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OPERATIONALIZING THE UNFCCC FINANCE MECHANISM

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I. SUMMARY FOR POLICYMAKERS

Parties to the United Nations Framework Convention on Climate Change (UNFCCC) have recognized the need to "urgently enhance implementation of the Convention in order to achieve its ultimate objective in full accordance with its principles and commitments" (Preamble, Bali Action Plan).

The Bali Action Plan recognizes the need for "enhanced action on the provision of financial resources and investment to support action on mitigation and adaptation and technology cooperation". Implementing these mandates requires consideration of a range of factors including:

- The scale of financial resources required;
- The sources of financial resources;
- The uses of financial resources; and
- The governance of financial resources under the UNFCCC financial mechanism.

Efforts to scale up financial resources and investment should build where possible on the best practices under the UNFCCC financial mechanism and other relevant financial mechanisms, with the objective of enabling all Parties to fully implement the principles and provisions of the UNFCCC and address the threat of dangerous climate change.

Building on existing experience

A number of existing financial mechanisms and funds can be drawn on as models when enhancing implementation of the UNFCCC's financial mechanism. These include:

- The Global Environment Facility (GEF; an operating entity of the UNFCCC financial mechanism);
- The Adaptation Fund established under the Kyoto Protocol;
- The Multilateral Fund for the Implementation of the Montreal Protocol;
- The Global Fund to Fight AIDS, Tuberculosis and Malaria; and
- The World Bank's Climate Funds (i.e. the Clean Technology Fund and the Strategic Climate Fund).

These models can be drawn on, while also recognizing the specific context of climate change and the requirements of the United Nations (UN) Climate Convention, which provide the starting point for any discussion of climate finance and ultimate yardstick against which any effort must be measured.

Scale of finance

The Convention requires the Conference of the Parties (COP) to "seek to mobilize financial resources" in accordance with Article 11, as well as Article 4, paragraphs 3, 4 and 5. It requires the COP and the entities entrusted with operating the financial mechanism to agree on arrangements to determine in a predictable and identifiable manner "the amount of funding necessary and available for the implementation of the Convention and the conditions under which that amount shall be periodically reviewed" (Article 11.3(d)).

In practice, determining the amount of funding necessary for the implementation of the Convention requires consideration of a number of related questions:

- What are the main thematic areas that require financing?
- For each area, what costs are to be covered and at what level?
- How can these costs be accurately estimated?
- How will assessments differ based on final outcomes of other negotiating parameters?

The main ***thematic areas*** for financing are set out in Article 4 of the Convention and include:

- *Communication of information related to implementation*. The Convention (Article 4.3) commits the developed countries to provide new and additional financial resources to meet the "agreed full costs" incurred by developing countries in complying with their obligations to provide national communications (as set out in Article 12.1).
- *Implementation of other commitments by developing countries*. The Convention (Article 4.3) commits developed countries to provide such financial resources needed to meet the "agreed full incremental costs" of implementing certain measures (as set out in Article 4.1).
- *Adverse impacts of climate change*. The Convention (Article 4.4) commits developed countries to assist developing countries that are particularly vulnerable to the adverse effects of climate change in meeting the costs of adaptation to those adverse effects.
- *Technology transfer*. The Convention (Article 4.5) commits developed countries to take all practicable steps to "promote, facilitate and finance" the transfer of or access to environmentally sound technologies and know-how, and in the process to support the enhancement of endogenous capacities and technologies in developing countries.

Determination of the ***types of costs to be covered***, for each of the thematic areas and collectively, is necessary in order to evaluate the scale of funding necessary to implement the Convention. The Convention requires communication of information related to implementation (under Article 12.1) to be funded at *agreed full costs*, which can be calculated based on costs actually incurred by developing countries in implementing their reporting requirements. It also requires implementation of other commitments by developing countries (Article 4.1) to be funded at *agreed full incremental costs*. Different approaches have been advanced to calculate and assess incremental costs:

- The Global Environment Facility has adopted a generic process to evaluate incremental costs based on the expected "global environmental benefits".[1]
- The Montreal Protocol[2] and Convention on Biological Diversity[3], by contrast, each require the development of more detailed "indicative lists" of incremental costs.
- Under the Montreal Protocol a request for financing of a project's incremental costs are evaluated in light of general principles. The Montreal Protocol has agreed indicative lists to enable a more precise calculation of incremental costs, enabling a practical and solution-oriented approach involving participation by experts from developed and developing countries, the private sector, academia and civil society.

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[1] Global Environment Facility, *Operational Guidelines for the Application of the Incremental Cost Principle*, 14 May 2007.
[2] Ozone Secretariat United Nations Environment Programme, *Handbook For The Montreal Protocol On Substances That Deplete The Ozone Layer – 7th Edition*, 2006, p. 424.
[3] Convention on Biological Diversity, Article 20.2 Financial Resources.

In the context of climate change, a sector-by-sector approach (using, for instance, the mitigation and adaptation sectors referenced by the Intergovernmental Panel on Climate Change (IPCC)) could help to replicate key lessons in the context of the UNFCCC.

The ***scale of financing should be accurately estimated on the basis of clear methodologies and processes***. Estimates should be comprehensive and reflect the relevant provisions of the Conventions. Unfortunately, few if any of the estimates offered so far provide a comprehensive evaluation of scale of funding necessary to implement the Convention. For example:

- A recent review of a UNFCCC finance[4] study suggests actual costs could be up to three times higher for the sectors covered and "much more if other sectors are considered".[5]
- The World Bank's recent *Global Report on the Economics of Adaptation to Climate Change* unconvincingly takes the cost of educating young women as a proxy for the total costs of extreme weather events.[6]

Recent studies illustrate levels of costs and damage that exceed these estimates by one or more orders of magnitude:

- The Global Humanitarian Forum, headed by Kofi Annan, "estimated future economic losses could amount to more than USD 340 billion by 2030…Only 30 countries in the world currently have a GDP higher than this number".[7]
- Allianz insurance company and World Wide Fund (WWF) estimate that Global sea level rise "of 0.5 m by 2050 increases the value of assets exposed in all 136 port megacities worldwide by a total of $US 25,158 billion to $US 28,213 billion in 2050".[8]

Estimates of financial needs should be revisited to ensure they are complete, adequate, fair and consistent with the Convention. At a minimum they should address:

- A comprehensive evaluation of *both* the costs of "climate proofing" to avoid adverse impacts as well as estimates of the actual costs of unavoidable adverse impacts;
- An evaluation of the level of mitigation effort and costs involved in limiting temperature increases to well below levels of 1 or 1.5°C (rather than 2°C), and of achieving this with some reasonable degree of probability; and
- The latest scientific and economic information, which suggests that the level of effort may need to be significantly greater than considered in the IPCC Fourth Assessment Report.

The ***scale of financial needs must also be calibrated*** to reflect the relationship between the necessary level of financing and other parameters in the negotiation – including the proposed global goal and the level of ambition by Annex I countries. An inadequate global goal implies rising costs of loss and damage. Inadequate ambition by developed countries, in turn, implies greater costs for mitigation or adaptation in developing countries.

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[4] UNFCCC, *Investment and Financial Flows to Address Climate Change* (Bonn, UNFCCC Secretariat, 2007).
[5] Parry, Martin, N. Arnell, P. Berry, D. Dodman, S. Fankhauser, C. Hope, S. Kovats, R. Nicholls, D. Satterthwaite, R. Tiffin, T. Wheeler, *Assessing the Costs of Adaptation to Climate Change: A Review of the UNFCCC and Other Recent Estimates*, International Institute for Environment and Development and Grantham Institute for Climate Change (London, 2009).
[6] The World Bank, *The Cost to Developing Countries of Adapting to Climate Change – New Methods and Estimates* (Washington D.C., 2010).
[7] Global Humanitarian Forum, *Human Impact Report: Climate Change – The Anatomy of a Silent Crisis* (2009), p. 20.
[8] See *Major Tipping Points in the Earth's Climate System and Consequences for the Insurance Sector,* World Wide Fund for Nature Gland, Switzerland, and Allianz SE Munich, Germany (2009), p. 30.

Developing countries financial demands should be calibrated to these other factors, and should avoid locking in a sum for long-term financing that provides a "ceiling" rather than a "floor" for future levels of financial resources. Any long-term amount for financing should thus be prefaced by the terms "at least" (as is the case with Annex I mitigation targets). And a process should be established to ensure the scale of financing necessary for the implementation of the Convention is periodically reviewed (as required by Article 11.3(d)), based on sound technical and economic advice from bodies accountable to the Parties, as is the case with the Montreal Protocol.[9]

In light of emerging evidence of levels of impacts[10], levels of committed warming[11], and risks associated with tipping points[12], ***larger levels of financing than currently under consideration must be taken seriously*** in discussions at the UNFCCC. Financing of significantly higher levels is justified to maintain the stability of the Earth's life support system, and by comparison to the likely costs of inaction, and the sums spent on other issues such as the global financial crisis or military conflicts.

Sources of finance

Raising financial resources of the scale necessary requires consideration of the sources of finance, and how it is raised and channeled. Key considerations include:

- Who is responsible for providing financial resources?
- How to ensure contributions are new and additional?
- How to ensure the scale of financial resources is adequate?
- What is the role of "innovative" sources of financing?
- What is the role of channels outside the UNFCCC financial mechanism?

The ***responsibility for meeting financial commitments lies squarely with the developed countries*** listed in Annex II of the Convention. Recognition in the Bali Action Plan of the need for "enhanced action on the provision of financial resources" is recognition of the need for enhanced implementation of these commitments. Raising financial resources of the necessary scale requires renewed commitment, and innovative thinking on how to raise and channel climate finance.

To enhance action on climate change, financial contributions must occur in practice and not merely on paper. Consequently, ***financial contributions are to be new and additional***. Developing modalities for evaluating whether financing is new and additional is a priority, particularly in light of the fact that emerging information suggests that a substantial proportion of "pledged" finance was pledged previously (and so is not "new") or will be counted towards Official Development Assistance (ODA) commitments (and so is not "additional").

The Convention provides that the implementation of ***financing commitments shall also "take into account the need for adequacy and predictability*** in the flow of funds" (Article 4.3). The determination of what is "adequate" requires an evaluation of:

- What funding is "necessary" to implement the Convention?

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[9] K. Madhava Sarma, Stephen O. Andersen, and Kristen N. Taddonio, "Lessons from the Success of the Montreal Protocol", in *The Montreal Protocol: Celebrating 20 Years of Environmental Progress* (Cameron & May, 2007), p. 134.

[10] Global Humanitarian Forum, *Human Impact Report: Climate Change – The Anatomy of a Silent Crisis* (2009), p. 20.

[11] Ramanathan and Feng, "On avoiding dangerous anthropogenic interference with the climate system: Formidable challenges ahead", *Proc. Natl. Acad. Sci.* 105 (38): 14245–14250 (noting that the Earth is likely already committed to warming of 2.4 degrees Celsius, surpassing the threshold for several tipping points).

[12] See Lenton, Timothy, H. Held, E. Kriegler, J. Hall, W. Lucht, S. Rahmstorf, H. Schellnhuber, "Tipping elements in the Earth's climate system" *PNAS,* Vol. 105, pp. 1786-1793 (2008). See also *Major Tipping Points in the Earth's Climate System and Consequences for the Insurance Sector,* World Wide Fund for Nature Gland, Switzerland, and Allianz SE Munich, Germany, (2009), p. 37.

- What funding is "available" to implement the Convention?
- How does "available" funding measure against what is "necessary" – is it "adequate"?

Measured against any reasonable standard the $100 billion per year that Annex I countries have pledged to "mobilize" by 2020 fails to meet the standard of adequacy. A more systematic basis involving ***assessed contributions for developed countries is thus required***, reflecting the Convention's call for "appropriate burden sharing among the developed country Parties" (Article 4.3). This should address financing on at least three levels:

- *The scale of financing required in aggregate.* Based on factors such as those above, the Conference of the Parties should assess the scale of funding necessary for the implementation of the Convention in accordance with Article 11;
- *The contribution of individual developed countries to the aggregate amount*. Based on the requirement for "appropriate burden sharing among the developed country Parties" in Article 4.3 the Conference of the Parties should establish a scale of contributions for each responsible Party; and
- *The role of "innovative sources" of financing in contributing to the aggregate amount*. Recognizing that traditional budgetary sources are constrained, the Conference of the Parties should consider the role of other "innovative" sources.

Funds raised through "***innovative sources" could contribute to meeting assessed contributions***. Some innovative sources – such as special drawing rights – offer considerable promise.[13] Some others – such as international transport levies – may shift the financing burden to developing countries. The appropriateness of each requires consideration on a case-by-case basis. Ultimately, assessed contributions drawing on both traditional sources and "innovative sources" will be required to scale up financial resources to cope with the adverse effects, and to curb emissions by 2015 or 2020 to avoid further dangerous interference with the climate system.

Uses of finance

Ensuring clarity about how financial resources will be accessed and applied in practice and the results they will achieve is a principal concern of donors and recipients alike:

- How to ensure direct access to funds?
- What activities should be covered?
- Which countries are eligible?
- How should different entities be involved?
- What arrangements are needed at the national level?

Developing countries have identified the need for ***direct access to funds***. Among other things this demand reflects many developing countries' experience with the GEF and the challenges of accessing financial resources through the participation of "implementing agencies". The Adaptation Fund allows eligible Parties to submit their project proposals directly to the Adaptation Fund Board, and offers host countries the flexibility to access funds directly, to use the services of a multilateral entity, or to nominate an appropriate regional or sub-regional entity to support them.

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[13] Instrument for the Establishment of the Restructured Global Environment Facility (Annexing International Bank for Reconstruction and Development, Executive Directors' Resolution No. 2006-0008), p. 89 at paragraph 5. See also ActionAid, *What are Special Drawing Rights and how can they be used to finance climate adaptation and mitigation?* (June 2010) and ActionAid/TWN, *Fruits of the Crisis: Leveraging the Financial & Economic Crisis of 2008-2009 to Secure New Resources for Development and Reform of the Global Reserve System* (January 2010).

The Fund Instrument or subsequent guidelines will need to provide ***direction on covered activities***, including the plans, programmes and projects that are eligible for financial resources in each of the thematic areas. Simplified criteria and procedures should be agreed for small-scale activities. To streamline access funding approvals should be made on an intercessional basis and communicated via mail or other media, as is the case with the Climate Investment Funds.

Under the Convention ***all developing countries are eligible to receive financial resources***. Any attempt to formally narrow the category of countries eligible for financing runs counter to the letter and spirit of the Convention. At the same time, the Convention calls for consideration of the specific needs and concerns of countries in certain situations including vulnerable countries and Least Developed Countries (LDCs). Striking a balance between these requirements – i.e. the rights of all developing countries and the needs of those in specific situations – is best achieved at an operational level through fund guidelines and other modalities.

The Fund Instrument or associated guidelines should define the ***entities eligible*** to submit proposals and to receive, manage and spend financial resources.

The success of the Montreal Protocol has in no small part had to do with strong support for ***effective national cooperation***. The Global Fund's "country coordinating mechanism", similarly, provides an effective model to enhance national cooperation. Both experiences suggest that a constellation of formal and informal institutions – involving different stakeholders, sectors and levels of organization – is a key ingredient of success.

Governance of finance

Effective climate action requires ***effective climate governance***. Well-designed institutions can help to catalyze action, support cooperation, align the interests of donors and recipients, and integrate actions at different levels. Operationalizing the UNFCCC financial mechanism will require a constellation of effective institutions, including:

- Fund board;
- Specialized funds and funding windows;
- Trustee or trustees;
- Secretariat of professional staff;
- Expert group or committee and technical panels;
- Consultative group of stakeholders;
- Independent assessment panel; and
- Modalities for existing funds and entities.

In relation to the fund board, its ***composition*** should reflect an "equitable and balanced representation of all Parties within a transparent and efficient system of governance", as called for by the G77 and China. The Adaptation Fund allocates membership in a balanced manner to regional groups (i.e. two members from each of the five UN regional groups) while also ensuring that particular groups, such as the small island states and least developed countries are equitably represented.

Fund instruments of various funds provide examples of ***board functions***, which generally include: strategic planning and policymaking; financial operations; management and administration; securing expert support; ensuring transparency and participation; ensuring evaluation and reporting; ensuring coherence. The basic functions of the Board must at a minimum reflect the requirements of Article 11.

The ***selection of officers*** – including its Members and its Chair (and co- or vice-Chairs) – is crucial to the success of the mechanism. The Adaptation Fund and the Multilateral Fund require members once nominated to be elected or endorsed by their respective superior bodies (i.e. the Meetings of the Parties to the Kyoto Protocol and the Montreal Protocol, respectively). Other funds, such as the Strategic Climate Fund (SCF), provide a permanent role as co-chair to a World Bank Vice President.

Most fund instruments require ***decision-making*** by consensus, although the definition of consensus differs in different funds. Most fund instruments include references to decision-making by voting in order to address situations in which consensus is not possible. In addition to consensus and voting, other means for decision-making are possible. The Global Fund's board, for example, may take decisions on a "no-objection basis". Its chair may also take decisions inter-sessionally, subject to review by the board.

The ***role of observers*** is defined differently in different fund instruments. Generally, discretion to invite additional observers (i.e. those not explicitly listed in the fund instrument) lies with the board. Existing fund instruments also provide models for rules on ***transparency, confidentiality and conflict of interests***.

The Fund will require a range of ***specialized funds or thematic windows*** to address financing in the different areas required by the Convention, including:

- Adaptation (Article 4.1, 4.3 and 4.4);
- Mitigation, including forests (Article 4.1 and 4.3);
- Technology development and transfer (Article 4.1, 4.3 and 4.5); and
- Communications, capacity building and other actions (Article 4.1, 4.3 and 12.1).

