



**GEF SECRETARIAT REVIEW FOR FULL/MEDIUM-SIZED PROJECTS*
THE GEF/LDCF/SCCF/NPIF TRUST FUNDS**

GEF ID:	5760		
Country/Region:	Brazil		
Project Title:	Capacity Building and Institutional Strengthening on the National Framework for Access and Benefit Sharing under the Nagoya Protocol		
GEF Agency:	IADB	GEF Agency Project ID:	
Type of Trust Fund:	GEF Trust Fund	GEF Focal Area (s):	Biodiversity
GEF-5 Focal Area/ LDCF/SCCF Objective (s):	BD-4;		
Anticipated Financing PPG:	\$120,000	Project Grant:	\$4,401,931
Co-financing:	\$4,401,931	Total Project Cost:	\$9,043,862
PIF Approval:	April 01, 2014	Council Approval/Expected:	May 27, 2014
CEO Endorsement/Approval		Expected Project Start Date:	
Program Manager:	Jaime Cavalier	Agency Contact Person:	a.i. Helena L. Piaggese

Review Criteria	Questions	Secretariat Comment at PIF (PFD)/Work Program Inclusion ¹	Secretariat Comment At CEO Endorsement(FSP)/Approval (MSP)
Eligibility	1. Is the participating country eligible ?	3-12-14 Yes. Brazil is eligible for GEF Funding. Cleared	7-29-16 Cleared
	2. Has the operational focal point endorsed the project?	3-12-14 Yes. There is a LoE from the OFP for \$4,951,514. The project is for \$4,521,931 + 429,583 of Agency fee = \$4,951,514. Although the Agency fee is on Part I: project Information (\$429,583), it is not in Table D. The project is NOT requesting PPG	7-29-16 Cleared

*Some questions here are to be answered only at PIF or CEO endorsement. No need to provide response in gray cells.

¹ Work Program Inclusion (WPI) applies to FSPs only. Submission of FSP PIFs will simultaneously be considered for WPI.

FSP/MSP review template: updated January 2013

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		funds. Is that correct? See suggestion from GEF Sec under item 3 (below) 3-27-14 Cleared	
Resource Availability	3. Is the proposed Grant (including the Agency fee) within the resources available from (mark all that apply):		
	<ul style="list-style-type: none"> the STAR allocation? 	3-12-14 Brazil has a balance of BD = \$5,451,515 and CC = 5,319,557 as of today. Please state if Brazil wants to increase the budget for this project using BD resources or increase the BD allocation by 5% using CC resources using the "marginal adjustment" policy, assuming there is no new BD or CC projects that intent using these resources. 3-27-14 Cleared	7-29-16 Cleared
	<ul style="list-style-type: none"> the focal area allocation? 	3-12-14 Brazil has a balance of BD = \$5,451,515 and CC = 5,319,557 as of today. Please state if Brazil wants to increase the budget for this project using BD resources or increase the BD allocation by 5% using CC resources using the "marginal adjustment" policy, assuming there is no new BD or CC projects aiming at using these resources. 3-27-14 Cleared	7-29-16 Cleared
	<ul style="list-style-type: none"> the LDCF under the principle of equitable access 	NA	NA

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	<ul style="list-style-type: none"> the SCCF (Adaptation or Technology Transfer)? 	NA	NA
	<ul style="list-style-type: none"> the Nagoya Protocol Investment Fund 	NA	NA
	<ul style="list-style-type: none"> focal area set-aside? 	NA	NA
Strategic Alignment	<p>4. Is the project aligned with the focal area/multifocal areas/ LDCF/SCCF/NPIF results framework and strategic objectives?</p> <p><i>For BD projects: Has the project explicitly articulated which Aichi Target(s) the project will help achieve and are SMART indicators identified, that will be used to track progress toward achieving the Aichi target(s).</i></p>	<p>3-12-14 BD-4. Please state the Aichi Target.</p> <p>3-27-14 Cleared</p>	<p>7-29-16 Yes. See page 9 for Aichi Targets. Cleared</p>
	<p>5. Is the project consistent with the recipient country's national strategies and plans or reports and assessments under relevant conventions, including NPFE, NAPA, NCSA, NBSAP or NAP?</p>	<p>3-12-14 Please make reference to the name of the national biodiversity strategy. It is mentioned in the text, but without a proper reference (e.g. Formal Name, year, etc.)</p> <p>3-27-14 Cleared</p>	<p>7-29-16 Yes. Cleared</p>
	<p>6. Is (are) the baseline project(s), including problem(s) that the baseline project(s) seek/s to address, sufficiently described and based on sound data and assumptions?</p>	<p>3-12-14</p> <p>THE FOLLOWING COMMENTS COVER ALL SECTIONS OF A1. PROJECT DESCRIPTION</p> <p>This part has 6 sections:</p> <p>1) THE GLOBAL ENVIRONMENTAL PROBLEMS, ROOT CAUSES AND BARRIERS THAT NEED TO BE ADDRESSED;</p>	<p>9-12-16 Cleared</p>

