GENERAL POLICY BRIEF: MALDIVES GREEN FUND

1. Background

The Government of the Maldives (GOM) is in the process of establishing Maldives Green Fund (MGF), under a Presidential Decree. Currently, the proposed legal forms for the MGF include either a State Owned Enterprise coming under the Companies Act or a Trust Fund coming under Public Finance Act provisions.

The MGF will handle climate finance on a range of sectors, including renewable energy, energy efficiency, water and waste management among others. Once established programmes such as Scaling Up of Renewable Energy in Low Income Countries Programme in the Maldives, projected to be worth USD139 million, will come under MGF.

This document outlines Transparency Maldives’ general comments and proposals on the documents establishing MGF.

2. Areas of Concern and Proposals

2.1 MGF establishment process

- Transparency Maldives is conscious of the balance needed between importance of speedy establishment of a comprehensive Climate Fund and the due diligence required to protect climate money against potential risks such as corruption and fraud. Unfortunately, MGF documents, including the Operations Manual and Legislation were not provided to stakeholders like Transparency Maldives prior to the stakeholder conference on 11 December finalising MGF documents. Insufficient time was (a week) given to Transparency Maldives to comment more specifically and comprehensively on documents of such technical nature.

- MGF is created to handle large sums of public money and projects and programme implemented for the public. Therefore, the voice of the People’s Majlis should be heard. Fund should be ideally established through legislation by the People’s Majlis, not under Presidential Decree.

2.2 Governance Aspects of the Fund

Integrity Unit

- The proposed governance structure should include specific personnel for detection, prevention, and, where appropriate, sanction of issues of fraudulence, corruption, and misconduct. However, it is believed separate units – Integrity Units – within such funds, that could directly report to the Board of Directors, could ideally perform this role. The Green Climate Fund will, for instance, feature such a unit.
Transparency Maldives believes MGF should include such a unit. A document on such units is attached with this document.

Additionally;

- Some sectors from which Board of Directors is to be appointed may include cases of conflict of interest and compromise independence of the directors. This includes MEE, which is assigned the administrative supervisory role, MOFT, which through PEMEB ensures adherence to corporate governance, and EPA, which is again a regulator. Thus, GOM should reconsider if an independent Board of Directors should be appointed.

- MGF should have policies to guard against conflict of interest in place and actively enforced throughout the institution, not only for Board of Directors and senior management. A useful reference document may be OECD (2005) Managing Conflict of Interest in the Public Sector: A Toolkit.

- Appointed members, including the Board of Directors, decision makers and technical staff must be subject to integrity screenings or background checks prior to employment.

- Decisions of the Institution, in general, and Board of Directors, in particular, should be made public. This includes decisions taken in boarding meetings and outside board meetings. Decisions of the MGF here include but are not limited to those on ‘accreditation’, ‘appraisal of project’, ‘public contracting and procurement’. Instances when the Board decides not to disclose documentation, reasons for non-disclosure should be clearly stated and publicly made available. International best practices on confidentiality as provided for in the current RTI Bill in the People’s Majlis could be incorporated in the MGF legislation.

- For purposes of transparency, accountability and to manage risks posed by potential conflict of interest scenarios, we encourage that declarations of financial interests and disclosure of conflicts of interest be made public.

- All board meetings should be transparent and open. This includes, but is not limited to, allowing non-governmental observers (e.g. proposed advisory bodies) in board meetings.

- We welcome the strong role given to non-governmental participation, including civil society representation. The process of selecting them must be transparent, accountable, independent, and protected from fraud.

- The eligibility criteria of such observers and civil society representation should include individual commitments to transparency, accountability, integrity and independence. For this purpose, we suggest that they be bound to a code of conduct and ethics which includes a requirement to avoid conflicts of interest and appropriate compliance measures. The World Bank Climate Investment Funds model process on observers can be useful here.

- MGF should have sufficient policies and procedures in place to ensure its activities are not influenced by external actors. This includes, for instance, rules on the
circumstances in which staff can be involved with external groups and on acceptable criteria for dismissing staff and rules against arbitrary dismissals

- Members of the MGF should be trained on issues of integrity

- While MGF legislation states that MGF would be bound by the Corporate Governance Code, minimal reference is made to it, or incorporated from it, where actual mechanisms, responsibilities, operations, and practices are elaborated.


- The MGF legislation has extensive provisions for inclusion of various stakeholders. However, TM believes when individual projects and programmes are being discussed and decided, proper participation of and consultation with target communities should take place.

- MGF should have effective mechanisms in place to register and handle complaints generally and complaints specifically about corruption. MGF should be open to receiving and actively investigate or follow up on complaints coming from outside the organisation including those relating to corruption. Redress mechanisms should be in place.

- MGF should have effective, independent and enforceable mechanisms to handle whistle-blowing or the exposure of wrongdoing by employees, contractors, subcontractors and consultants

- While strong Access to Information provisions exist in the MGF legislation, they fall short in specifying a time limit for providing and disclosing information. Here again, international best practices, currently under the Bill on Right to Information can be incorporated.

- There should be mechanisms for monitoring and evaluation of projects and programmes, and as such the question of MGF’s relation, if any, to the Office of Programmes and Projects must be clarified.

- Similarly, greater clarity is required for the institutional, reporting, accountability, supervisory, and other relations between MGF and key stakeholders (e.g. MEE, MOFT, Ministry of Economic Development, Climate Change Advisory Council, utilities companies, etc.) and other state institutions (e.g. national planning bodies, the parliament, ACC, and judiciary). This will help build the national capacity to effectively assimilate and make desired impacts from the expected volume of climate money.

- TM recommends principles contained in international best practises such as those in the Paris Declaration on Aid Effectiveness and advocated for by Busan Building Block on Climate Finance and Development Effectives could also be useful in designing the structures and goals of MGF.
3. Other issues

- There are already a number of studies and planes on various aspects of mitigation and adaptation done in the Maldives. It is therefore crucial that MGF refrain from duplication. For instance, provision for making waste-management plans in the strategic plan might be duplicitous given there are already such plans.

- TM also is of the view that in the current plan, educational, awareness, and research activities could be brought forward so that they could have necessary impact during the projects cycles.

- It is a general concern from TM’s studies that institutions in the Maldives, including climate institutions, are in a state of flux and not consolidated. New ones are being created and existing ones inactive or ineffective. This results in confusions, waste, delays, and duplications. The National Planning Council which used to approve climate projects/programmes, the Renewable Energy Investment Office under Ministry of Economic Development no longer function, while a new ministry for environment was established recently. This is true of other sectors such as the case of SOEs for utilities. It is therefore paramount, MGF receives necessary commitment from all stakeholders, and widespread ownership of the establishment of MGF, including that of the wider political spectrum, should exist to ensure consolidation of MGF.

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Reference note: In preparing this policy brief a number of research documents were referred to, especially TI’s recommendations to the Green Climate Fund and TI's Climate Governance Integrity Programme's governance assessment’s toolkit.