Such an approach is reflected in the Climate Investment Funds, which address technology (via the Clean Technology Fund (CTF)), as well as renewable energy, forests and climate resilience (via the SCF), and are supported by dedicated resources and sub-committees. A similar approach can be adopted under a new fund, recognizing that the Climate Investment Funds are scheduled to "sunset" once "a new financial architecture is effective".

The G77 and China has proposed that the ***trustee*** should be selected through a process of open bidding to ensure resources are managed as efficiently as possible. Its role should be clearly and narrowly defined to avoid conflicts of interests of the kind that arise where one institution is entrusted with multiple and overlapping functions including those of secretariat, trustee, implementing agency and/or co-financier.

The function of a ***secretariat*** is to support the Parties and the Fund Board to discharge its functions and achieve the objectives of the Fund. In the case of the Multilateral Fund, an independent secretariat was established to support the fund board. In designing an effective Secretariat consideration should be given to its relationship with other entities, its scale and its leadership. It should retain functional independence of other entities such as the trustee; it will need to be of significant scale reflecting the scale of financial resources and activities required (e.g. the World Bank disburses around USD 7 billion from trust funds and employs around 9000 people); and it should be headed by a senior official, such as a former finance minister, with appropriate experience.

To be effective the financial mechanism, and the UNFCCC more broadly, must galvanize the expertise and engagement of experts through ***expert and technical panels***. These should include specific panels in each thematic area and sector, as well as appropriate linkages to the Convention's other thematic bodies including new adaptation and technology bodies. The Montreal Protocol's experience with "technical options committees" and a "technical and economic assessment panel" can be built on, focusing on relevant mitigation and adaptation sectors as defined by the IPCC.

A number of fund instruments establish panels designed to provide a forum for engaging and ***consulting with stakeholders and other partners***. The GEF and Climate Investment Funds provide relatively limited consultation. The Global Fund, by contrast, has embraced more active stakeholder participation. Effective participation at different levels helps to broaden understanding and support for the Fund's activities.

Independent assessment of the fund, fund entities and fund operations and projects plays a key role in enhancing decision-making, accountability and effectiveness. Assessment is required at the fund level, the entity level (e.g. of the secretariat, trustee etc), the thematic level (e.g. of the performance of different areas) and the project level. This requires a set of mechanisms for assessment reporting variously to the COP and the fund board. Existing fund instruments – including for the Global Fund, Multilateral Fund and GEF – provide models to build on.

Parties have discussed a "new body" of the financial mechanism, such as a ***standing committee or subsidiary body on finance***. Such a body would provide the function of strengthening coordination and coherence, improving the delivery of climate finance to developing countries, seeking to help mobilize financial resources, and otherwise help to streamline and improve implementation of the UNFCCC financial mechanism. Its functions should be carefully defined to complement those of the COP and the fund board, and to enable more effective implementation of financial commitments under the Convention.

The ***relationship of the fund and standing committee to the COP and other entities*** must also be defined. Developing countries have emphasized that the fund must remain under the authority of the COP, in part due to their experiences with the GEF, which is merely accountable to the COP, and has failed to adequately respond to COP guidance. The Adaptation Fund provides an alternative model and demonstrates that the COP/CMP are empowered to establish entities directly under their authority through COP/CMP decisions.

The Convention recognizes funding "related to" implementation may be provided through "***bilateral, regional and other multilateral channels***" (Article 11.5). Parties have recognized the need for consistency between the financial mechanism and "activities relevant to climate change undertaken outside the framework of the financial mechanism" (Decision 11/CP.1). The Montreal Protocol ensures coherence by providing that an agreed proportion (currently 20 per cent) of assessed contributions can be provided directly through bilateral and regional cooperation.

Monitoring and evaluation

Effective monitoring and evaluation of financial and other commitments is essential if Parties are to ensure effective implementation of commitments and achieve the ultimate objectives of the Convention and its Kyoto Protocol. Developed countries are required to communicate to the Conference of the Parties a detailed description of policies and measures for mitigation and a specific estimate of their effects (Article 12.2) as well as information on measures to transfer finance and technology (Article 12.3)

Part of the fund's functions should be to ensure that developed countries "measure, report and verify" the provision of financial resources and technology, and register in an appropriate registry their contributions under the financial mechanism as well as the provision of financial resources related to the implementation of the Convention through bilateral, regional and other multilateral channel.

Operationalizing the financial mechanism: next steps

Enhanced action to implement the Convention's finance commitments is likely to be more effective – both politically and practically – if it avoids a range of obvious pitfalls. It should, among others, distinguish clearly between public and private finance, maintain the Convention's balance of rights and obligations and avoid the undue politicization of financial resources in the negotiations. In terms of next steps, Parties should:

- *Enhance the transparency of short-term financing* to be provided by developed countries in accordance with the provisions of the Convention. Increased transparency can help to build trust and provide the basis for the development of more robust measurement, reporting and verification procedures.
- *Focus on the institutional arrangements* necessary for determining the level of longer-term financing necessary for the implementation of the Convention and the process for agreeing it.
- *Establish working group under the COP*. Parties may wish to establish a working group or standing committee in the context of the Ad Hoc Working Group on Long-term Cooperative Action (AWG-LCA) to elaborate key elements of the financial mechanism for discussion by all Parties and inclusion in a draft COP decision and Annexes.
- *Agree framework decision (in line with G77 and China proposal).* In Cancun, Parties could agree a framework decision establishing key elements of the enhanced financial mechanism, including the Board and other entities. The basic institutional arrangements would be defined and established in this decision, with the details of these arrangements to be elaborated further through discussions during 2011.
- *Define details of fund instrument through further discussions of working group*. Parties would continue discussions of the working group during 2011 and invite participation by both climate and finance experts. This group, which should be open to all Parties, will draft the detailed Fund Instrument and any related documentation for consideration by the COP.
- *Secure final approval of fund instrument by the COP***.** Parties could agree to finalize the detailed Fund Instrument and related documentation at COP 17 in Johannesburg in December 2011. The enhanced financial mechanism would be launched and made fully operational before the 20^{th} anniversary of the UNFCCC in 2012.

II. INTRODUCTION

Parties to the UNFCCC have recognized the need to "urgently enhance implementation of the Convention in order to achieve its ultimate objective in full accordance with its principles and commitments" (Preamble, Bali Action Plan). The Bali Action Plan recognizes the need for "enhanced action on the provision of financial resources and investment to support action on mitigation and adaptation and technology cooperation". Implementing these mandates requires consideration of a range of factors including:

- The scale of financial resources required;
- The sources of financial resources;
- The uses of financial resources; and
- The governance of financial resources under the UNFCCC financial mechanism.

Efforts to scale up financial resources and investment should build where possible on the best practices under the UNFCCC financial mechanism and other relevant financial mechanisms, with the objective of enabling all Parties to fully implement the principles and provisions of the UNFCCC and together address the threat of dangerous climate change.

The paper seeks to address issues relating to the necessary scale, sources, uses and governance of climate finance, with reference to the G77 and China joint finance proposal, as well as relevant provisions of the Climate Convention and the Bali Action Plan and the experience of other relevant financial mechanisms.

G77 and China Finance Proposal

Objective

The G77 and China proposes the operationalisation of an effective financial mechanism under the COP. This mechanism is to ensure the full, effective and sustained implementation of the Convention, in relation to implementation of commitments for the provision of financial resources. This is mandated under Articles 4.3, 4.4, 4.5, 4.8 and 4.9 of the Convention in accordance with Article 11 defining the financial mechanism.

Principles

The following are principles for enhanced action on the provision of financial resources and investment to support action on mitigation and adaptation and technology development and transfer.

The mechanism shall:

1. Be underpinned by the principle of equity and common but differentiated responsibilities;

2. Operate under the authority and guidance, and be fully accountable, to the COP;

3. Have an equitable and geographically-balanced representation of all Parties within a transparent and efficient system of governance (Article 11.2);

4. Enable direct access to funding by the recipients; and

5. Ensure recipient country involvement during the stages of identification, definition and implementation, rendering it truly demand driven.

The goal is to bring about coherence in the global financial architecture for financing under the authority and governance of the COP.

III. FINANCIAL MECHANISMS: KEY EXAMPLES

A number of existing financial mechanisms and funds provide examples that can be drawn on by Parties when seeking to enhance implementation of the UNFCCC's financial mechanism. These include:

- The Global Environment Facility, which already serves as an operating entity of the UNFCCC financial mechanism;
- The Adaptation Fund established under the Kyoto Protocol;
- The Multilateral Fund for the Implementation of the Montreal Protocol;
- The Global Fund to Fight AIDS, Tuberculosis and Malaria; and
- The World Bank's Climate Funds (i.e. the Clean Technology Fund and the Strategic Climate Fund).

These funds, among others, provide a source of information and ideas for use by Parties when seeking to operationalize the UNFCCC's financial mechanism. Each fund is based on a set of constituent documents, usually including a fund instrument as well as guidelines and other documentation. Together, these provide a source of existing practice agreed upon by some or all UNFCCC Parties that can be drawn on by Parties when seeking more effective operationalization of the financial mechanism of the Convention.

A. Global Environment Facility

The Global Environment Facility (GEF) has 182 member governments, working together to address global environmental issues.[14] The member Assembly is represented by the GEF Council made up of 32 members – 16 from Developing countries, 14 from Developed countries, and two from Central and Eastern Europe and the former Soviet Union.

The GEF provides grants to developing countries and countries with economies in transition for projects related to biodiversity, climate change, international waters, land degradation, the ozone layer, and persistent organic pollutants.

Established in 1991, the GEF is a major international funder of projects to improve the global environment. The GEF partnership includes 10 agencies: the UN Development Programme; the UN Environment Programme; the World Bank; the UN Food and Agriculture Organization; the UN Industrial Development Organization; the African Development Bank; the Asian Development Bank; the European Bank for Reconstruction and Development; the Inter-American Development Bank; and the International Fund for Agricultural Development. The Scientific and Technical Advisory Panel (STAP) provides technical and scientific advice on the GEF's policies and projects.

The GEF serves as an operating entity for the UNFCCC financial mechanism, as well for the following conventions: Convention on Biological Diversity (CBD); Stockholm

[14] Text in this section draws directly from the Global Environment Facility website: http://www.thegef.org/gef/.

Convention on Persistent Organic Pollutants (POPs); UN Convention to Combat Desertification (UNCCD). The GEF, although not linked formally to the Montreal Protocol on Substances That Deplete the Ozone Layer (MP), supports implementation of the Protocol in countries with economies in transition.

B. Kyoto Protocol Adaptation Fund

The Adaptation Fund was established by the Parties to the Kyoto Protocol of the UN Framework Convention on Climate Change.[15] The objective of the Adaptation Fund is to finance concrete adaptation projects and programmes in developing countries that are Parties to the Kyoto Protocol.

The Adaptation Fund was established in 2001 and operationalized in Bali in 2007. This new mechanism to facilitate adaptation includes several innovative elements, including:

- A governing Board with a significant majority of developing nations;
- The option to access resources directly from the Fund as an alternative to utilizing the services of a network of implementing entities;
- A source of resources independent of donor contributions: two percent of the proceeds of Certified Emission Reductions (CERs) from the Clean Development Mechanism (CDM); and
- An innovative, streamlined project cycle for project submissions and approval. Its Board is composed of 16 members and 16 alternate members representing Parties, formally elected at a session of the CMP (meeting of the Parties to the Kyoto Protocol).

C. Montreal Protocol Multilateral Fund

The Multilateral Fund for the Implementation of the Montreal Protocol was established by a decision of the Second Meeting of the Parties to the Montreal Protocol (London, June 1990) and began its operation in 1991.[16] The Fund provides financial assistance to help developing countries comply with their obligations under the Protocol to phase out the use of ozone-depleting substances (ODS) at an agreed schedule.

The Fund was the first financial mechanism to be born from an international treaty. It recognizes the principle agreed at the United Nations Conference on Environment and Development in 1992 that countries have common but differentiated responsibilities to protect and manage the global commons.

The Fund is managed by an Executive Committee with an equal representation of seven industrialized and seven Article 5 countries, which are elected annually by a Meeting of the Parties. The Committee reports annually to the Meeting of the Parties on its operations.

Financial and technical assistance is provided in the form of grants or concessional loans and is delivered primarily through four 'implementing agencies': United Nations

[15] Text in this section draws directly from the Adaptation Fund website: http://www.adaptation-fund.org/.
[16] Text in this section draws directly from the Multilateral Fund website: http://www.multilateralfund.org/.

Environment Programme (UNEP); United Nations Development Programme (UNDP); United Nations Industrial Development Organization (UNIDO); and the World Bank.

The Fund provides finance for activities including the closure of ODS production plants and industrial conversion, technical assistance, information dissemination, training and capacity building aimed at phasing out the ODS used in a broad range of sectors. About 238,619 ODS tons of consumption and 176,464 of production have already been phased out from projects approved as of December 2008.

D. Global Fund to Fight AIDS, Tuberculosis and Malaria

The Global Fund is a unique global public/private partnership dedicated to attracting and disbursing additional resources to prevent and treat HIV/AIDS, tuberculosis and malaria.[17] This partnership between governments, civil society, the private sector and affected communities represents a new approach to international health financing. The Global Fund works in close collaboration with other bilateral and multilateral organizations to supplement existing efforts dealing with the three diseases.

Since its creation in 2002, the Global Fund has become the main source of finance for programs to fight AIDS (Acquired Immune Deficiency Syndrome), tuberculosis and malaria. It provides a quarter of all international financing for AIDS globally, two-thirds for tuberculosis and three quarters for malaria.

The Global Fund helps countries to strengthen their health systems by, for example, making improvements to infrastructure and providing training to those who deliver services. The Global Fund finances programs developed by the recipient countries themselves, in line with their national strategic health plans and priorities. The requirement that all areas of society with a stake in public health be involved in the development process, including civil society and private sector, ensures strong and comprehensive programs.

The Global Fund's use of an independent Technical Review Panel ensures that limited resources are invested in technically sound programs with the greatest chances of success. The panel includes disease experts, as well as experts in the field of development who are able to assess how proposed programs complement ongoing health and poverty reduction efforts at the country level. The Global Fund holds its recipients accountable to strict standards that require programs to reach specific targets throughout the life of the grant. The Fund also publishes independent evaluations of the organization’s own performance.

E. World Bank Climate Investment Funds

The Climate Investment Funds (the Clean Technology Fund (CTF) and the Strategic Climate Fund (SCF)) were created to support low-carbon and climate-resilient development through scaled-up financing channeled through the African Development Bank, Asian Development Bank, European Bank for Reconstruction and Development, Inter-American Development Bank, and World Bank Group.[18] A separate Trust Fund

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[17] Text in this section draws directly from The Global Fund website: http://www.theglobalfund.org/en/.

[18] Text in this section draws directly from the Climate Investment Fund website: http://www.climateinvestmentfunds.org/cif/.

Committee having equal representation from contributor and recipient countries governs each Fund.

The CTF promotes scaled-up financing for demonstration, deployment and transfer of low-carbon technologies with significant potential for long-term greenhouse gas emissions savings. The SCF serves as an overarching framework to support three targeted programs with dedicated funding to pilot new approaches to specific climate change challenges or sectoral responses.

Programs under the SCF include:

- **The Forest Investment Program** aims to support developing countries' efforts to reduce emissions from deforestation and forest degradation by providing scaled-up financing for readiness reforms and public and private investments.
- **The Pilot Program for Climate Resilience** aims to pilot and demonstrate ways to integrate climate risk and resilience into core development planning, while complementing other ongoing activities.
- **The Program for Scaling-Up Renewable Energy in Low Income Countries** is aimed at demonstrating the social, economic, and environmental viability of low carbon development pathways in the energy sector.

The Governance Framework for each of the CTF and SCF acknowledge that UNFCCC deliberations on the future of the climate change regime include discussions on a future financial architecture and funding strategy for climate change, and therefore the funds will be an interim measure designed for the multilateral development banks to assist in filling immediate financing gaps.[19]

The CTF and SCF Governance Frameworks therefore include **specific sunset clauses** linked to the agreement on the future of the climate change regime. The SCF Governance Framework states: "Recognizing that the establishment of the SCF is not to prejudice the on-going UNFCCC deliberations regarding the future of the climate change regime, including its financial architecture, the SCF will take necessary steps to conclude its operations once a new financial architecture is effective".[20] Parallel language is included in the CTF Governance Framework.

F. Other examples

A range of other international financial mechanisms can provide useful examples. These include the various funds administered by the United Nations in relation to other areas such as the Millennium Development Goals. It also includes the experience of other grant-making bodies, such as the large philanthropic foundations, which have developed a range of innovative and effective practices. Parties can draw on the experience of these and other mechanisms when seeking to enhance the provision of financial resources and investment under the Convention. These experiences can be drawn on while recognizing the specific context of climate change and the changes this requires in designing an effective mechanism to scale up climate finance in accordance with the requirements of the UN Climate Convention.

[19] Climate Investment Funds, *Governance Framework for the Clean Technology Fund*, November 2008.
[20] Climate Investment Funds, *Governance Framework for the Strategic Climate Fund*, November 2008, p. 15.

IV. SCOPE AND MANDATE

All Parties to the UNFCCC have recognized the need to "urgently enhance implementation of the Convention in order to achieve its ultimate objective in full accordance with its principles and commitments" (Preamble, Bali Action Plan). The provisions of the Convention thus provide the starting point for any discussion of climate finance, and ultimate yardstick against which any effort to scale up climate finance and more effectively operationalize the UNFCCC financial mechanism must be measured.