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Project Design		<p>The first 2 paragraphs on p.5 fit here. Need to develop root causes and barriers that need to be address in Brazil.</p> <p>2) THE BASELINE SCENARIO AND ANY ASSOCIATED BASELINE PROJECTS;</p> <p>There is very little information on the "baseline project". The baseline projects are the investments that will take place over the next 5 years whether or not the GEF project is approved. A good example is the contract signed by the Ministry of the Environment, IFC and the Union of Ethical Biotrade. In that line, what are the investments that the Brazilian Government is planning on doing on ABS during the life of the GEF project? These are the investments on which the GEF project will build. Without the baseline, it is not possible to articulate the "incremental reasoning" for this project. (Baseline is not the background information. Baseline project looks forward, not backward).</p> <p>3) THE PROPOSED ALTERNATIVE SCENARIO, WITH A BRIEF DESCRIPTION OF EXPECTED OUTCOMES AND COMPONENTS OF THE PROJECT;</p> <p>This relates to the second paragraph on p.6 onwards, including the description of the components.</p>	

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		<p>Most of the information on p.5 is actually background information. The GEF Sec suggests using the structure provided by Brazil and the IADB when carrying out upstream consultation. Below is the information provided to the GEF Sec in a format that allows to understand the bases on which the proposed activities, outputs and outcomes rest. Such description is the "Alternative Scenario" vs. business as usual (no GEF funding).</p> <p>Please considering synthesizing the information below.</p> <p>Project Component 1</p> <p>Justification: The adoption of the Nagoya Protocol brings with it the prospect of legal certainty. Under Article 6th of the Protocol Parties shall take the necessary legislative, administrative or policy measures to, among others, provide for legal certainty, clarity and transparency of their domestic access and benefit-sharing legislation or regulatory requirements. Thus, the new scenario for ABS in Brazil includes both the submission of the Nagoya Protocol to the National Congress for ratification and the reconvening of negotiations within the Federal Government and with major stakeholders groups for a new ABS bill. Pending the conclusion of these processes, there is an opportunity and a need to adjust the operations of</p>	

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		<p>Provisional Measure 2,186-16, the de facto ABS Law in Brazil that remains in force, with the aim to reduce bureaucracy, simplifying procedures and clarifying guidelines.</p> <p>Background: Brazil was one of the first countries to put in place, more than 13 years ago, a domestic legislative, administrative and policy measures designed to implement the third objective of the CBD at a national level. As a provider of genetic resources, with these measures, Brazil sought to use this potential wealth to foster research and development that will build scientific and technological capacity, create wealth and promote sustainable human development, and contribute to the conservation and sustainable use of its natural capital. Nevertheless, there were significant conflicts of interest on ABS issues among the different stakeholder groups. On 29 June 2,000, the Brazilian Government issued Provisional Measure No. 2,052. This Provisional Measure was re-issued several times. Its final version, Provisional Measure 2,186-16, was issued on 23 August 2001 and remains in force. Thus, the Provisional Measure 2,186-16 is the de facto ABS Law in Brazil, despite several attempts to arrive at an agreement on a new ABS bill. Simultaneously Decree 3,945-2001 provided an overall regulation of the legislation, and established the Council for Genetic Heritage Management</p>	

