as access to psychological support, confidential counselling, legal assistance, and peer support networks. Particular attention should be given to whistleblowers who may face additional challenges due to their social identity, such as gender, race, ethnicity, age, socioeconomic status, sexual orientation, or disability. If these support services are already available under other GCF policies, the PPWW should explicitly reference those policies to ensure that whistleblowers are aware of the resources available to them.

## **Addressing retaliation and breaches of confidentiality**

### **Burden of proof**

In cases of retaliation complaints made by a whistleblower or witness, the PPWW appropriately provides that once a complainant establishes a prima facie case of retaliation, the burden of proof shifts to the GCF, the Covered Individual, or the Counterparty. They must then demonstrate, with clear and convincing evidence, that the same action would have been taken or threatened regardless of the report or cooperation. This is considered good practice. However, the threshold for establishing a prima facie case is too high. The whistleblower or witness should not be required to prove that their report or cooperation was a contributing factor in the retaliatory action.

#### **Recommendation**

To align with international standards and best practices, the PPWW should only require the complainant to demonstrate that they (1) made, attempted to make, or were believed to have made a report of suspected wrongdoing, or cooperated with an investigation, and (2) that they suffered detrimental conduct. Once these conditions are met, the burden of proof should shift to the other party to show that the same action would have been taken without the report or cooperation.<sup>15</sup>

### **Restorative actions**

The PPWW's provision for restorative actions for whistleblowers and witnesses who have faced retaliation aligns with best practices, demonstrating a GCF commitment to supporting and protecting whistleblowers. However, these actions should not be limited solely to reinstatement to a previous post, reissuance of contracts, or financial compensation. The nature of the restorative action should be determined based on the specific detriment suffered by the whistleblower or witness, aiming to restore them to the position they would have been in had they not reported the wrongdoing or cooperated with the investigation.

#### **Recommendation**

The PPWW should outline a broader range of restorative actions to address the harm suffered. An indicative list should include measures such as:

- reinstatement to the position occupied before detrimental conduct or to a similar position with equal salary, status, duties and working conditions
- removal of the person responsible for detrimental conduct, when reinstating the whistleblower or other protected party would put them at risk of further retaliation
- fair access to any promotion and training that may have been withheld
- restoration of duties
- recognition of lost time and impact on performance
- withdrawal of litigation against a whistleblower

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<sup>15</sup> See, for example, the EU Directive on Whistleblower Protection, Article 21(5), Council of Europe, 2014, p.40.

- deletion of any records that could constitute a dossier for block-listing or later retaliation
- relaunching a procurement process
- restoration of a cancelled contract
- apologies for failures
- commendation for upholding the GCF mission, values or interest through speaking up about wrongdoing
- financial compensation for past, present and future lost earnings
- financial compensation for pain and suffering, including medical expenses.

## **CONTINUOUS MONITORING, REVIEW AND ACCOUNTABILITY**

Continuous monitoring and regular reviews and revisions of the PPWW are essential for enhancing the effectiveness of the policy and ensuring that it remains aligned with current international standards and best practices.

### **Data on whistleblowing reports and retaliation complaints.**

The IIU publishes statistics on investigation cases, including the number of cases received, closed, and opened, as well as the categories of wrongdoing reported. While the publication of this statistical data is a good practice, more comprehensive data is needed to fully assess the implementation and impact of the PPWW.

#### **Recommendation**

The IIU should collect and publish annually more comprehensive data. This should include:

- for reports of wrongdoing: the total number of reports received; the number of reports deemed to fall outside the scope of the PPWW and the general reasons why other reports were not considered whistleblowing reports; the number of anonymous reports; the actions taken in response to whistleblowing reports and their outcomes – including the estimated financial damage, compensation, recoveries and sanctions, referral to the authorities, criminal proceedings, the time taken to follow up on reports and the types of wrongdoing reported
- for complaints of retaliation: the number of complaints of detrimental conduct; actions taken to follow-up on complaints of retaliation against a whistleblower or a witness, and their outcomes; the time taken to achieve resolution, and types of protection measures taken

Such data should be disaggregated in an anonymised form by gender and – where possible – race, ethnicity and disability.

### **Reviews and amendments**

The PPWW requires annual reports to the GCF Board on its implementation, which is good practice. Such reports are crucial for identifying challenges and making recommendations to enhance the PPWW, as demonstrated by previous annual reports from the IIU. However, the IIU has failed to submit reports for 2022 and 2023. Furthermore, although the PPWW commendably mandates a review of its effectiveness every three years, the first review occurred six years after the policy was introduced.

The PPWW indicates that monitoring and reviews *may* involve public consultations. However, the consultation of civil society for the 2024 evaluation of the PPWW was limited. A survey conducted in April 2024 received 78 responses, but three respondents did not identify as civil society organisations (CSOs) and 17 were from organisations not engaged in GCF activities. Consequently, the IEU based most of its analysis on responses from only 58 participants. Even assuming these represent different CSOs, this number is low considering the

broad scope of GCF activities, and the geographical distribution of respondents is unclear. Transparency International was not invited to participate in the survey or to provide input through other means.

### **Recommendation**

The GCF Board should ensure that the IIU complies with its obligation to submit annual reports on the implementation of the PPWW. The next review of the policy should take place as scheduled in 2027, with timely and thorough public consultations to gather input from civil society organisations and other stakeholders. The GCF should ensure that future evaluations, as well as revisions, of the PPWW are widely promoted to maximize participation and collect diverse viewpoints.

9 October 2024