A. Implementing the Convention

The UNFCCC includes a set of commitments regarding financing for climate change. In relation to **communication of information related to implementation,** the Convention (Article 4.3) commits the developed countries to provide new and additional financial resources to meet the "agreed full costs" incurred by developing countries in complying with their obligations to provide national communications (as set out in Article 12.1).

In relation to **implementation of other commitments** by developing countries, the Convention (Article 4.3) commits developed countries to provide such financial resources needed to meet the "agreed full incremental costs" of implementing certain measures (as set out in Article 4.1). In summary, these include:

- Formulating and implementing national and regional programmes containing **measures to mitigate** climate change and to facilitate adequate **adaptation** (Article 4.1(b));
- Cooperating in the **development and transfer of technologies** to mitigate climate change in all relevant sectors (including energy, transportation, industry, agriculture, forestry and waste management) (Article 4.1(c));
- Cooperating in the conservation and enhancement of **sinks and reservoirs** of greenhouse gases including **biomass, forests, oceans and other ecosystems** (Article 4.1(d));
- Cooperating in preparing for **adaptation** to the impacts of climate change, develop appropriate plans for coastal zones, water and agriculture and protection and rehabilitation of areas affected by drought, desertification and floods (Article 4.1(e)).
- Taking climate change into account in relevant policies and actions, and employing appropriate methods to **minimizing adverse effects** of projects or measures to mitigate or adapt to climate change (Article 4.1(f)).
- Promoting **scientific and other forms of observation** etc to improve understanding of climate change and the consequences of response strategies (Article 4(g)).
- **Exchange and communicate information** and **promote education, training and public awareness** (Articles 4(h)-(j)).

In relation to the **adverse impacts of climate change**, the Convention (Article 4.4) commits developed countries to assist developing countries that are particularly vulnerable to the adverse effects of climate change in meeting the costs of adaptation to those adverse effects.

In relation to **technology transfer**, the Convention (Article 4.5) commits developed countries to take all practicable steps to "promote, facilitate and finance" the transfer of or access to environmentally sound technologies and know-how, and in the process to support the enhancement of endogenous capacities and technologies in developing countries.

The Convention provides that **the Conference of the Parties is responsible for seeking to mobilize financial resources** in accordance with Article 4, paragraphs 3, 4, and 5 and Article 11 (Article 7(2)(h)). It is also responsible for arranging for the provision to developing countries of technical and financial support for national communications and in **identifying technical and financial needs associated with proposed projects and response measures** under Article 4 (Article 12.7).

The Convention establishes a **financial mechanism** to provide financial resources on a grant or concessional basis, and to function under the guidance of and be accountable to the Conference of the Parties (Article 11). Among other things, it requires the Conference of the Parties, and the entity or entities entrusted with the operation of the financial mechanism, to agree on arrangements for the "determination in a predictable and identifiable manner **the amount of funding necessary** and available for the implementation of this Convention and the conditions under which that amount shall be periodically reviewed" (Article 11(3)(d)).

B. Fulfilling the Bali Action Plan

The **importance of enhanced action to implement the Convention was recognized in the Bali Action Plan**, in which Parties resolved to "urgently enhance implementation of the Convention in order to achieve its ultimate objective in full accordance with its principles and commitments."

The Bali Action Plan thus launched "a comprehensive process to enable the full, effective and sustained implementation of the Convention through long-term cooperative action, now, up to and beyond 2012".

In relation to finance, the Bali Action Plan recognizes the need for "**enhanced action on the provision of financial resources and investment** to support action on mitigation and adaptation and technology cooperation", and identifies a range of areas for further consideration (see box).

It also links mitigation actions by developing countries and the provision of financing, technology and capacity building by developed countries, in a **measurable, reportable and verifiable manner** (paragraph 1(b)(ii)). In considering paragraph 1(b)(ii) as a means by which to enhance implementation of the Convention a number of the Convention's articles are particularly relevant, including:

- The commitment of developed countries to provide agreed full incremental costs (Article 4.3) to enable developing countries to implement programmes containing measures to mitigate climate change (Article 4.1);
- Recognition that developing countries "may, on a voluntary basis, propose projects for financing, including specific technologies, materials, equipment,

techniques or practices that would be needed to implement such projects, along with, if possible, an estimate of all incremental costs, of the reductions of emissions and increments of removals of greenhouse gases, as well as an estimate of the consequent benefits" (Article 12.4); and

- Recognition that the extent to which the developing countries implement their commitments depends on "the effective implementation by developed country Parties of their commitments under the Convention related to financial resources and transfer of technology" (Article 4.7).

In the Bali Action Plan, Parties recognized that delay in reducing emissions significantly constrains opportunities to achieve lower stabilization levels and increases the risk of more severe climate change impacts. **Enhancing action to implement the Convention's finance commitments is therefore an urgent priority** and a necessary condition for progress on other issues.

Enhancing action on the provision of the Convention's finance commitments requires consideration of a range of issues including the scale, sources, uses and governance of finance under the Convention's finance mechanism.

Finance elements of the Bali Action Plan

In relation to enhanced action on financing, the Bali Action Plan calls for consideration of:

(i) Improved access to adequate, predictable and sustainable financial resources and financial and technical support, and the provision of new and additional resources, including official and concessional funding for developing country Parties;

(ii) Positive incentives for developing country Parties for the enhanced implementation of national mitigation strategies and adaptation action;

(iii) Innovative means of funding to assist developing country Parties that are particularly vulnerable to the adverse impacts of climate change in meeting the cost of adaptation;

(iv) Means to incentivize the implementation of adaptation actions on the basis of sustainable development policies;

(v) Mobilization of public- and private-sector funding and investment, including facilitation of climate-friendly investment choices;

(vi) Financial and technical support for capacity-building in the assessment of the costs of adaptation in developing countries, in particular the most vulnerable ones, to aid in determining their financial needs.

V. SCALE OF FINANCE

The Convention requires the Conference of the Parties and the entity or entities entrusted with the operation of the financial mechanism to identify the scale of financing that is needed to implement the Convention.

They are required to agree on arrangements to determine in a predictable and identifiable manner "**the amount of funding necessary and available for the implementation of the Convention and the conditions under which that amount shall be periodically reviewed**" (Article 11.3(d)). The Convention also requires the Conference of the Parties to "seek to mobilize financial resources" in accordance with Article 11, as well as Article 4, paragraphs 3, 4 and 5.

In practice, determining the amount of funding necessary for the implementation of the Convention requires consideration of a number of related questions:

- What are the **main thematic areas** that require financing (e.g. adaptation, mitigation, forests, technology, national reporting etc)?
- For each area **what costs** are to be covered **and at what level** (e.g. full costs, incremental costs, other)?
- How can these costs be **accurately estimated** (e.g. what studies and methodologies)?
- How will assessments differ based on final outcomes of **other negotiating parameters** (e.g. how will adaptation costs differ for global goals of 1, 1.5 and 2ºC)?

An assessment of the scale of financing, in turn, provides important context when examining how the financing will need to be raised (i.e. its sources) as well as how it is governed in practice.

G77 and China Finance Proposal: Activities to be funded

10. The mechanism will fund the agreed full incremental costs for the implementation of developing countries' commitments under Art. 4.1, including:

a) Mitigation

b) Deployment and diffusion of low-carbon technologies

c) Research and development for technologies

d) Capacity-building

e) Preparations of national action plans and implementation

f) Patents

g) Adaptation in accordance with Arts. 4.4 and 4.9

11. The mechanism will fund the agreed full costs for the preparations of national communications.

12. In accordance with Art. 4.3, developing country Parties are to be provided with new and additional financial resources, including for the transfer of technology, to comply with their obligations under Art. 4.1 of the Convention. The funds can be used for (i) adaptation and its means of implementation; and (ii) mitigation and its means of implementation. Meeting these two funding objectives may include technology development, deployment and transfer, capacity building and risk management, including insurance, etc. It will cover financing the implementation of action programmes developed under the Convention, such as the NAPAs and TNAs.

A. Areas for financing

The provisions of the Convention establish a number of areas that require financing. These include the following (organized thematically):

Adaptation: Developed countries have committed to:

- Provide agreed full incremental costs for cooperation in **preparing for adaptation** to the impacts of climate change;
- Provide agreed full incremental costs for cooperation in **developing appropriate plans** for coastal zones, water and agriculture and protection and rehabilitation of areas affected by drought, desertification and floods;
- Provide agreed full incremental costs for **formulating and implementing national and regional programmes containing measures** to facilitate adequate adaptation; and
- Assist particularly vulnerable developing countries in **meeting the costs of adaptation to adverse effects**.

Mitigation: Developed countries have committed to:

- Provide agreed full incremental costs for **formulating and implementing national and regional programmes containing measures** to mitigate climate change by addressing emissions by sources and removals by sinks of all greenhouse gases; and
- Provide agreed full incremental costs for cooperating in the **conservation and enhancement of sinks and reservoirs of greenhouse gases** including biomass, forests, oceans and other ecosystems.

Technology development and transfer: Developed countries have committed to:

- Provide agreed full incremental costs for cooperating in the **development and transfer of technologies to mitigate climate change in all relevant sectors** (including energy, transportation, industry, agriculture, forestry and waste management);
- Take all practicable steps to **finance the transfer of environmentally sound technologies and know-how** to developing countries; and
- Support the **enhancement of developing countries' endogenous technologies and capacities**.

Communications, capacity building and other actions: Developed countries have committed to:

- Provide agreed full costs required by developing countries to: prepare a **national greenhouse gas inventory**; undertake a general description of **steps taken or envisaged to implement the Convention**; and provide other information relevant to achievement of the objective of the Convention;
- Provide agreed full incremental costs of cooperating in **scientific and other forms of observation** to improve understanding of climate change and the consequences of response strategies; and
- Provide agreed full incremental costs of cooperating in exchanging information and promoting **education, training and public awareness**.

In each of these areas, financial resources are required to enable developing countries to effectively implement their commitments under the Convention. In light of this, the

Convention requires the Conference of the Parties and the entity or entities entrusted with the operation of the financial mechanism to agree on arrangements for the "determination in a predictable and identifiable manner the amount of funding necessary and available for the implementation of the Convention and the conditions under which that amount shall be periodically reviewed" (Article 11.3(d)).

B. Full and incremental costs

Determination of the amount of funding necessary for the implementation of the Convention requires **an evaluation, of each of the thematic areas covered by the Convention and collectively, of the type of costs to be covered – including those which are to be financed at agreed "full costs" and at agreed "full incremental costs"**, as well as financing required to address other commitments described in the Convention.

The **full costs** to developing countries of national communications can be estimated on the basis of actual historical costs. Future cost estimates should presumably include any additional costs associated with enhanced measurement, reporting or verification under the Convention and the Bali Action Plan.

The Convention requires developed countries to assist developing countries that are particularly vulnerable to the adverse effects of climate change in "**meeting the costs of adaptation** to those adverse effects". Under the Adaptation Fund (established under the Kyoto Protocol) funding is provided "on full adaptation cost basis of projects and programmes to address the adverse effects of climate change".[21] In this context, full costs is defined to mean "the costs associated with implementing concrete adaptation activities that address the adverse effects of climate change."[22]

Different approaches have been advanced to calculate and assess **incremental costs**. The Global Environment Facility, reflecting its diverse focal areas, has adopted a generic five-step process to evaluate incremental costs based on the expected "global environmental benefits".[23] This involves:

- A determination of the environmental problem, threat, or barrier, and the "business as- usual" scenario (i.e. what would happen without the GEF?);
- Identification of the global environmental benefits and fit with GEF strategic programs and priorities linked to the GEF focal area;
- Development of the result framework of the intervention;
- Provision of the incremental reasoning and GEF's role; and
- Negotiation of the role of co-financing.

The Montreal Protocol and Convention on Biological Diversity, by contrast, each require the development of more detailed "indicative lists" of incremental costs.[24] Under the Montreal Protocol a request for financing of **a project's incremental costs are evaluated in light of general principles**:

- The most cost-effective and efficient option should be chosen, taking into account the national industrial strategy of the recipient Party (e.g. Does

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[21] Adaptation Fund Board, *Operational Policies and Guidelines for Parties to Access Resources from the Adaptation Fund*, para. 14.
[22] Ibid.
[23] Global Environment Facility, *Operational Guidelines for the Application of the Incremental Cost Principle*, 14 May 2007.
[24] Convention on Biological Diversity, Article 20.2 Financial Resources.

infrastructure have alternative uses to decrease capital abandonment? How to avoid deindustrialization and loss of export revenues?);

- The list of cost items in a project proposal should be carefully scrutinized to ensure there is no double counting;
- Savings or benefits gained at the strategic and project levels during the transition process should be taken into account according to criteria decided by the Parties; and
- Funding of incremental costs is intended as an incentive for early adoption of ozone protecting technologies. The Executive Committee is to agree to timescales for payment.[25]

The Montreal Protocol has agreed **indicative lists to enable a more precise calculation of incremental costs**. These include items such as:

- The capital cost of converting existing facilities;
- Patents, designs and incremental costs of royalties;
- Cost of retraining personnel;
- Costs of adapting technologies to local circumstances;
- Costs from premature retirement of facilities or enforced idleness;
- Costs of establishing new production facilities for substitutes of capacity equivalent to capacity lost when plants are converted or scrapped;
- Net operation costs of new facilities;
- Cost of import of substitutes; and
- Costs of certain research and development.

In certain cases, **specific quantitative methodologies** are provided for the calculation of incremental costs.[26] The Multilateral Fund meets incremental costs once they are agreed.

The Montreal Protocol's approach to the calculation of incremental costs offers considerable lessons for the climate regime. Use of the Protocol's technical bodies to develop lists of incremental costs in different sectors has facilitated a practical and solution-oriented approach and encouraged participation by experts from developed and developing countries, the private sector, academia and civil society. **In the context of climate change, a sector-by-sector approach (using, for instance, the mitigation and adaptation sectors referenced by the IPCC) could help to replicate key lessons in the context of the UNFCCC**, while recognizing also that climate change affects a more diverse set of issues, actors and economic sectors.[27]

C. Estimating financial needs

Drawing on the thematic areas and types of costs to be covered, as well as the level of action agreed by developing countries, **the scale of financing should be estimated on the basis of clear methodologies and processes**. Estimates should seek to be

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[25] Ozone Secretariat United Nations Environment Programme, *Handbook For The Montreal Protocol On Substances That Deplete The Ozone Layer – 7th Edition*, 2006, p. 424.

[26] The Eighteenth Meeting of the Executive Committee decided that the incremental cost of certain technological upgrades would be calculated as: IC = [CC - NPV(FI)] + NPV[FBb - Fbp], where, IC is the incremental cost, CC is the capital cost of the conversion project, FI is future baseline investments (that would have occurred absent the conversion), Fbb is the future baseline benefits (that would have occurred absent the conversion), Fbp is the future benefits with the conversion project and NPV refers the net present value of a stream of costs/benefits. See *Handbook For The Montreal Protocol On Substances That Deplete The Ozone Layer* (2006), p. 424; and UNEP/OzL.Pro/ExCom/18/75, Decision 18/25 para. 57.

[27] K. Madhava Sarma, "Technology Transfer Mechanism for Climate Change". Available from http://www.igsd.org/docs/SarmaTT%2024Mar08.pdf.

comprehensive and reflect the relevant provisions of the Conventions. Such an approach is necessary for Parties to comply with their collective commitment to ensure "determination in a predictable and identifiable manner the amount of funding necessary and available for the implementation of the Convention".

Unfortunately, very few of the estimates offered so far provide comprehensive estimates of the funding necessary for the implementation of the Convention. Many suffer from at least one of the following deficiencies:

- **Incompleteness**. Estimates fail to address all relevant cost categories and/or costs. For example, many adaptation studies cover some but not all relevant sectors, or cover sectors that are addressed only partially.

- **Inadequacy**. Estimates are based on assumptions that are inadequate to avoid dangerous warming and otherwise achieve the objectives of the Convention. For example, many mitigation studies assume a global emission reduction of around 50 per cent by 2050, which offers a less than 50 per cent probability of remaining below 2°C.

- **Inequity**. Estimates are based on assumptions that place excessive burdens on developing countries, and/or assume insufficient effort by developed countries. For example, many studies assume a significant proportion of mitigation or adaptation costs will be financed directly by developing countries.

- **Inconsistency**. Estimates are inconsistent with the letter or spirit of the UN Climate Convention or its Kyoto Protocol. Rarely do studies refer to the Convention, and in some cases they make assumptions (for example, the "differentiation" of developing countries) that are clearly inconsistent with it.

Studies assessing financial needs for **mitigation**, for instance, regularly:

- Assume a global goal of 2°C or 450 ppm which risks unacceptable levels of damage to many countries and communities but implies a lower level of mitigation effort than a 1 or 1.5°C goal and hence assumes lower aggregate levels of financing for mitigation.[28]
- Assume that a global goal of 2°C or 450 ppm can be achieved by reducing global emissions by 50 per cent from 1990 levels by 2050, when a 50 per cent reduction involves around a 50 per cent chance of exceeding 2°C. Much more ambitious reductions and associated financial transfers would be required to secure an acceptable probability of remaining below 2°C or lower.[29]
- Assume a certain level of ambition by Annex I countries (e.g. a 30 per cent reduction from 1990 levels by 2020) when their actual pledges fall well below this level of ambition, and when the use of loopholes (such as land use, land-use change and foresty (LULUCF) and surplus allowances) and markets is included, their actual emissions may well increase rather than decrease.[30] Insufficient effort by Annex I countries shifts the burden of either mitigating or adapting to climate change, or both, to the developing countries and would therefore require higher levels of financing.