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		<p>(CGEN) and the Department of Genetic Heritage (DPG) within the Ministry of Environment. The DPG operates as Secretariat for CGEN. Subsequent Decrees have amended the requirements for obtaining authorization for access, regulated the application of administrative penalties and regulated the use of public funds for benefit sharing. Since its establishment in April 2002, the CGEN has approved a number of norms to clarify and promote the implementation of the Provisional Measure, including 39 Resolutions and 8 Technical Orientations. However, the regulatory system as established in 2001 has proved very difficult to implement, notwithstanding the clarifications and adjustments made by CGEN over the succeeding eleven years. This is not perhaps surprising given that Brazil was a pioneer in the attempt to incorporate the provisions of the Article 15 of the CBD into a national legislative, administrative and policy framework. The rationale of the system put in place thirteen years ago revolved largely around command and control principles. One of the consequences of this focus is that the procedures may have acted as a disincentive to applied research and development with Brazilian genetic resources, for both academic researchers and industry. But the experience accumulated over the past years and the adoption of a legally binding global regime on ABS in the form of the Nagoya Protocol now mean that Brazil is</p>	

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		<p>able to refocus its domestic ABS regime from command and control to encouraging cooperation in scientific research within Brazil and with international partners, thereby generating more benefits and reinforcing the conservation and sustainable use of biodiversity.</p> <p>Project Component 2: The Brazilian ABS framework needs to be streamlined and harmonized with the Nagoya Protocol; still, ABS is a new field of activity and there are many issues that needs to be clarified. In user countries the functionality, effectiveness and efficiency of user compliance measures according to the Nagoya Protocol will also depend on regulatory choices made by provider countries. Clear benefits could result from strengthening ABS measures, raise awareness and build capacity to help regulators, surveillance bodies, and providers and users of genetic resources to became familiar with the applicable rules.</p> <p>Background: Policy, legislation, regulations, adopted and implemented in Brazil since the year 2,000 resulted in a network of rules and procedures:</p> <ul style="list-style-type: none"> • One Provisional Act (Medida Provisória 2.186-16, 23 August 2001) • Three Decrees (on the composition and 	

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		<p>operations of the CGEN (Decreto 3.945, 28 September 2001), on penalties applicable in cases of infringements of ABS rules (Decreto 5.459, 7 June 2005), and on distribution of shared profits and royalties when the Union is a party to an ABS contract (Decreto 6.915, 29 July 2009))</p> <ul style="list-style-type: none"> • Forty one CGEN Resolutions • Nine Technical Orientation Notes • Cross-references to four related legal instruments (laws on the protection of plant varieties, intellectual property, indigenous rights and the decree establishing the National Biodiversity Policy) • Fifteen CGEN decisions on procedures. <p>4) INCREMENTAL COST REASONING AND EXPECTED CONTRIBUTIONS FROM THE BASELINE, THE GEFTF, LDCF/SCCF AND CO-FINANCING;</p> <p>There is no incremental cost reasoning. This can be easily build by understanding how the GEF investments build on the proposed activites by the Brazilian Government, whether or not the GEF approves this project.</p> <p>5) GLOBAL ENVIRONMENTAL BENEFITS (GEFTF) AND ADAPTATION BENEFITS (LDCF/SCCF);</p> <p>On page 7.</p>	

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		<p>6) INNOVATIVENESS, SUSTAINABILITY AND POTENTIAL FOR SCALING-UP</p> <p>Need to be developed.</p> <p>3-27-14 Cleared</p>	
	<p>7. Are the components, outcomes and outputs in the project framework (Table B) clear, sound and appropriately detailed?</p>	<p>3-12-14</p> <p>This project aims at developing a National Legal Framework, the harmonization of National Regulations and the Nagoya Protocol and Knowledge management and training.</p> <p>Although the formal objective of the project (B. Indicative project Framework), makes reference to "...administrative procedures that enable Brazil to fulfil the ABS provisions....", in the body of the project there is no reference to the development and implementation of the Institutional structure (i.e. National Focal Point, Competent National Authority, Institutional agreements) or Administrative procedures for ABS Agreements with proper Prior Informed Consent [PIC], Mutually Agreed Terms [MAT], and Benefit Sharing, monitoring of use of genetic resources, compliance with legislation and cooperation on trans-boundary issues.</p> <p>Please explain why these issues are not part of the project, or add them as</p>	<p>9-12-16</p> <p>Please clarify the following:</p> <p>Component 1.</p> <p>1. In addition to the Policy and decision makers, who are the "key stakeholders" mentioned in output 1.1.1.? This target audience needs to be better defined at this stage.</p> <p>2. What is the specific target audience of output 1.1.2? There are hundreds of tribes and indigenous territories in Brazil, and similar or even higher numbers of local communities (ILC). Is the project planning of reaching out to all of them?</p> <p>3. What are the "Key instruments and tools developed for the implementation of the NP"?</p> <p>4. What are the specific investments proposed for the CGEN when compared to the investments made with baseline projects (\$1.1 million)?</p>

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		<p>appropriate.</p> <p>3-27-14 Cleared</p>	<p>5. What is the difference between the stakeholders mentioned on output 1.1.1. and 1.2.3.?</p> <p>6. What are the proposed "technical studies" mentioned on output 1.3.1?</p> <p>7. What are the "five sectors" mentioned on outcome 1.3? They were only mentioned in the Results Framework.</p> <p>Component 2</p> <p>8. How is Brazil proposing on reaching the necessary information to the potential users and providers of genetic resources and TK, among Indigenous Peoples and Local communities, specially if they poor or no access to on-line services?</p> <p>9. How is Brazil planning on providing access to the National ABS electronic management system (SIGEN) to ILCs?</p> <p>Component 3</p> <p>10. For outputs 3.1.1, -3, -4, -5 and -6, how is the Brazilian Government planning on reaching the hundreds of ILC that are potential providers of Genetic Resources and/or TK?</p> <p>10. Regarding to point 10, please elaborate on how the proposed "community protocol" will be drafted and tested when there are hundreds for communities that are potential providers</p>

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			<p>of genetic resources. These communities are most likely be very different regarding how they feel about the terms and conditions for granting access to genetic resources.</p> <p>FOR THESE 10 POINTS, PLEASE CONCENTRATE YOUR EFFORTS IN AMMENDING AND EXPANDING THE TEXT OF THE CEO ENDORSEMENT (PAGE 8), RATHER THAN PROVIDING RESPONSES ON A RESPONSE MATRIZ. GEF COUNCIL MEMEBERS WILL READ THE CEO ENDORSEMENT AND PROVIDE COMMENTS. THANKS.</p> <p>10-25-16 Cleared</p>
	<p>8. (a) Are global environmental/adaptation benefits identified? (b) Is the description of the incremental/additional reasoning sound and appropriate?</p>	<p>3-12-14 The information on GEBs is adequate but not the Incremental Reasoning (see comments under item 6).</p> <p>3-27-14 Cleared</p>	<p>9-15-16 Cleared</p>
	<p>9. Is there a clear description of: a) the socio-economic benefits, including gender dimensions, to be delivered by the project, and b) how will the delivery of such benefits support the achievement of incremental/ additional benefits?</p>		<p>7-29-16 Cleared</p>
	<p>10. Is the role of public participation, including CSOs, and indigenous peoples where relevant, identified and explicit means for their</p>	<p>3-12-14 Yes. Component 3. Cleared</p>	<p>9-15-16 Please address issues related to ILCs mentioned in item 7. Cleared</p>

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	engagement explained?		
	11. Does the project take into account potential major risks, including the consequences of climate change, and describes sufficient risk mitigation measures? (e.g., measures to enhance climate resilience)	3-12-14 There is detailed information on three major risks. Please add mitigation measures to each of the three risks as appropriate. 3-27-14 Cleared	7-29-16 Cleared
	12. Is the project consistent and properly coordinated with other related initiatives in the country or in the region?	3-12-14 Are there ongoing activities funded by the initiatives listed in the second paragraph of A.4 Coordination? If so, please state what these activities are and how they relate to this project. 3-27-14 Cleared	7-29-16 Cleared
	13. Comment on the project's innovative aspects, sustainability, and potential for scaling up. <ul style="list-style-type: none"> • Assess whether the project is innovative and if so, how, and if not, why not. • Assess the project's strategy for sustainability, and the likelihood of achieving this based on GEF and Agency experience. • Assess the potential for scaling up the project's intervention. 	3-12-14 This needs to be addressed under A.1 Project Description (please see comments under item 6 of this review). 3-27-14 Cleared	9-15-16 The "Innovativeness, Sustainability and Potential for Scaling Up" section is in the PIF, but missing from the CEO Endorsement. Please elaborate on these three issues based on the text used in the PIF. 10-25-16 Cleared