[28] See, for example, Project Catalyst, *Scaling up Climate Finance*, September 2009. Available from http://www.project-catalyst.info. See also *Project Catalyst Brief: Financing Needs*, December 2009. Available from http://www.project-catalyst.info.

[29] For information on probabilities associated with different emission scenarios, see, for example, Malte Meinshausen et al., "Greenhouse-gas emission targets for limiting global warming to 2°C", *Letter, Nature* 458, 1158-1162, 30 April 2009. Available from http://www.nature.com/nature/journal/v458/n7242/full/nature08017.html.

[30] Rogelj, Joeri, J. Nabel, C. Chen, W. Hare, K. Markmann, M. Meinshausen, M. Schaeffer, K. Macey, N. Hohne, "Copenhagen Accord pledges are paltry", *Nature*, vol. 464, 22 April 2010, 1126-1128.

- Otherwise fail to adopt equitable assumptions about how the burden of mitigation should be shared. For example, the European Union assumes that developing countries will self-finance around 40 per cent of their own mitigation, a position difficult to reconcile with the Convention's provisions relating to agreed full incremental costs.[31]
- Fail to take into account the latest scientific information relating to levels of committed warming, carbon-cycle-climate feedbacks and other factors, which suggest that much higher levels of ambition will be required globally to achieve any of the global goals currently under consideration.[32]

Many studies assessing financial needs for **adaptation**:

- Fail to include a comprehensive assessment of all affected sectors;
- Cover only part of those sectors that are addressed;
- Estimate the costs of adaptation as "climate mark-ups" against low levels of assumed investment;
- Account for costs of preventative measures, but fail to account for the costs of recovery from adverse impacts;
- Fail to base estimates on systematic "bottom up" evidence of actual costs;
- Borrow heavily from one another, undermining their independence while giving a false impression of consistency; and/or
- Do not seek to be tested through peer review in the scientific or economics literature or otherwise.[33]

The UNFCCC Secretariat analysis, for example, suggests that adaptation costs in 2030 could be between $49-71 billion per year globally, of which $27-66 billion would be required in developing countries.[34] **A recent review of the UNFCCC study suggests actual costs could be up to three times higher for the sectors covered and "much more if other sectors are considered"**.[35] Additionally, the study addresses "investments" to avoid or minimize damage; the figure would be higher still if the cost of actual damage and opportunity costs (e.g. costs of unmanageable climate-related natural disasters) was fully incorporated. Notably, the Convention calls on developed countries to assist particularly vulnerable developing countries in meeting the costs of adverse effects.

Where the costs of adverse effects are addressed, they are often done so based on unsatisfactory methodologies. The recent World Bank *Global Report on the Economics of Adaptation to Climate Change*, for instance, cites an absence of data relating to "extreme weather events" and instead includes a figure estimating that "neutralizing the impact of extreme weather events requires educating an additional 18 million to 23

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[31] Terry, Simon, *Integrity Gap: Copenhagen Pledges and Loopholes, Sustainability Council of New Zealand,* 2 August 2010. See also UNFCCC, *Compilation of pledges for emission reductions and related assumptions provided by Parties to date and the associated emission reductions*, AWG-KP 12, 20 May 2010, FCCC/KP/AWG/2010/INF.1.
[32] See, for example, Ramanathan and Feng, "On avoiding dangerous anthropogenic interference with the climate system: Formidable challenges ahead", *Proc. Natl. Acad. Sci.* 105 (38): 14245–14250 (noting that the Earth is likely already committed to warming of 2.4 degrees Celsius, surpassing the threshold for several tipping points). See also Lenton, Timothy, H. Held, E. Kriegler, J. Hall, W. Lucht, S. Rahmstorf, "Tipping elements in the Earth's climate system", *PNAS*, Vol. 105, pp. 1786-1793 (2008).
[33] Parry, Martin, N. Arnell, P. Berry, D. Dodman, S. Fankhauser, C. Hope, S. Kovats, R. Nicholls, D. Satterthwaite, R. Tiffin, T. Wheeler, *Assessing the Costs of Adaptation to Climate Change: A Review of the UNFCCC and Other Recent Estimates*, International Institute for Environment and Development and Grantham Institute for Climate Change (London, 2009) (summarizing limitations associated with UNFCCC estimates of adaptation costs).
[34] UNFCCC, *Investment and Financial Flows to Address Climate Change*. (Bonn, UNFCCC Secretariat, 2007).
[35] Parry et al., supra.

million young women at a cost of $12 billion to $15 billion a year."[36] **The World Bank, effectively, has taken the cost of educating young women as a proxy for the total costs of extreme weather events**. Young, well-educated women can contribute substantially to adaptation efforts. No amount of education, however, will enable them to end droughts, stem floods or hold back hurricanes.

The **costs of climate-related adverse effects are real, they are explicitly referred to in the UN Climate Convention and they can and should be added to estimates relating to "adaptation".** The World Bank's own studies, for example, indicate that two degrees of warming could result in permanent losses of Gross Domestic Product (GDP) in South Asia of 5 per cent[37]; sea level rise could cause losses of 38.4 per cent of GDP in some coastal areas[38]; and some countries will be so heavily impacted by sea level rise "that their national integrity will be affected". [39] The reason the World Bank *Global Report* failed to make better use of its own analysis or to otherwise undertake a more thorough evaluation of these categories of costs – thus vastly understating the actual costs of adaptation – remains unclear.

Other studies confirm **levels of costs and damage that exceed – in some cases by one order of magnitude or more – current estimates by the World Bank, UNFCCC and other studies**. In terms of adaptation costs:

- The Global Humanitarian Forum, headed by Kofi Annan, "estimated future economic losses could amount to more than USD 340 billion by 2030…Only 30 countries in the world currently have a GDP higher than this number".[40] The same study states "The carbon dioxide emitted globally in 2004, for example, carries a social cost [i.e. net present value of future impacts] of over $1300 billion, a figure greater than 2 per cent of global GDP in 2008.[41]

- The Imperial College London and International Institute for Environment and Development study reviewing the UNFCCC Secretariat analysis (noted above) points to costs of adaptation exceeding $500 billion a year if UNFCCC Secretariat analysis is updated to include a fuller evaluation for covered sectors, additional cost for sectors not covered by the analysis, as well as costs for damage to ecosystem services and residual damage relating to extreme weather events.[42]

- Allianz insurance company and WWF, in their study entitled "Major Tipping Points in the Earth's Climate System and Consequences for the Insurance Sector", estimate that:
    - Costs in terms of future loss potential "of a strong hurricane in New York would escalate … to $US 5.43 trillion" [43] and, as a result, "economic

[36] The World Bank, *The Cost to Developing Countries of Adapting to Climate Change – New Methods and Estimates* (2010). Available from http://beta.worldbank.org/content/economics-adaptation-climate-change-study-homepage; see also http://siteresources.worldbank.org/INTCC/Resources/EACCReport0928Final.pdf.
[37] Nora, Erik, *'Climate Smart' World Within Reach, Says World Bank*, 15 September 2009.
[38] Dasgupta, Susmita, B. Laplante, S. Murray, and D. Wheeler, "Climate Change and the Future Impacts of Storm-Surge Disasters in Developing Countries", Center for Global Development, Working Paper 182 (September 2009), p. 25.
[39] Susmita Dasgupta, Benoit Laplante, Craig Meisner, David Wheeler and Jianping Yang, "The Impact of Sea Level Rise on Developing Countries: A Comparative Analysis", World Bank Policy Research Working Paper 4136 (February 2007), p. 44.
[40] Global Humanitarian Forum, *Human Impact Report: Climate Change – The Anatomy of a Silent Crisis* (2009), p. 20.
[41] Ibid..
[42] Martin Parry et al., *Assessing the Costs of Adaptation to Climate Change: A Review of the UNFCCC and Other Recent Estimates* (Imperial College London, IIED, 2009). See also "The Cost of Adapting to Climate Change", *New York Times*, 28 August 2009.
[43] *Major Tipping Points in the Earth's Climate System and Consequences for the Insurance Sector*, World Wide Fund for Nature Gland, Switzerland, and Allianz SE Munich, Germany (2009) p. 37.

development in such a hazardous zone has to be questioned”.[44]

- Die-back of the Amazon forest which releases carbon dioxide and “occurs between 1 and 2°C results in incremental NPV [net present value] costs of carbon approaching $US 3,000 billion and that policies aimed at stabilization at 2°C result in NPV costs of the order of $US 3,000 billion from carbon lost through die-back of the Amazon alone”.[45]
- Global sea level rise “of 0.5 m by 2050 increases the value of assets exposed in all 136 port megacities by a total of $US 25,158 billion to $US 28,213 billion in 2050” [46]

The **potential for non-linear and spiraling climate impacts and costs is not well addressed** either in current climate models (which regularly underestimated climate feedbacks) or in estimates of adaptation costs (which, excepting a few studies, have underestimated the costs of adverse impacts and not addressed tipping points and other non-linear changes). The models need to be recalibrated and the scale and sequencing of financing for mitigation and adaptation needs to be rethought, with much larger investments made earlier. Recent impacts in Russia, Pakistan and Southeast Asia provide a warning beacon signaling the need for more ambitious and early action on both mitigation and adaptation.

The foregoing analysis suggests that **estimates of the necessary levels of financing need to be revisited** to ensure they reflect basic standards such as completeness, adequacy, equity and consistency. At a minimum, cost estimates should be updated to reflect:

- **A comprehensive evaluation of *both* the costs of “climate proofing” to avoid adverse impacts as well as estimates of the actual costs of adverse impacts.** This should include more systematic analysis of losses due to extreme weather, floods, fires and other adverse impacts arising from climate change (i.e. those that are unavoidable or exceed adaptive capacity). Studies by Allianz and other insurance companies demonstrate that this is possible; and it is required in order to evaluate the amount of funding necessary for the implementation of the Convention;
- **An evaluation of the level of mitigation effort and costs involved in limiting temperature increases to well below levels of 1 or 1.5°C** (rather than 2°C), and of achieving this with some reasonable degree of probability. Over 100 countries have called for keeping temperatures “well below” 1.5°C. Financing should be calibrated to these demands (at least as one scenario among others); and
- **The latest scientific and economic information**, including information regarding levels of committed warming, climate feedbacks and tipping points, which suggest that the level of effort required to achieve any particular temperature goal (e.g. 1, 1.5 or 2°C) may be significantly greater than considered in the IPCC Fourth Assessment Report.

D. Calibrating financial needs

[44] Ibid, p. 38.
[45] Ibid, p. 56.
[46] Ibid, p. 30.

Evaluation of the scale of financing required should also reflect the fact that the **level of financing required by developing countries is dependent on other parameters in the negotiation** – including the level of ambition by Annex I countries and the proposed global goal. If the level of mitigation pledges by Annex I countries remain inadequate, then the level of financing for adaptation and mitigation in developing countries should be considerably increased. Similarly, if global goals linked to higher rather than lower levels of warming are imposed on vulnerable developing countries then the level of adaptation financing should be calibrated accordingly.

Ultimately, **developing countries require a set of scenarios (and associated financial demands) that address the relationships among the Bali building blocks** and other elements of the negotiations:

1. The agreed shared vision (including a goal relating to temperature, concentrations, global emission reductions) and the associated global carbon budget;
2. The level of Annex I emission reductions and their associated share of the carbon budget;
3. The implied "residual" requirement for non-Annex I mitigation actions and the associated costs of living within their "residual" share of the carbon budget;
4. The level of finance and technology transfers required to address the costs of mitigation and associated development challenges arising from (3); and
5. The level of finance and technology transfers required to address the costs of adaptation and associated development challenges arising from the level of warming implied by (1).

Failure to calibrate demands for financing has significant implications for both climate and development. An inadequate global goal (1) implies more warming and greater adaptation costs (5) to developing countries. An inadequate Annex I emission reduction or excessive use of "loopholes" or markets (2) implies more warming and greater adaptation costs (5) and/or greater mitigation burdens (4) to developing countries. Given the linkages, developing countries' demands for finance and technology transfers relating to mitigation (4) and adaptation (5) should thus be calibrated to these other elements.

Just as some Annex I countries have conditioned their mitigation "pledges" on other factors, so **developing countries should calibrate – and condition – their finance and technology demands on other factors in the negotiations**, including the global goal and the level of Annex I emission reductions. Failure to do so risks creating a moral hazard by enabling developed countries to continue to advance global goals that risk dangerous levels of warming (e.g. a 50 per cent global emission reduction by 2050)[47] and inadequate mitigation pledges (e.g. Kyoto and Copenhagen Accord pledges) that shift the burden of adaptation and mitigation to developing countries.

If UNFCCC Parties are serious about curbing climate change and achieving the objectives of the Convention then much **larger levels of financing than currently under consideration (i.e. in the trillions) must be taken seriously**. This is particularly true in light of emerging science regarding levels of committed warming and the potential for non-linear effects and tipping points.

Financing in this order seems high when evaluated against ODA and other traditional

[47] Rogeli et al., 2010.

development-related expenditures. **Finance demands for climate change, however, are modest when viewed as an investment in maintaining the stability of the Earth's life support system**, or when compared against the likely costs of inaction, or the sums spent on other issues such as the global financial crisis or military conflicts. For example:

- In response to the global financial crisis, central banks in the European Union and the United States purchased US$2.5 trillion in debt; they raised capital of national banking systems by $1.5 trillion[48]; and the United States executed two stimulus packages totaling almost $1 trillion.[49]
- In prosecuting wars in Iraq and Afghanistan, the United States has allocated around US$1.09 trillion.[50] The wider costs of the Iraq war to the United States (not to Iraq and the rest of the world) is estimated to be in the order of $3 trillion.[51]
- World military spending exceeds $US1.5 trillion annually, with the United States spending around $660 billion (4.3 per cent GDP), China $98 billion (2 per cent GDP), United Kingdom $69 billion (2.5 per cent GDP), France $67 billion (2.3 per cent GDP), Russian Federation $61 billion (3.5 per cent GDP), Germany $48 billion (1.3 per cent GDP), and Japan $47 billion (0.9 per cent GDP).[52]

The demand by the G77 and China for financing equivalent to at least 1.5 per cent of Annex I GDP (roughly $600 billion) is approaching the order of financing required. The African Group's demand in Copenhagen for financing equivalent to at least 5 per cent of Annex I GDP (roughly $ 2 trillion), and Bolivia's demand for at least 6 per cent (roughly $2.4 trillion), may ultimately prove more realistic estimates of costs when both mitigation and adaptation are considered in light of the latest scientific evidence on climate change, and the need for an ambitious global effort to avert non-linear changes and hold warming to levels that are safe for developing countries.

Given the uncertainty surrounding climate change, **developing countries should avoid locking in a sum for long-term financing (e.g. by 2017) that provides a "ceiling" rather than a "floor" for future levels of financial resources**. The risk that historical levels of emissions have committed the world to much higher levels of warming than previously expected (an outcome that seems increasingly likely in view of recent scientific information) should not be transferred to developing countries.[53] Nor should developing countries agree to a sum for financing while the value of the global carbon budget, and their share of it, is still being determined.

Consequently, any long-term amount for financing should be prefaced by the terms "at least" (as is the case with Annex I mitigation targets). To ensure ongoing assessments of the level of climate finance based on sound scientific and economic assessments, **a**

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[48] Altman, Roger, "The Great Crash, 2008 – A Geopolitical Setback for the West", *Foreign Affairs*, Jan/Feb 2009. Available from http://www.foreignaffairs.com/articles/63714/roger-c-altman/the-great-crash-2008.

[49] "U.S. Congress Passes Stimulus Plan", *BBC News*, 14 February 2009. Available from http://news.bbc.co.uk/2/hi/business/7889897.stm.

[50] Dagget, Stephen, *Costs of Major U.S. Wars*, Congressional Research Service, 29 June 2010.

[51] Edemariam, Alda, "The True Cost of War", *The Guardian*, 28 February 2008. Available from http://www.guardian.co.uk/world/2008/feb/28/iraq.afghanistan.

[52] Stockholm International Peace Research Institute, The SIPRI Military Expenditure Database. Available from http://milexdata.sipri.org/. See also "List of countries by military expenditures". Available from http://en.wikipedia.org/wiki/List_of_countries_by_military_expenditures.

[53] Some may interpret the relative enthusiasm of developed countries to formalize under the UNFCCC the $100 billion figure included in the Copenhagen Accord as an effort to limit both expectations of future climate finance and their liability for growing impacts and costs. As such, it may be preferable for developing countries to focus on establishing a robust mechanism for assessing costs on a regular basis, rather than locking in a level of finance that, on any reasonable basis, is already inadequate.

process should be established to ensure that the amount of financing necessary for the implementation of the Convention is periodically reviewed and updated in accordance with Article 11.3(d). As is the case with some other funds – such as the Multilateral Fund – recommendations for the level of financing should be provided regularly based on sound technical and economic advice from bodies that are accountable to the Parties, for consideration by the Conference of the Parties.

VI. SOURCES OF FINANCE

Raising financial resources of the scale necessary requires renewed commitment by Parties to implement their obligations under the Convention, as well as new and innovative thinking about how climate finance is raised and channeled:

- **Which countries are responsible for providing financial resources** under the Convention?
- How can parties ensure that contributions are **made in practice and not merely on paper** – i.e. that they are "**new and additional**"?
- Is the **scale of financial resources currently pledged adequate** when measured against what is necessary for the implementation of the Convention?
- To the extent that the scale of resources is inadequate, **how can the "financing gap" be closed** through existing and new sources of financing?
- What is the **role of the UNFCCC financial mechanism versus other channels** in providing financial resources to developing countries?

G77 and China Finance Proposal: Sources of Funding[54]

5. The main source of funding will be through the implementation of commitments under Article 4.3. The funding will be "new and additional" financial resources, which is over and above ODA. The major source of funds would be the public sector.

6. Any funding pledged outside of the UNFCCC shall not be regarded as the fulfilment of commitments by developed countries under Art. 4.3 of the Convention, and their commitments for measurable, reportable and verifiable means of implementation, that is, finance, technology and capacity-building, in terms of para 1.b (ii) of the Bali Action Plan.

7. It should be ensured that there be predictability, stability and timeliness of funding.

8. The resources shall be essentially grant-based (particularly for adaptation), without prejudice to certain concessional loan arrangements in appropriate form, to meet the needs of a specific programme.

9. The level of the new funding can be set at 0.5% to 1% of the GNP of Annex I Parties.* Quantified commitments by developed countries to adequate and predictable funding for mitigation and adaptation must be addressed. The portion of funding that must be allocated to adaptation and mitigation and their respective means of implementation shall be decided by the Board and periodically reviewed, taking especially into account the historical imbalances in and the urgency of funding for adaptation.

*The G77 and China have revised the required level of funding, based on recent scientific and economic information, to the equivalent of at least 1.5% of GNP of Annex I Parties

A. Contributions by developed countries

The Convention provides that "**developed country Parties and other developed Parties included in Annex II" shall provide financial resources** (Article 4.3) and confirms that "the extent to which developing country Parties will effectively implement their commitments under the Convention will depend on the effective implementation by developed country Parties of their commitments under the Convention related to financial resources and transfer of technology" (Article 4.7).

[54] UNFCCC, *G77 and China Proposal: Financial Mechanism for Meeting Financial Commitments under the Convention*, Accra, Ghana, United Nations, August 2008. Available from http://unfccc.int/files/kyoto_protocol/application/pdf/g77_china_financing_1.pdf.

The **balance of commitments in the Convention reflects the principles of "equity and common but differentiated responsibilities and respective capabilities"** (Preamble and Articles 3.1 and 4.1). These, in turn, reflect a recognition that "the largest share of historical and current global emissions of greenhouse gases has originated in developed countries, that per capita emissions in developing countries are still relatively low and that the share of global emissions originating in developing countries will grow to meet their social and development needs" (Preamble).[55]

The Convention makes clear that the countries that are legally required to provide financial resources are those included in Annex II of the Convention (i.e. the "developed country Parties" excluding the countries that are undergoing the process of transition to a market economy). In **the Bali Action Plan, Parties agreed to launch a process to enable the "full, effective and sustained implementation of the Convention"**. Implementing the financing provisions of the Convention is a key component of this effort.

B. New and additional contributions

Financial **contributions by the developed countries are to be "new and additional"** to enhance action in a range of areas including adaptation, mitigation, forest management, technology transfer and capacity building (in accordance with Article 4, paragraphs 3, 4 and 5, and other relevant provisions).[56]

To enhance action on climate change, **financial contributions must occur in practice and not merely on paper**. They should not merely be a recycling of "old" financial pledges or contributions (i.e. they must be "new"). And they should not merely involve double counting of other commitments, including official development assistance (i.e. they must be "additional"). Reflecting this, the G77 and China has called for financial resources that are "new and additional financial resources, which is over and above ODA".[57]

Developing modalities for evaluating whether financing is new and additional is a priority, particularly in light of the fact that **emerging information suggests that a substantial proportion of "pledged" finance is neither new nor additional**. Of Germany's pledged €1,260 million, for example, Oxfam reports that only €70 million in 2010 will be new and additional, and all will be counted towards ODA commitments, thereby diverting money from traditional development priorities such as health and education.[58] For 2011 and 2012 the German government now intends to cut the €70

[55] Some developed countries, particularly the United States, argue that the world has changed since the Rio Earth Summit was held in 1992, that countries' capabilities have developed, and that the principle of common but differentiated responsibilities "expresses the notion of a continuum of responsibilities and capabilities among countries". As noted in the Convention, however, climate change is the result of historical emissions the majority of which originated in the developed countries. Moreover, according to the International Energy Agency (IEA), per capita emissions from fossil fuels in Annex I countries averaged over 11 tons in 2007, versus 2.7 tons in non-Annex I countries. And some developed countries, in particular the United States, have increased their emissions since 1992.

[56] The Copenhagen Accord confirms that "Scaled up, new and additional, predictable and adequate funding as well as improved access shall be provided to developing countries, in accordance with the relevant provisions of the Convention, to enable and support enhanced action on mitigation, including substantial finance to reduce emissions from deforestation and forest degradation (REDD-plus), adaptation, technology development and transfer and capacity-building, for enhanced implementation of the Convention". See Copenhagen Accord, 18 December 2009, p. 3, para. 8.

[57] UNFCCC, *G77 and China Proposal: Financial Mechanism for Meeting Financial Commitments under the Convention*, Accra, Ghana, United Nations, August 2008. Available from http://unfccc.int/files/kyoto_protocol/application/pdf/g77_china_financing_1.pdf.

[58] Jan Kowalzig, *Chancellor Merkel's Copenhagen Promise: 1.26 billion Euros in Fast Start Finance 2010-2012*, Oxfam Germany Briefing Note (June 2010).

million and instead count funds loaned to developing countries via the World Bank (which would have to be repaid by developing countries).[59] Based on this, Oxfam concludes:

> Not only does this mean the government counts, towards its Copenhagen promise, loans that will have to be paid back by poor countries. Also there will be not a single new and additional Euro in Germany's fast start finance to developing countries, in clear contradiction to the spirit of the agreement reached in Copenhagen late last year.[60]

To ensure financing of the level and kind required, and to satisfy the requirements of the Convention, **financial contributions should be evaluated against a set of relatively basic criteria**.

- **They should be "new"**. Developed countries should clearly identify how their financial contributions are over and above climate funds previously pledged or allocated. Where financial contributions are composed of new funds and funds that have been previously pledged or allocated, the component that is new should be clearly identified.

- **They should be "additional"**. Developed countries should clearly identify how their financial contributions are over and above agreed international ODA targets. Doing so is necessary to address the incentive merely to "re-label" existing budget-lines as "climate finance" (resulting in additional resources on paper, but not in practice), or to shift resources away from traditional development priorities such as health, sanitation and education (resulting in a reduction of resources for these priorities).

- **They should involve "the provision of financial resources"**. Developed countries should demonstrate their financial contributions are provided to developing countries from sources envisaged by the Convention (i.e. in Articles 4, 7 and 11). This does not include carbon markets which, by contrast, finance compliance by Annex I countries with their own mitigation commitments (i.e. Article 4.2 and the Kyoto Protocol), and are addressed under the Clean Development Mechanism (CDM) and do not constitute the provision of new and additional financial resources for implementation by developing countries of their commitments (i.e. under Article 4.1 etc).[61]

- **They should be provided on a "grant or concessional basis"**. Developing countries have stated that financial contributions should be principally in the form of grants. To the extent concessional finance is provided, only the grant or concessional element should be counted as new and additional (as is the historical practice of key donors).

As a first step towards enhanced transparency and accountability in the provision of financial resources, the developed countries should clarify in relation to their **proposed**

[59] Ibid.
[60] Ibid.
[61] A clear firewall should be maintained between discussions of public funding to enable compliance by non-Annex I countries with their commitments (i.e. funding through the financial mechanism to enable developing countries to meet their commitments under Article 4.1 of the Convention) and market-related funding to enable compliance by Annex I countries with their mitigation targets (i.e. funding through the CDM and other market-based mechanisms to enable developed countries to meet their mitigation commitments under Article 4.2 of the Convention and the Kyoto Protocol). The purpose, nature and legal basis of these funds are distinct.

short-term financial contributions (i.e. 2010-2012): 1) the proportion that was pledged before Copenhagen, and the proportion that was pledged as a result of discussions in Copenhagen, and so is “new”; 2) the proportion that is over and above ODA commitments (both 0.7 per cent Gross National Income (GNI) and current levels), and so is “additional”; 3) the proportion that is grant-based versus concessional; 4) the proportion of any concessional finance that is additional, and the proportion that are loans to be repaid; 5) the proportion that is for adaptation and mitigation; and 6) the proportion that is to be provided through the UNFCCC financial mechanism versus “other channels”. Based on this information, which could be compiled by the Secretariat before Cancun, Parties can evaluate more accurately the extent to which financing is “new and additional” public financing for climate change in the terms established by the Convention.

In relation to their **proposed longer-term financial contributions** (i.e. 2017 or 2020), developed countries should additionally clarify the proportion they expect to “mobilize” from various sources including the following:

- **From developing countries versus developed countries** (The EU, for instance, had stated that of the €100 billion proposed prior to Copenhagen around 40 per cent would be mobilized from public and private sources in developing countries)[62];
- **From carbon markets** thereby funding compliance with their own mitigation commitments (The EU has stated that around 20-40 per cent of their previously proposed €100 billion would be funded via carbon markets[63]; and has more recently confirmed that carbon markets could deliver up to €38 billion by 2020[64]); and
- **From international public sources**. Of this, developed countries should clarify the extent to which they will supply these sources, and the extent to which they are proposing that developing countries contribute to these sources (e.g. through “innovative mechanisms”), thereby funding their own adaptation and mitigation.

On the basis of this information, **Parties can then have an informed discussion about the level of new and additional public financial resources that developed countries are actually proposing to provide** (i.e. the amount “available” in terms of Article 11.3(d)) as well as the aggregate level of financing that is “necessary” for the implementation of the Convention (i.e. in terms of the discussion of scale above) in order to determine whether proposed financing levels are adequate.

C. Adequate and predictable contributions

The Convention provides that the implementation of **financing commitments “shall take into account the need for adequacy and predictability in the flow of funds”** (Article 4.3). The determination of what is “adequate” requires an evaluation of:

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[62] See European Commission, *Stepping up International Climate Finance: A European Blueprint for the Copenhagen Deal,* Commission Staff Working Document (2009).

[63] Ibid.

[64] European Commission, *International climate policy post-Copenhagen: Acting now to reinvigorate global action on climate change*, Communication from the Commission to the European Parliament, The Council, The European Economic and Social Committee and the Committee of the Regions, COM(2010) 86 final, Brussels 9.3.2010, p. 11.

- **What funding is "necessary" for the implementation of the Convention?** What scale of financial resources is required to address the various *thematic areas* (i.e. adaptation etc), the *nature of costs* to be covered (i.e. full, incremental, etc), and the *level of costs* in light of intended actions and the objective of the Convention?
- **What funding is "available" for the implementation of the Convention?** What scale of financial resources is currently available or pledged? Of the amounts pledged, how much of this is genuinely new and additional?
- **How does "available" funding measure against the yardstick of what is "necessary"? In other words, is it "adequate"?** Where "available" funding meets or exceeds the level of what is "necessary" it can be said to be "adequate" for the purposes of the Convention. Where it does not, it can reasonably be characterized as "inadequate". To the extent that there is a difference between what is "available" and what is "necessary", Parties will need to discuss the means available to close the finance gap and to ensure that the flow of funds is adequate and predictable.

It seems clear that a **substantial financing gap currently exists**. The Bali Action Plan acknowledged this when it called for "enhanced action on the provision of financial resources and investment". As noted, even studies that fail to meet the basic standards of completeness, adequacy, equity or consistency (noted above) estimate the cost of climate change to be in the multiple hundreds of billions of dollars. More recent estimates of potential future climate-related damage are denominated in trillions.

Measured against any reasonable standard **the $100 billion per year that Annex I countries have pledged to "mobilize" by 2020 thus fails to meet the standard of adequacy**. The amount that would be "available" based on their pledges, in other words, falls substantially sort of any reasonable estimate of the level that is "necessary" for the implementation of the Convention.[65]

The **finance gap is likely to be even larger in light of the apparent intention of some developed countries** to "mobilize" funding by repackaging existing funds; double-counting ODA; counting the full value of loans requiring repayment as "additional" finance; conflating carbon-market finance designed to meet their own mitigation commitments with financing for developing countries; counting the full value of funding through "innovative mechanisms" to which developing countries contribute; and/or conflating financing provided by developed countries with financing they "mobilize" from public and private sources in developing countries.

The challenge for Parties in the run up to Cancun is **how to raise the level of ambition on financing and close the financing gap**, to ensure that the aggregate level of new and additional resources measures up to the yardstick of funding that is necessary for the implementation of the Convention. **Achieving this requires a more accountable and transparent system** for securing and validating compliance by developed countries with their financial commitments and mobilizing funding from both traditional and innovative sources.

[65] This is true even if one were to disregard the apparent intention of some developed countries to repackage existing funds, to double-count ODA, to count the full value of loans which must be repaid as "additional" finance, to conflate carbon-market finance designed to meet their own mitigation commitments with financing for developing countries, to count the full amount of funding through "innovative mechanisms" to which developing countries contribute, or to conflate financing provided by developed countries with financing they "mobilize" from public and private sources in developing countries.

D. Assessed contributions and "innovative sources"

The **responsibility for meeting financial commitments under the Convention lies squarely with the developed countries** listed in Annex II of the Convention. Recognition in the Bali Action Plan of the need for "enhanced action on the provision of financial resources" is recognition of the need for enhanced efforts to implement these commitments.

The Convention's provisions relating to adequacy and predictability of financing (Article 4.3), as well as the need for "appropriate burden sharing among the developed country Parties" (Article 4.3), point to the **need for a more systematic method for assessing and allocating the responsibility among the developed countries** to provide adequate and predictable, new and additional financial resources. Such a basis must provide greater transparency and accountability.

A more systematic method should address financing on at least three levels:

- **The scale of financing required in aggregate.** As noted, this relates to the total scale of financing necessary for the implementation of the Convention and **the need for agreement first on the aggregate scale of financing required, and a clear metric against which to benchmark this level**. One approach, proposed by the G77 and China, is to denominate the necessary level of financing as a proportion of the GDP of the Annex I countries. A similar approach has been adopted by the international community in relation to ODA, which has been set in a UN General Assembly resolution and confirmed in other international instruments as the equivalent of 0.7 per cent of GNI. Another approach, reflected in the Copenhagen Accord, is to denominate it in a specific currency (e.g. US dollars). A third approach would be to use a basket of currencies. The approach proposed by the G77 and China offers the advantages of not favoring a particular currency or currencies, and of avoiding risks associated with inflation and currency devaluation.

- **The contribution of individual developed countries to the aggregate amount of financing**. Ensuring **"appropriate burden sharing among developed country Parties" can be assured through the development of a scale of assessed contributions**, similar to the practice elsewhere within the United Nations. The Montreal Protocol, for example, uses the UN scale as the basis for contributions to the Multilateral Fund. Such an approach improves (though does not ensure) that financial contributions are adequate and predictable. And it facilitates an equitable allocation of the responsibility for meeting financial commitments.

- **The role of "innovative sources" of financing in contributing to the aggregate amount.** This reflects discussions among Parties of ways to harness non-traditional sources of financing (see box). The use of innovative sources provides one means to circumvent the traditional budgetary constraints faced by developed country governments, and provides a means to help them meet their commitments. **Funds raised through "innovative sources" could, for instance, be attributed to developed countries to assist them to meet a proportion of their assessed contributions**. Some innovative sources – such as special drawing rights or SDRs – offer considerable promise (notably the GEF

> explicitly allows contributing Parties to denominate their contributions in SDRs).[66] Some other innovative sources – such as levies on international air or marine transport – may risk shifting the burden of financing to developing countries in a manner that is unfair and otherwise inconsistent with the provisions of the Convention. The appropriateness of each "innovative source", and the appropriate relationship between these sources and the commitments of developed countries, will require careful consideration on a case-by-case basis.

The High-Level Advisory Group on Climate Change Financing, which was established by the UN Secretary-General, is currently examining issues regarding sources of climate finance. The group is mandated to "conduct a study on potential sources of revenue for the scaling up of new and additional resources from developed countries for financing actions in developing countries, in the spirit of the political commitments contained in the Copenhagen Accord, with a view to contributing to an appropriate decision of the UNFCCC Conference of the Parties at its 16th session in Mexico".[67] The report of the group can provide one source of information on sources of climate finance for consideration by Parties, among others. However, **care should be exercised to ensure that the High Level Advisory Group's recommendations are consistent with the Convention** and are not used to prejudge the outcome of the negotiations (e.g. by focusing unduly on the $100 billion pledged in the Copenhagen Accord, which has no legal basis under the UNFCCC).

In the context of ongoing negotiations, Parties should seek to implement the accountable, transparent and principled approach envisaged in the Convention, in which the Conference of the Parties and the operating entity of the financial mechanism establish arrangements for the "determination in a predictable and identifiable manner of the amount of funding necessary and available for the implementation of this Convention and the conditions under which that amount shall be periodically reviewed". Ultimately, **the provision of assessed contributions drawing on *both* traditional sources and "innovative sources" will be required as part of the major effort to scale up financial resources** in order to cope with the adverse effects of committed climate change, and to curb emissions by 2015 or 2020 and avoid further dangerous interference with the climate system.

E. Contributions through bilateral, regional and other multilateral channels

The Convention envisages the provision of financial resources for the implementation of the Convention through its financial mechanism established in Article 11 (see box). It also states:

> The developed country Parties may also provide and developing country Parties avail themselves of, financial resources related to the implementation of the Convention through bilateral, regional and other multilateral channels (Article 11.5).

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[66] Global Environment Facility, Instrument for the Establishment of the Restructured Global Environment Facility (Annexing International Bank for Reconstruction and Development, Executive Directors' Resolution No. 2006-0008), p. 89, para. 5. For further information on SDRs as a source of climate finance *see* ActionAid, *What are Special Drawing Rights and how can they be used to finance climate adaptation and mitigation?* (June 2010) and ActionAid/TWN, *Fruits of the Crisis: Leveraging the Financial & Economic Crisis of 2008-2009 to Secure New Resources for Development and Reform of the Global Reserve System* (January 2010), and Climate Analytics, *Climate Finance: Using SDRs to finance climate change mitigation and adaptation,* Briefing Paper (December 2009).