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	14. Is the project structure/design sufficiently close to what was presented at PIF, with clear justifications for changes?		7-29-16 Cleared
	15. Has the cost-effectiveness of the project been sufficiently demonstrated, including the cost-effectiveness of the project design as compared to alternative approaches to achieve similar benefits?		7-29-16 Cleared
Project Financing	16. Is the GEF funding and co-financing as indicated in Table B appropriate and adequate to achieve the expected outcomes and outputs?	3-12-14 Co-financing is very low and may not be sufficient to cover all activities. For instance, consultations associated with the three components likely to consume enormous amount of funding if done across the country over. Please consider increasing the allocation of BD funds to this project. 3-27-14 Cleared	7-29-16 Cleared
	17. <u>At PIF</u> : Is the indicated amount and composition of co-financing as indicated in Table C adequate? Is the amount that the Agency bringing to the project in line with its role? <u>At CEO endorsement</u> : Has co-financing been confirmed?	3-12-14 The co-financing very low (1:0.5). This needs to be increase to at least 1:1. The Agency is providing no-co-financing. 3-27-14 Cleared	9-15-16 The Agency is providing no-co-financing. Please elaborate. 10-25-16 Cleared
	18. Is the funding level for project management cost appropriate?	3-12-14 Project management is 6.3% of project cost. This needs to be reduced to 5%. 3-27-14 Cleared	7-29-16 Cleared

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	19. <u>At PIF</u> , is PPG requested? If the requested amount deviates from the norm, has the Agency provided adequate justification that the level requested is in line with project design needs? <u>At CEO endorsement/ approval</u> , if PPG is completed, did Agency report on the activities using the PPG fund?	3-12-14 Ni PPG requested. How is the project going to be developed? 3-27-14 Cleared	7-29-16 Yes. See Annex C. Cleared
	20. If there is a non-grant instrument in the project, is there a reasonable calendar of reflows included?	NA	NA
Project Monitoring and Evaluation	21. Have the appropriate Tracking Tools been included with information for all relevant indicators, as applicable?		NA
	22. Does the proposal include a budgeted M&E Plan that monitors and measures results with indicators and targets?		7-29-16 Yes. Cleared
Agency Responses	23. Has the Agency adequately responded to comments from:		
	<ul style="list-style-type: none"> STAP? 		9-15-16 Please update Responses to Project Reviews (Annex B) with the information gathered during project development. Please indicate where in the CEO Endorsements these considerations were incorporated into the document, as appropriate. 10-25-16 Cleared
	<ul style="list-style-type: none"> Convention Secretariat? The Council? 		9-15-16 Please update Responses to Project

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			Reviews (Annex B) with the information gathered during project development. Please indicate where in the CEO Endorsements these considerations were incorporated into the document, as appropriate.
	<ul style="list-style-type: none"> Other GEF Agencies? 		
Secretariat Recommendation			
Recommendation at PIF Stage	24. Is PIF clearance/approval being recommended?	3-12-14 No. Please address outstanding issues highlighted in the review. 3-27-14 Yes. This PIF is recommended for clearance.	
	25. Items to consider at CEO endorsement/approval.		
Recommendation at CEO Endorsement/ Approval	26. Is CEO endorsement/approval being recommended?		9-15-16 No. Please address outstanding issues listed under items 7,13, and 22. Thanks 10-26-16 Yes. This CEO Endorsement is recommended.
	First review*	March 12, 2014	September 12, 2016
Review Date (s)	Additional review (as necessary)	March 27, 2014	
	Additional review (as necessary)		

* This is the first time the Program Manager provides full comments for the project. Subsequent follow-up reviews should be recorded. For specific comments for each section, please insert a date after comments. Greyed areas in each section do not need comments.