[67] Available from http://www.un.org/wcm/content/site/climatechange/pages/financeadvisorygroup/tors.

The relationship between financial resources provided through the financial mechanism and its operating entities, and financial resources that “relate to the implementation of the Convention” through bilateral, regional and other multilateral sources, requires further consideration as part of a coherent architecture.

It is clear from the provisions of the Convention that **the principal means for providing climate finance is the Convention’s financial mechanism**, with “other channels” providing resources “related to the implementation of the Convention”. The Conference of the Parties has addressed the appropriate relationship between the financial mechanism and activities outside the mechanism:

> Consistency should be sought and maintained between activities (including those related to funding) relevant to climate change undertaken outside the framework of the financial mechanism and the policies, programme priorities and eligibility criteria for activities as relevant, established by the Conference of the Parties. (Decision 11/CP.1)

How consistency is achieved in practice requires further consideration, and is addressed below in the section on governance and the relationship between a new fund and other entities.

Article 11: Financial Mechanism

1. A mechanism for the provision of financial resources on a grant or concessional basis, including for the transfer of technology, is hereby defined. It shall function under the guidance of and be accountable to the Conference of the Parties, which shall decide on its policies, programme priorities and eligibility criteria related to this Convention. Its operation shall be entrusted to one or more existing international entities.

2. The financial mechanism shall have an equitable and balanced representation of all Parties within a transparent system of governance.

3. The Conference of the Parties and the entity or entities entrusted with the operation of the financial mechanism shall agree upon arrangements to give effect to the above paragraphs, which shall include the following:

(a) Modalities to ensure that the funded projects to address climate change are in conformity with the policies, programme priorities and eligibility criteria established by the Conference of the Parties;

(b) Modalities by which a particular funding decision may be reconsidered in light of these policies, programme priorities and eligibility criteria;

(c) Provision by the entity or entities of regular reports to the Conference of the Parties on its funding operations, which is consistent with the requirement for accountability set out in paragraph 1 above; and

(d) Determination in a predictable and identifiable manner of the amount of funding necessary and available for the implementation of this Convention and the conditions under which that amount shall be periodically reviewed.

VII. USES OF FINANCE

Ensuring clarity about how financial resources will be accessed and applied in practice and the results they will achieve is a principal concern of donors and recipients alike. Ensuring the effective use of climate finance requires, among other things, streamlined procedures for accessing it, effective and accountable national institutions, and arrangements for engaging relevant stakeholders in the design and implementation of activities. Key issues to be addressed include:

- How to ensure **direct access to funds** while enabling the support of regional or multilateral agencies if developing countries so desire?
- What **categories of activities** should be covered (e.g. projects, programmes, plans)?
- Which **countries** are eligible for funding and how should needs be prioritized in practice?
- How should **other entities** be involved, including international, regional and non-governmental organizations?
- What **arrangements at the national level** can help to catalyze and support effective action?

A. Direct access

Developing countries have identified the need for direct access to funds in order to streamline the use of financial resources, improve efficiency and effectiveness, and circumvent the challenges that have arisen with the current system.

Among other things **this demand reflects many developing countries' experience with the GEF** and the challenges of accessing financial resources through the participation of "implementing agencies" such as the World Bank, regional development banks and various UN agencies. As early as 1996, the Conference of the Parties adopted a decision:

> *Expressing concern* over the difficulties encountered by developing country Parties in receiving the necessary financial assistance from the Global Environment Facility owing to, *inter alia*, the application of the Global Environment Facility operational policies on eligibility criteria, disbursement, project cycle and approval, the application of its concept of incremental costs, and guidelines which impose considerable administrative and financial costs on developing country Parties[68]

Concerns have been repeated in subsequent decisions of the Conference of the Parties (see Annex 1). As recently as 2008, the Conference of the Parties invited the GEF "to consider the views of, and any concerns expressed by, Parties regarding their current experiences with the Global Environment Facility and its implementing agencies in relation to the provision of financial support for the preparation of national communications from non-Annex I Parties…"[69]

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[68] UNFCCC, *Guidance to the Global Environment Facility,* Decision 11/CP.2, 1996.
[69] UNFCCC, *Additional Guidance to the Global Environment Facility,* 7/CP.13, 2008. (The GEF's inadequate response to guidance

In terms of institutional examples of direct access to funding, **the Adaptation Fund allows eligible Parties to submit their project proposals directly to the Adaptation Fund Board** and provides that implementing or executing entities chosen by governments that are able to implement the projects funded under the Adaptation Fund may also approach the Adaptation Fund Board directly (Decision 1/CMP.3). This approach offers host countries the flexibility to access funds directly, to use the services of a multilateral entity, or to nominate an appropriate regional or sub-regional entity to support them (the approach is discussed further below under "eligible entities").

B. Plans, programmes and projects

The Fund Instrument or subsequent guidelines will need to provide direction on coverage of the **plans, programmes and projects that are eligible for financial resources in each of the thematic areas** that are covered by the Fund.

In each thematic area, **eligibility criteria** will be required to provide clear guidance on the types of activities that are entitled to the provision of financial resources. These will need to be tailored to reflect:

- **The specific thematic area.** The eligibility criteria for forest-related activities, for example, will differ from those for renewable energy, transportation or agriculture. Clear criteria tailored to each thematic area will help to target financing and facilitate access.
- **The scale of activity.** Within each thematic area, eligibility criteria will need to reflect requirements of activities at different levels (e.g. project, programmatic and national planning levels).

As is the case with other funds, an enhanced mechanism should enable **activities at a range of different levels** including:

- **Specific concrete projects.** Financial resources will be required to enable individual projects comprising a set of specific, concrete activities that are defined clearly in terms of their scope, timing and expected results.
- **Larger overarching programmatic initiatives.** Financial resources will be required to support the development of a program of specific investments and activities within a specific thematic area such as adaptation, forest management, renewable energy, transportation, agriculture and other relevant sectors.
- **National planning and communications.** In many cases, financial resources will also be required to enable developing countries to strengthen their efforts at the cross-sectoral and national level to integrate climate change into relevant planning.

A **streamlined approval process** will enable effective disbursement of financial resources. One key component is the distinction between small and large-scale activities, with simplified criteria and procedures for small-scale activities. Additionally, to streamline access, funding approvals can be made by the mechanism on an

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issued by the Conference of the Parties arises from a number of factors, including that it serves a range of Conventions under the authority of the GEF Council, rather than operating directly under the authority of the Conference of the Parties. The GEF has recently sought to enhance access to financing. The extent to which it has addressed the concerns identified by developing countries in practice will need to be evaluated in further reviews of the financial mechanism.)

intercessional basis and communicated via mail or other media, as is the case with the Climate Investment Funds.

In practice, the capacity of developing countries to raise and programme financial resources will depend on effective national organization and planning. As a result, many developing countries have developed (or are in the process of developing) **comprehensive national initiatives** to address climate change with the support of new and additional financial resources.[70] By setting clear national objectives, and defining specific projects and programmes for funding, these can improve the capacity of developing countries to access resources in practice.

C. Eligible countries

It is clear under the Convention that **all developing countries are eligible to receive financial resources.** Article 4.3 of the Convention refers to the provision of financial resources to "developing country Parties" without offering a distinction among developing countries as to their eligibility for financial resources.

Consequently, all developing countries are entitled to receive financial resources for the implementation of measures set out in Article 4.1 – including those relating to adaptation, mitigation (including forests), technology development and transfer, and capacity building – as well as for national communications in accordance with Article 12.1. In so far as activities are covered by these Articles, **any attempt to formally narrow the category of countries eligible for financing runs counter to the letter and spirit of the Convention** (e.g. through new language specifying a subset of countries). It also runs counter to the Bali Action Plan, which mandates negotiations to implement (not to alter) the Convention.

At the same time, the Convention calls for **consideration of the specific needs and concerns of countries in certain situations**. It states, for example, that developed countries "shall also assist the developing country Parties that are particularly vulnerable to the adverse effects of climate change in meeting costs of adaptation to those adverse effects" (Article 4.4). It calls for full consideration of actions necessary to meet the "specific needs and concerns" of countries in certain vulnerable situations (Article 4.8, see box). And it requires full account of the "specific needs and special situations" of the least developed countries (Article 4.9).

Striking a balance between these requirements – i.e. the rights of all developing countries and the needs of those in specific situations – is **best achieved at an operational level through fund guidelines and other modalities**.[71] The Adaptation Fund Board, for instance, has discussed a range of practical ways to prioritize allocation if resources are not sufficient to meet demand. Responding at an operational (rather than legal) level reduces the risk of narrowing the rights of developing countries under the Convention, while enabling approaches that are tailored to the needs and concerns of

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[70] For example, the various National Adaptation Programmes of Action (NAPAs) that have been submitted by Least-Developed Countries as part of the implementation of Decisions 1/CP.10 and 5/CP.7, as listed in http://unfccc.int/cooperation_support/least_developed_countries_portal/submitted_napas/items/4585.php.

[71] The tendency, driven principally by the developed countries, to seek to formalize new categories of countries – such as a new "most vulnerable country" grouping – is difficult to reconcile either with the provisions of the Convention or with the collective long-term interest of developing countries. A better approach is to address the needs of developing countries through guidelines (e.g. on vulnerability) to be applied pragmatically at an operational level as has been the approach preferred under the Adaptation Fund.

countries in different thematic areas, as well as the needs and concerns of identified categories of countries (e.g. the LDCs).

Article 4.8 of the Convention

In the implementation of the commitments in this Article [4], the Parties shall give full consideration to what actions are necessary under the Convention, including actions related to funding, insurance and the transfer of technology, to meet the specific needs and concerns of developing country Parties arising from the adverse effects of climate change and/or the impact of the implementation of response measures, especially on:

(a) Small island countries;

(b) Countries with low-lying coastal areas;

(c) Countries with arid and semi-arid areas, forested areas and areas liable to forest decay;

(d) Countries with areas prone to natural disasters;

(e) Countries with areas liable to drought and desertification;

(f) Countries with areas of high urban atmospheric pollution;

(g) Countries with areas with fragile ecosystems, including mountainous ecosystems;

(h) Countries whose economies are highly dependent on income generated from the production, processing and export, and/or on consumption of fossil fuels and associated energy-intensive products; and

(i) Landlocked and transit countries.

Further, the Conference of the Parties may take actions, as appropriate, with respect to this paragraph.

D. Eligible entities

As well as defining the basis upon which countries are eligible for funding, the Fund Instrument or associated guidelines should define the **entities eligible to submit proposals and to receive, manage and spend financial resources**. Eligible entities will typically be national legal entities formally nominated by the Parties, but a range of options is possible:

- **Official national entities**. A government ministry or ministries will typically serve as the official national entity for the purposes of engaging with the Fund (i.e. submitting proposals, receiving financial resources, reporting etc). This may also extend to inter-ministerial commissions and government cooperation agencies, as is the case under the Adaptation Fund.[72]
- **Sub-regional or regional entities.** Under the Adaptation Fund, a group of Parties may also nominate sub-regional and regional entities as implementing entities.[73] Under the SCF, funds are allocated to multilateral development banks before being disbursed to countries on a regional basis.[74]
- **Multilateral implementing entities.** In a number of funds, multilateral agencies are empowered to seek financial resources on behalf of countries. In the case of the Adaptation Fund, for example, multilateral implementing entities must receive an endorsement from a government who selects their services for use.[75]

[72] Adaptation Fund Board, *Operational Policies and Guidelines for Parties to Access Resources from the Adaptation Fund*, p. 6, para 26.
[73] Ibid, p. 8, para. 28.
[74] Climate Investment Funds, *Governance Framework for the Strategic Climate Fund*, p. 14, paras. 49 and 50.
[75] Adaptation Fund Board, *Operational Policies and Guidelines for Parties to Access Resources from the Adaptation Fund*, p. 6, para 26.

- **Non-government entities**. For certain thematic areas or categories of activities (e.g. small grants) approved non-government entities could be entitled to propose activities for financial support.

In all cases, the principal entity – usually a national agency that is officially appointed – would need to be approved by the Fund Board and satisfy certain basic fiduciary standards agreed collectively. Ultimately, **the agreed entity will bear final responsibility** for the overall management of the financed activities and for compliance with relevant financial, monitoring and reporting responsibilities.

E. Country coordinating mechanisms

Effective national cooperation can help to ensure the early and effective uptake of available financial resources and maximize their results. Ultimately, **cooperation among numerous actors – across different sectors and at the local, regional and national level – will be necessary** to scale up actions to address climate change. Mechanisms to catalyze and structure cooperation have played a key role in what are often regarded as the most successful funds, including the Multilateral Fund and Global Fund.

The **success of the Montreal Protocol has in no small part had to do with strong support for effective national cooperation.** Parties to the Montreal Protocol have undertaken substantial efforts to engage stakeholders, with most Parties operating national steering committees involving representatives of government ministries (e.g. agriculture, defense, environment, finance and industry), various industry associations, technical experts, non-governmental organizations and various international implementing agencies and bilateral donors.[76] Collaboration among stakeholders has been further supported through national "ozone offices" which serve as a focal point and engage with the Multilateral Fund and Ozone Secretariat. These focal points have been organized into nine regional and global networks to facilitate the exchange of information, best practices and technology transfer.[77] They also engage with relevant bodies under the Montreal Protocol, including the Technical Options Committees (organized around key sectors) and an overarching Technical and Economic Assessment Panel (comprising the co-chairs of each of the options committees and other experts). Together, this constellation of institutions has enabled effective cooperation in the implementation of the Montreal Protocol, with the support of financial resources provided through the Multilateral Fund.

The Global Fund's "country coordinating mechanism" provides an effective model to enhance national cooperation. According to Global Fund documentation:

> The Global Fund recognizes that only through a country-driven, coordinated and multi-sector approach involving all relevant partners will additional resources have a significant impact on the reduction of infections, illness and death from the three diseases. Thus, a variety of actors, each with unique skills, background and experience, must be involved in the development of proposals and decisions on the allocation and utilization of Global Fund financial resources. To achieve this, the Global Fund expects grant proposals to be coordinated among a broad range of

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[76].K. Madhava Sarma, Stephen O. Andersen, and Kristen N. Taddonio, "Lessons from the Success of the Montreal Protocol", in *The Montreal Protocol: Celebrating 20 Years of Environmental Progress* (Cameron & May, 2007), p. 134.
[77] Ibid.

> stakeholders through a Country Coordinating Mechanism (CCM), and that the CCM will monitor the implementation of approved proposals.[78]

Country Coordinating Mechanisms have played a key role in developing proposals and overseeing the use of resources provided by the Global Fund. Their functions include coordinating the submission of national proposals, selecting organizations as “principal recipient” for grants, monitoring implementation, evaluating performance and ensuring consistency with other priorities. The Global Fund recommends that countries strive to include in their Country Coordinating Mechanisms representatives from: government; the academic and educational sector; non-governmental organizations (NGOs) and community-based organizations; people living with HIV/AIDS, TB and/or Malaria; key affected populations; private sector; religious and faith-based organizations; and multilateral and bilateral development partners in-country. Underpinning the role of country coordinating mechanisms is the need to promote true partnerships and engage a wide range of stakeholders in identifying gaps and finding solutions to the challenges addressed by the Global Fund (See Annex 2).

The experience of the Montreal Protocol and Global Fund suggests that **a constellation of formal and informal institutions – involving different stakeholders, sectors and levels of organization – is a key ingredient of success**. In the case of climate change, these institutions include the formal arrangements of the UNFCCC financial mechanism – i.e. its operating entities, funds, trustees, secretariat, expert panels and so on. It also includes the informal networks and partnerships that are required for effective action in practice. Designing these institutions raises a range of questions about the “governance of finance”.

[78] The Global Fund, *Guidelines and Requirements for Country Coordinating Mechanisms,* p. 1.

VIII. GOVERNANCE OF FINANCE

Effective climate action requires effective climate governance. Well-designed institutions can help to catalyze action within and between different sectors, support effective cooperation among public, private and non-profit actors, align the interests of donors and recipients and integrate actions at the local, regional and global levels.

If climate change is truly among the great issues of our time, then the institutions designed to address it must be adequate to the task. They must enable emissions to peak and decline within the next five or ten years to avoid dangerous warming, while enabling adaptation and advancing economic and social development.

Curbing warming and enabling effective action will require a mobilization on a scale not undertaken by the international community outside of wartime. It will require moving beyond politics as usual. The scale of finance that is to be mobilized, managed and applied considerably exceeds the level of finance traditionally managed by international institutions, including the World Bank.

Effective governance of climate finance must be tailored to address the scale and specific characteristics of the problem or problems it is to address. It can build on experience with other sectors or issues. But it must ultimately be designed specifically in light of the peculiar character and complexity of the challenge presented by climate change.

Operationalizing the financial mechanism of the Convention will require a constellation of effective institutions, building on the experience of current institutions and approaches. In this context, the **G77 and China has identified the need for a set of institutions operating under the authority of the Conference of the Parties with the goal of bringing about "coherence in the global financial architecture"**. These include:

- A **fund board** with an equitable and balanced representation of Parties;
- A set of specialized **funds and funding windows** under its governance;
- A **trustee or trustees** selected through a process of open bidding;
- A **secretariat** of professional staff contracted by the Board;
- An **expert group** or committee for each of the separate funds, to be supported by a technical panel or panels;
- A **consultative or advisory group** of relevant stakeholders;
- An independent **assessment panel**; and
- Modalities for determining the **role of existing funds and entities**.

The role and function of various institutions and their possible arrangement as a centerpiece of a more effective coherent global financial architecture is discussed below drawing on the experience of other international funds.

G77 and China Finance Proposal: Aims of Financial Mechanism

1. The mechanism will recognise, promote and strengthen the significance of engagement at the country level, in order to give effect to the principles of a country-driven approach, and direct access to funding and enable the implementation of this.

2. The mechanisms should enable a shift from a project-based approach when dealing with proposals for funding, to a programmatic approach, where appropriate, in order to make optimal use of the full range of means of implementation available and to allow for implementation at scale.

3. The mechanism would facilitate linkages between the various funding sources and separate funds in order to promote access to the variety of available funding sources and reduce fragmentation.

4. The mechanism would maintain consistency with the policies, programme priorities, and eligibility criteria adopted by the decisions of the COP and all "activities (including those related to funding) relevant to climate change undertaken outside the framework of the financial mechanism" consistent with Decision 11/CP.1, op. para 2(a).

A. Fund board

At the hub of an enhanced financial mechanism is a new fund operating directly under the authority of the Conference of the Parties. **The fund would be governed by a Fund Board, which would function as an "operating entity" of the financial mechanism for the purposes of Article 11**.

In designing an effective Fund Board, a range of questions must be addressed. These include:

- How should the board be **composed**?
- What **functions** should it serve?
- How should its **officers** be selected?
- What rules should govern **decision-making**?
- What rules should govern **meetings** and **observers**?
- What rules should govern **transparency, confidentiality** and **conflict of interests**?

Issues such as these are to be addressed in an appropriate Fund Instrument establishing and defining the Fund as well as through further guidelines and other documents elaborated by the Fund Board once it is established.

G77 and China Finance Proposal: Design and Structure (Fund board)

2. The COP will appoint a Board, which shall have an equitable and balanced representation of all Parties within a transparent and efficient system of governance…

Composition

Parties can draw on the example of other funds when defining the **composition of the Fund Board** (and of any sub-committees to the Fund Board as appropriate):

- **Global Environment Facility**: The GEF Council consists of 32 Members, with 16 Members from developing countries, 14 Members from developed countries and 2 Members from the countries of central and Eastern Europe and the former Soviet Union.[79]

[79] Global Environment Facility, *GEF Council.* Available from http://www.thegef.org/gef/council.

- **Adaptation Fund**: The Adaptation Fund Board comprises 16 members representing Parties to the Kyoto Protocol as follows: a) two representatives from each of the five United Nations regional groups; b) one representative of the small island developing States; c) one representative of the least developed country Parties; d) two other representatives from the Parties included in Annex I to the Convention (Annex I Parties); and e) two other representatives from the Parties not included in Annex I to the Convention (non-Annex I Parties).[80]
- **Multilateral Fund**: The Executive Committee shall consist of seven Parties from the group of Parties operating under paragraph 1 of Article 5 of the Protocol (i.e. developing countries) and seven Parties from the group of Parties not so operating (i.e. developed countries). Each group shall select its Executive Committee members. Seven seats allocated to the group of developing countries shall be allocated as follows: two seats to Parties of the African region, two seats to Parties of the region of Asia and the Pacific, two seats to Parties of the region of Latin America and the Caribbean, and one rotating seat among the regions referred, including the region of Eastern Europe and Central Asia. The members of the Executive Committee shall be endorsed by the Meeting of the Parties.[81]
- **Global Fund**: The Foundation Board consists of twenty voting members and six non-voting members. Voting members consist of: a) seven representatives from developing countries, one representative based on each of the six World Health Organization regions and one additional representative from Africa; b) eight representatives from donors; c) five representatives from civil society and the private sector. Non-voting ex-officio members consist of: a) one representative from the WHO; b) one representative from UNAIDS; c) one representative from the Partners constituency; d) one representative from the trustee; e) one Swiss citizen (to act on behalf of the Foundation to the extent required by Swiss law); and f) the Executive Director of the Foundation.[82]
- **Climate Investment Funds**: The CTF and SCF Trust Fund Committee each consists of: a) eight representatives from contributor countries (or groups of such countries) making minimum contributions to the fund, identified through a consultation among such contributors; b) eight representatives from eligible recipient countries (or groups of such countries), identified through a consultation among interested eligible recipient countries; c) a senior representative of the World Bank, recognizing the role of the World Bank as the overall coordinator of the CIF partnership; and d) a representative of the Multilateral Development Banks (MDBs), identified by the MDB Committee for each meeting of the CTF Trust Fund Committee on the basis of rotation among the MDBs. The CTF Committee additionally includes a representative of a recipient country, during deliberations by the Committee on that country's investment plan, program or project.[83] Donor and recipient countries are decision-making Members; other participants (i.e. the representative of the World Bank, the MDBs and, in the case of the CTF, the recipient country seeking finance) are non-decision making Members.

The experiences of other funds must be evaluated in light of the provisions of the

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[80] Adaptation Fund, *The Board.* Available from http://www.adaptation-fund.org/theboard.
[81] The Multilateral Fund Secretariat, *Policies, Procedures, Guidelines and Criteria,* p. 86.
[82] The Global Fund, *By-Laws – As Amended 5 May 2009,* p. 4.
[83] Climate Investment Funds, *Governance Framework for CTF,* p. 6, paras. 19 and 20.

Convention, which require, among other things, that "the financial mechanism shall have an equitable and balanced representation of all Parties within a transparent system of governance". **In terms of both equity and balance the Adaptation Fund arguably provides the most representative composition** by allocating membership in a balanced manner to regional groups (i.e. two members from each of the five UN regional groups) while also ensuring that particular groups, such as the small island states and least developed countries are equitably represented. The Adaptation Fund is also the first and only fund formally established under the auspices of the UNFCCC system and its Kyoto Protocol, which commends it as a precedent for a Fund Board operating directly under the Convention.

The Fund Board can also **establish a sub-committee for each of the fund's thematic areas** drawing on the experience of the other funds (see Annex 4). These would provide tailored guidance for each of the relevant Fund Thematic Areas (e.g. adaptation, mitigation, forests, technology etc), oversee the relevant Funds/Fund Windows, and report to the Fund Board on a regular basis.

The SCF Trust Fund, for instance, is required to establish a "SCF Sub-Committee for each of the SCF Programs" (i.e. the Pilot Program for Climate Resilience, the Program for Scaling-Up Renewable Energy in Low Income Countries, and the Forest Investment Program).[84] Each sub-committee is required to have at least one member that is also a member of the SCF Trust Fund Committee.

Building on the experience of the SCF (relating to adaptation, renewable energy and forests) and CTF (relating to technology) sub-committees might at a minimum include:

- A Sub-Committee on Adaptation;
- A Sub-committee on Mitigation;
- A Sub-committee on Forests; and
- A Sub-committee on Technology Transfer.[85]

Each of these Sub-Committees can reflect a composition and membership that is appropriate for its respective Thematic Area. The Sub-Committee on Adaptation could, for instance, build on the membership of the Adaptation Fund Board under the Kyoto Protocol (parallel membership and meetings could help to facilitate an effective and coherent approach to the delivery of adaptation financing under both the Convention and its Kyoto Protocol).

Functions

Fund boards generally undertake a **range of functions**. These reflect their nature, purpose and composition and usually include functions in the areas of:

- **Strategic planning and policymaking**. Developing, agreeing, reviewing and revising the fund's objectives, strategies, policies, programmes and guidelines in light of the guidance provided by any superior body such as the Conference of the Parties.

[84] Governance Framework for the SCF, p. 9, para. 26.

[85] The functions of the SCF and CTF Committees and Sub-Committees might be "rolled-over" into a new architecture under the UNFCCC in accordance with the sunset clauses included in the SCF and CTF Governance Framework, which each state "Recognizing that the establishment of the [Fund] is not to prejudice the on-going UNFCCC deliberations regarding the future of the climate change regime, including its financial architecture, the [Fund] will take necessary steps to conclude its operations once a new financial architecture is effective."

- **Financial operations**. Mobilizing, managing, allocating, disbursing and reviewing the use of the fund's financial resources to achieve its purpose.
- **Management and administration**: Overseeing the role and performance of the fund's major entities (e.g. trustee, secretariat) and officers (e.g. CEO, staff) to ensure the fund's effective and efficient operation.
- **Expert support**. Securing expert advice to support the management of the fund and its operations, and may involve establishing and overseeing various scientific and technical bodies (e.g. expert panels) designed to help the fund achieve its purpose.
- **Transparency and participation**. Liaising with a range of stakeholders (e.g. the public, affected communities) through both formal arrangements (e.g. partnership forums) and other means (e.g. dialogue, publications, website).
- **Evaluation and reporting**. The periodic review and reporting of the fund's operations (including the operation of its various entities and officers) to its superior entity (e.g. Conference of the Parties), governments and the public, and will often involve input from independent evaluators (e.g. auditors, review panels).
- **Coherence**. Engaging with other institutions that perform related functions, including other funds, implementing agencies and other public, private and non-profit bodies that work in areas related to the activities of the fund.

Some of these functions – such as setting priorities, strategies, policies and/or guidelines – may be shared with a superior entity such as the Conference of the Parties, in which case the scope of the Fund Board's functions may be defined in terms of providing advice or recommendations, or otherwise be limited to define an appropriate balance and hierarchy of responsibilities.

The **basic functions for the Conference of the Parties and the operating entity or entities entrusted with the operation of the Convention's financial mechanism** are set out in Article 11. These include agreeing on arrangements for:

- Modalities to ensure that the funded projects to address climate change are in **conformity with the policies, programme priorities and eligibility criteria** established by the Conference of the Parties;
- Modalities by which a particular **funding decision may be reconsidered** in light of these policies, programme priorities and eligibility criteria;
- Provision by the entity or entities of **regular reports to the Conference of the Parties** on its funding operations, which is consistent with the requirement for accountability set out in Article 11.1 of the Convention; and
- Determination in a predictable and identifiable manner of the **amount of funding necessary and available for the implementation of this Convention** and the conditions under which that amount shall be **periodically reviewed**.

Building on the requirements of the Convention, core functions of the Fund Board should at a minimum include:

- Ensuring that funded projects are in conformity with the policies, programme priorities and eligibility criteria established by the Conference of the Parties (Article 11.3(a));
- Ensuring funding decisions may be reconsidered in light of the policies, programme priorities and eligibility criteria established by the Conference of the Parties (Article 11.3(b));

- Providing regular reports to the Conference of the Parties on its funding operations (Article 11.3(c));
- Providing recommendations to the Conference of the Parties on the amount of funding necessary and available for the implementation of the Convention (Article 11.3(d));
- Providing support to the periodic review of the amount of funding necessary and available for the implementation of the Convention (Article 11.3(d));
- Assisting the Conference of the Parties in mobilizing financial resources in accordance with Article 4, paragraphs 3, 4 and 5, and Article 11 (Article 7.2(h)); and
- Providing recommendations on means to enhance consistency of activities undertaken outside the framework of the financial mechanism with the policies, programme priorities and eligibility criteria established by the Conference of the Parties (decision 11/CP.1);

Additionally, in terms of overseeing the operation of the Fund, and building on the practice of other relevant funds, the functions of the Fund Board could include:

- Overseeing the operation of the fund in light of its purposes, scope and objectives and periodically reviewing and approving the operating modalities of the fund;
- Providing recommendations on a balanced allocation of funding across thematic areas under the financial mechanism;
- Overseeing the operation of all relevant organs of the fund including the trustee, secretariat, sub-committees, implementing agencies, and expert, advisory and evaluation panels;
- Reviewing and approving the work programme of the fund and monitoring and evaluating progress in achieving it;
- Reviewing and approving the administrative budget of the fund and arranging for performance reviews and audits;
- Appointing and keeping under regular review all fund officers; and
- Exercising such other functions as are required for the effective operationalization of the Convention’s financial mechanism in accordance with the guidance by the Conference of the Parties.

In practice, the functions of the Fund Board should be set out in a Fund Instrument agreed by all Parties and further elaborated through other guidelines and operational modalities. They would be tailored to reflect the intended role of the Board vis-à-vis other institutions such as the Conference of the Parties, as well as other aspects of the mechanism such as its thematic areas, panels and other entities.

Officers

The offices of the Fund Board must be clearly defined, and filled by competent professionals. The **selection of officers – including its Members and its Chair (and co- or vice-Chairs) – is crucial to the success of the mechanism**. It has a significant bearing on the mechanism’s direction and continuity, its effectiveness and efficiency, and its accountability to its Parties and to other constituencies.

Board members represent different constituencies and vary in number between different funds. In the selected examples, they vary from fourteen members (Multilateral Fund) to twenty-six members (Global Fund). Board members are generally nominated by their constituency and elected or otherwise appointed collectively. In the case of the Adaptation Fund and Multilateral Fund the selection is agreed through an election/endorsement by the Meeting of the Parties to the Kyoto Protocol and the Montreal Protocol, respectively. Fund instruments generally include a range of requirements relating to board members. These address issues such as their selection, term, responsibilities and reappointment. For example:

- **Global Environment Facility**. Members and Alternate Members representing a constituency shall be appointed by the Participants in each constituency. Unless the constituency decides otherwise, each Member of the Council and each Alternate shall serve for three years or until a new Member is appointed by the constituency, whichever comes first. A Member or Alternate may be reappointed by the constituency. Members and Alternates shall serve without compensation. The Alternate Member shall have full power to act for the absent Member.[86]

- **Adaptation Fund**: Members, including alternate members, of the Adaptation Fund Board with the appropriate technical, adaptation and/or policy expertise shall be identified by their respective governments, nominated by the relevant groups and elected by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol to serve as government representatives. Vacancies shall be filled in the same manner. Members and alternate members shall serve for a term of two years and shall be eligible to serve a maximum of two consecutive terms;[87]

- **Multilateral Fund**: The Meetings of the Parties endorses annually the selection of seven Parties each by the two groups of Parties (developed and developing countries, operating and not operating under Article 5.1, respectively) to serve on the Executive Committee. Members representing either one or the other of the two groups can be changed in accordance with the wishes of the group concerned.[88]

- **Global Fund**: Each group mentioned in the Bylaws (i.e. developing countries, donors, civil society and private sector) will determine a process for selecting its Foundation Board representation. Board Members will serve as representatives of their constituencies. Foundation Board Members will serve on the Foundation Board for two years or such other term that the Foundation Board may determine. The Executive Director shall act in his or her capacity as chief executive officer of the Foundation and will serve the Foundation Board for the duration of his or her term. Board Members shall be deemed to act in their capacity as representatives of their respective governments, organizations, constituencies or other entities.[89]

- **Climate Investment Funds**: Under the CTF and SCF, Members will serve for a two-year term, except that such representatives may serve for a one-year term for the first year of the fund's operations. Retiring Members may be reappointed. Not more than one Member will be a representative of the same country at any given time. To be selected as a Member, a contributor country (or group of contributor countries) will be required to make a commitment, by entering into a

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[86] Global Environment Fund, *Instrument for the Establishment of the Restructured GEF*, p. 15.
[87] UNFCCC, Decision 1/CMP.3, p. 5, para. 8; See also Decision 1/CMP.4, p. 5, paras. 3-9.
[88] The Multilateral Fund Secretariat, *Policies, Procedures, Guidelines and Criteria*, p. 85.
[89] The Global Fund to Fights AIDS, Tuberculosis & Malaria By-Laws, p. 5, Article 7.2.

Contribution Agreement with the Trustee to contribute in no less than the minimum amount determined through a consultation among contributor countries. Under the CTF, terms will be staggered so that not all Members are replaced each year.[90]

Many funds identify a significant role for constituencies in nominating their own representatives (and in some cases in appointing them). The GEF provides that "the Member and Alternate representing a constituency shall be appointed by the Participants in each constituency".[91] The Global Fund explicitly allows each group to define its own selection process. The Adaptation Fund and the Multilateral Fund require members once nominated to be elected or endorsed by their respective superior bodies (i.e. the Meetings of the Parties to the Kyoto Protocol and the Montreal Protocol, respectively).

A number of funds include non-country board members. The SCF includes a representative of the World Bank and regional development banks. The Global Fund formally includes voting members representing the private sector and civil society, including representative each from: an NGO from a developing country; an NGO from a developed country; the private sector; a private foundation; and a person from an NGO living with HIV/AIDS or from a community living with tuberculosis or malaria.

Funds have developed various means to balance continuity and change. Some funds, such as the Adaptation Fund, have a limit on Board Members serving more than two consecutive terms. Others, such as the CTF, require the appointment of members to be staggered so that not all Members are replaced each year. Defining rules for the selection and function of board members is important as the board members, as well as the rules within which they operate, will have a significant effect on the fund's operation and outcomes.

Institutions are often only as good as their leadership. The role of the **board chair (and co- or vice-chairs)** and of other leading offices (e.g. CEO of a Secretariat) is therefore crucial. In relation to the office of chair (and co-or vice-chairs), approaches vary in various funds in terms of:

- **Designation of offices**. Most fund boards have either a chair and vice-chair, or co-chairs. In the case of the GEF, a single chairperson is elected. The office can be defined to serve a substantial role (e.g. Global Fund) or more nominal role (e.g. GEF) – representing a spectrum of functions ranging from a leader and advocate of the fund and its mission to a "traffic cop" at meetings.
- **Constituency**. Most fund boards nominate their chair(s) from their different constituencies or groups (e.g. developed and developing countries). In the case of the SCF, one of the co-chairs is a World Bank Vice President. Chairs do not formally "represent" these constituencies; they must serve in their role independently. Their selection, nevertheless, influences the relative influence of the constituencies vis-à-vis each other and related institutions.
- **Selection**. Most fund boards elect their chairs collectively, while some delegate selection to their constituencies. In the case of the Multilateral Fund, for example, the two constituency groups (Article 5.1 and non-Article 5.1 countries) each select a chair from among their respective members (to serve as chairman or vice-chairman on a rotating basis).

[90] Climate Investment Funds, *Governance Framework for the CTF,* pp. 6-7, paras. 21 and 22.
[91] Instrument for the Establishment of the Restructured Global Environment Facility, p. 15, para. 16.

- **Role**. In most cases, the chair is responsible for conducting the proceeding of the fund board. In the case of the GEF, the function of chair is effectively shared with the CEO, who jointly conducts deliberations on some topics, and conducts deliberations on other topics alone.
- **Term**. Chairs are variously selected on a two-year (Global Fund), annual (Adaptation Fund and Multilateral Fund), six-month (Climate Investment Funds) or meeting-by-meeting basis (GEF). Term length is related to other factors, and affects the extent to which the chair versus other offices (e.g. the Secretariat or host institution) shape the fund's proceedings and direction.
- **Rotation**. In consecutive terms, the position of chair (and where relevant, vice-chair) generally alternates between its different constituencies. In the case of the SCF, one co-chair rotates while the other does not (i.e. the World Bank Vice President). Where country co-chairs are appointed, as in the case of the CTF, rotation is unnecessary.

Fund instruments join these and other factors in a range of combinations. For example:

- **Global Environment Facility**: At each meeting, the Council shall elect a Chairperson from among its Members for the duration of that meeting. The elected Chairperson shall conduct deliberations of the Council at that meeting on certain issues related to Council responsibilities. The position of elected Chairperson shall alternate from one meeting to another between recipient and non-recipient Council Members. The Chief Executive Officer of the Facility (CEO) shall conduct deliberations of the Council on certain other issues related to Council responsibilities. The elected Chairperson and the CEO shall jointly conduct deliberations of the Council on certain issues of joint competence as defined in the GEF Instrument.[92]

- **Adaptation Fund**: The Board shall elect the Chair and Vice-Chair from among its members, with one being from an Annex I Party and the other being from a non-Annex I Party. The term of office of the Chair and Vice-Chair shall be one calendar year. The office of Chair and Vice-Chair shall alternate annually between a member from an Annex I Party and a member from a non-Annex I Party.[93]

- **Multilateral Fund**: The Chairman and Vice-Chairman of the Executive Committee shall be selected from the fourteen members. The office of Chairman is subject to rotation, on an annual basis, between the Parties operating under paragraph 1 of Article 5 (i.e. developing countries with certain (low) annual per-capita consumption of controlled substances), and the Parties not so operating. The group of Parties entitled to the chairmanship shall select the Chairman from among their members of the Executive Committee. The Vice-Chairman shall be selected by the other group from within their number.[94]

- **Global Fund**: Board Members will select the Chair and the Vice Chair of the Foundation Board from among voting Board Members, provided that the two positions will alternate every two years between the two voting groups (i.e.: 1) eight donors and two private sector representatives; and 2) seven developing country, two NGO and one NGO representative living with HIV/AIDS, or from a

[92]Ibid, p. 16, para. 18.
[93] UNFCCC, *Decision 1/CMP.3*, p. 5, para. 13. See also *Decision 1/CMP.4*, pp. 5-6, paras. 10-16.
[94] The Multilateral Fund Secretariat, *Policies, Procedures, Guidelines and Criteria*, p. 85.

community living with tuberculosis or malaria). The Chair and the Vice Chair will each be elected for two-year terms. In addition to chairing board meetings, the Chair will also have an important advocacy and fund raising role. [95]

- **Climate Investment Funds**: The CTF and SCF have slightly different arrangements. The CTF Trust Fund Committee will elect two co-chairs from among its Members to serve for a six-month term. One co-chair will be a representative of a recipient country and the other co-chair will be a representative of a contributor country.[96] The SCF Trust Fund Committee will have two co-chairs. One co-chair will be elected from among the Members representing contributor or recipient countries to serve for a six-month term, alternating from one term to another between recipient and contributor representative Members. The other co-chair will be the World Bank Vice President for the Sustainable Development Network.[97]

In terms of comparison, the Global Fund establishes a two-year term enabling the chair to play a more extensive role in promoting the fund, including in relation to advocacy and fund-raising (which accounts in part for the fund's continuity and success in fundraising). The GEF and Climate Investment Funds, by contrast, have considerably shorter terms for elected chairs and, in the case of the GEF and SCF, a larger role for other officers (e.g. the GEF CEO and a World Bank Vice President, respectively) (which accounts in part for the larger influence of these offices/institutions vis-à-vis country Parties). The Adaptation Fund and Multilateral Fund, in turn, select a chair and vice-chair annually from among their members.

In the case of the Adaptation Fund and Multilateral Fund, the constituencies are defined in relation to categories established in their respective Conventions. In the case of the GEF and Climate Investment Funds, by contrast, the constituencies are defined more explicitly in financial terms – i.e. as recipients and non-recipient/contributor countries (which has been identified by some participants as establishing a hierarchy, in effect, if not in fact).

Quorum and decision-making

Decision-making generally requires a sufficient number of members to be present (i.e. a quorum) as well as a process for decision-making by consensus, voting or other means.[98]

A **quorum is required to ensure decision-making remains representative and accountable** to all relevant constituencies. In relation to a quorum some funds require a simple majority (e.g. the Adaptation Fund). Other funds require two-thirds of the board to be present (e.g. the Global Environment Facility). Other funds require a majority of each of the relevant voting groups to be present (e.g. the Global Fund).

Most **fund instruments require decisions to be taken by consensus** (with other means used only to address a situation in which consensus is not possible). Consensus is generally defined to mean no formal opposition to a decision, although the practice of decision-making (e.g. the degree to which positive assent versus the absence of dissent) will vary in different settings:

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[95] The Global Fund, *By-Laws*, p. 5, Article 7.3.
[96] Climate Investment Funds, *Governance Framework for the CTF*, p. 8, para. 26.
[97] Climate Investment Funds, *Governance Framework for the SCF*, p. 8, para. 21.
[98] The Global Environment Facility, *Instrument for the Establishment of the Restructured GEF*, p. 16, para. 17.

- **Global Environment Facility**: Decisions of the Assembly and the Council shall be taken by consensus. In the case of the Council if, in the consideration of any matter of substance, all practicable efforts by the Council and its Chairperson have been made and no consensus appears attainable, any Member of the Council may require a formal vote.[99]
- **Adaptation Fund**: Decisions of the Board shall be taken by consensus whenever possible. If all efforts at reaching a consensus have been exhausted and no agreement has been reached, decisions shall be taken by a two-thirds majority of the members present at the meeting on the basis of one member, one vote.[100]
- **Multilateral Fund**: Decisions by the Parties under this Article shall be taken by consensus whenever possible. If all efforts at consensus have been exhausted and no agreement reached decisions may be adopted by a vote.[101]
- **Global Fund**: The Foundation Board shall use best efforts to make all decisions by consensus. If all practical efforts by the Foundation Board and the Chair have not led to consensus, any member of the Foundation Board with voting privileges may call for a vote.[102]
- **Climate Investment Funds**: Decisions by the CTF and SCF Trust Fund Committees will be made by consensus of its decision making Members. Consensus is a procedure for adopting a decision when no participant in the decision-making process blocks a proposed decision. For the purposes of the CTF and SCF, consensus does not necessarily imply unanimity. A dissenting decision maker, who does not wish to block a decision, may state an objection by attaching a statement or note to the decision. If consensus is not possible, then a proposed decision will be postponed or withdrawn.[103]

Most fund instruments include references to **decision-making by voting** in order to address situations in which consensus is not possible. Voting provides a means to break deadlocks and encourage constructive engagement (e.g. the prospect of a vote changes participant's incentive structures). At the same time, voting is generally avoided in practice due to concerns about the effect on board dynamics, precedent setting, and sovereignty. In some cases, majority and weighted voting is designed to address these concerns:

- **Global Environment Facility**: Unless otherwise provided in the GEF Instrument, decisions requiring a formal vote by the Council shall be taken by a double weighted majority; that is, an affirmative vote representing both a 60 percent majority of the total number of Participants and a 60 percent majority of the total contributions.[104]
- **Adaptation Fund**: Decisions of the Adaptation Fund Board shall be taken by consensus; if all efforts at reaching a consensus have been exhausted, and no

[99] The Global Environment Facility, *Instrument for the Establishment of the Restructured GEF*, p. 19, paras. 25 a-c.
[100] UNFCCC, Decision 1/CMP.3, p. 5, para. 12. See also Decision 1/CMP.4, pp. 8-9, paras. 44-51.
[101] Montreal Protocol, Article 10.9.
[102] The Global Fund to Fights AIDS, Tuberculosis & Malaria, By-Laws, p. 7, Article 7.6.
[103] Climate Investment Funds, *Governance Framework for the CTF*, p. 8, para. 27.
[104] For the purpose of voting power, total contributions shall consist of the actual cumulative contributions made to the GEF Trust Fund, contributions made to the GET, and the grant equivalent of co-financing and parallel financing made under the GEF pilot program, or agreed with the Trustee. See The Global Environment Facility, *Instrument for the Establishment of the Restructured GEF*, para. 25(c).

agreement has been reached, decisions shall be taken by a two-thirds majority of the members present at the meeting on the basis of one member, one vote.[105]

- **Multilateral Fund**: If all efforts at consensus have been exhausted and no agreement reached, decisions shall be adopted by a two-thirds majority vote of the Parties present and voting, representing a majority of each group present and voting – ensuring that neither donors nor recipients dominate the operations of the Fund.[106]
- **Global Fund**: In order to pass, motions require a two-thirds majority of those present of both: a) the group encompassing the eight donor seats and the two private sector seats and b) the group encompassing the seven developing country seats, the two non-governmental organization seats, and the representative of an NGO who is a person living with HIV/AIDS or from a community living with tuberculosis or malaria.[107]
- **Climate Investment Funds**: The instruments establishing the Climate Investment Funds do not include any explicit reference to voting.

In addition to consensus and voting, **other means for decision-making** are possible. The Global Fund's board, for example, may take decisions on a "no-objection basis" (suggesting, in turn, that its definition of consensus errs towards positive assent versus absence of dissent):

> On such basis, and subject to procedures set by the Board, a motion shall be deemed approved unless four Board members of one of the voting groups described above objects to the motion, except that a motion not to make a funding commitment shall be deemed approved unless four Board members of each of the voting groups described above object to the motion.[108]

The Chair of the Board may also take decisions inter-sessionally, subject to review by the Board:

> Between Board meetings, the Chair and the Vice Chair, acting together, shall take action on behalf of the Foundation Board which they consider must be taken urgently without recourse to other procedures as provided in the Bylaws or Board Operating Procedures. In the event the Chair and Vice Chair are unable to agree, the Chair shall take the decision. Decisions taken between Foundation Board meetings shall be notified to the Foundation Board immediately, with an explanation of why such decision was deemed urgent. A full report on the decision shall be presented to the Foundation Board at its subsequent meeting. The Foundation Board will review, and may modify or reverse, the decision.[109]

The GEF is similarly empowered to take decisions inter-sessionally and on a non-objection basis. If, in the judgment of the CEO, a proposed decision should not be postponed it shall transmit the decision to each member with an invitation to approve it on a "no-objection basis". At the expiration of a period for comments, the decision shall be approved unless there is an objection. Replies from two thirds of the Members (and no objections) are required for decisions with financial implications. In the event of an

[105] UNFCCC, Decision 1/CMP.3, p. 5, para. 12. See also Decision 1/CMP.4, pp. 8-9, paras. 44-51.
[106] Article 10.9. See also http://www.multilateralfund.org/executive_committee/1071087830987.htm.
[107] The Global Fund to Fights AIDS, Tuberculosis & Malaria By-Laws, p. 7, Article 7.6.
[108] Ibid, p. 7, Article 7.6.
[109] Ibid, p. 5, Article 7.3.

objection, the decision will be postponed for consideration at the next meeting.[110]

Meetings

Most fund instruments define a minimum frequency of meeting (usually twice a year), while also empowering the board to meet as frequently as required to discharge its responsibilities:

- **Global Environment Facility**: The Council shall meet semi-annually or as frequently as necessary to enable it to discharge its responsibilities. The Council shall meet at the seat of the Secretariat unless the Council decides otherwise.[111]
- **Adaptation Fund**: The Board shall meet at least twice every year or as frequently as necessary to enable it to discharge its responsibilities. The meetings of the Board shall take place in the country of the seat of the UNFCCC secretariat, except when meeting in conjunction with sessions of the CMP or with the sessions of subsidiary bodies under the UNFCCC, in which case the Board meeting may take place in the country or at the venue of the relevant UNFCCC meeting.[112]
- **Multilateral Fund**: The Executive Committee shall hold three meetings a year while retaining the flexibility to take advantage of the opportunity provided by other Montreal Protocol meetings to convene additional meetings where special circumstances make this desirable.[113]
- **Global Fund**: The Foundation Board shall meet as often as necessary but not less than twice per year. A meeting of the Foundation Board shall be convened by written notification from the Chair or the Vice Chair of the Foundation Board, or by the Executive Director at the direction of the Chair or the Vice Chair.[114]
- **Climate Investment Funds**: The CTF and SCF Trust Fund Committee will each meet at such frequency as they may decide, but at least once a year.[115] Further, the CTF Trust Fund Committee may, without meeting, review and approve CTF financing for programs and projects and any other matters as needed, at a level and through means and procedures appropriate to such review.[116]

The Global Fund and the CTF each include provisions that enable decisions to be taken intersessionally as well as at formal meetings.

Observers

Allowing observers to attend meetings increases the transparency of the funds' deliberations and enables a range of stakeholders to participate in its activities. By enabling communication, it can also help to improve cooperation among partners, promote the efficient use of resources and enable more mutually supportive activities among different institutions. Fund instruments often specify a set of stakeholders to be invited as observers. They also often explicitly empower the board or some other officer

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[110] Rules of Procedure for the Global Environment Facility Council, p. 17, paras. 43-45.
[111] Global Environment Facility, *Instrument for the Establishment of the Restructured GEF*, p. 16, para. 17.
[112] UNFCCC, Decision 1/CMP.4, p. 6, para. 18. See also Decision 1/CMP.3, p. 5, para. 15.
[113] The Multilateral Fund Secretariat, *Policies, Procedures, Guidelines and Criteria,* p. 519.
[114] The Global Fund to Fights AIDS, Tuberculosis & Malaria By-Laws, p. 7, Article 7.6.
[115] Climate Investment Funds, *Governance Framework for the CTF*, p. 8, para. 28; and Governance Framework for the SCF, p. 8, para. 23.
[116] Climate Investment Funds, *Governance Framework for the CTF*, p. 8, para. 28.

(e.g. a secretariat) to invite other entities with an interest in or expertise relevant to the activities of the fund. For example:

- **Global Environment Facility**: Council meetings are open to Members (including two advisors), alternates, and the CEO or his/her representative, and to observers representing Participant countries, Implementing Agencies, the Trustee, the Scientific and Technical Advisory Panel, the Evaluation Office, the UNFCCC, Convention on Biological Diversity, Montreal Protocol, Convention to Combat Desertification and UN Commission on Sustainable Development. The CEO may, in consultation with the Council, invite representatives of other entities including non-governmental organizations.[117]
- **Adaptation Fund**: Except where otherwise decided by the Board, meetings shall be open for attendance, as observers, to representatives of UNFCCC Parties, the UNFCCC secretariat and UNFCCC accredited observers. The secretariat shall, upon the request of the Board, notify any individual or entity, whether national or international, governmental or non-governmental, qualified in a field related to the work of the Fund, of any meeting so that an observer may represent them. Observers may attend without the right to vote.[118]
- **Multilateral Fund**: The President of the Bureau and the Implementing Agencies - inter alia, UNEP, UNDP and the World Bank - may participate as observers. Any body or agency, whether national or international, governmental or non-governmental, qualified in the field related to the work of the Executive Committee, that has informed the Secretariat of its wishes to be represented may be represented by an observer subject to the condition that their admission is not objected to by at least one third of the Parties present at the meeting. Observers participate without the right to vote.[119]
- **Global Fund**: Delegations to Board meetings may include additional delegates, advisers and/or observers, *provided, however*, that the total delegation will normally not exceed 10 persons, no more than 5 of whom shall be on the floor at any one time. The Chair may invite guests to Board meetings at such times and for such purposes as he or she deems appropriate.[120]
- **Climate Investment Funds**: The CTF and SCF will each invite members of their MDB Committees and Trustees as observers. The CTF will also invite the GEF and representatives of other concerned UN organizations, and may also invite representatives of other institutions with a mandate to promote investment in clean technology. The SCF will also invite representatives of the GEF, UNDP, UNEP and UNFCCC, and may also invite any member of its SCF Sub-Committees, as well as other organizations with a mandate to address climate change including NGOs and the private sector.[121]

In all cases, observers are permitted to attend fund meetings. Generally, discretion to invite additional observers (i.e. those not explicitly listed in the fund instrument) lies with the board. In the case of the GEF, the GEF CEO is empowered to invite representatives of other agencies "in consultation with the Council". In the case of the

[117] Rules of Procedure for the GEF Council, p. 11, paras. 17-23.
[118] UNFCCC, Decision 1/CMP.4, pp. 7-8, paras. 31-34. See also Decision 1/CMP.3, p. 6, para. 16.
[119] The Multilateral Fund Secretariat, *Policies, Procedures, Guidelines and Criteria*, p. 519.
[120] The Global Fund to Fights AIDS, Tuberculosis & Malaria Board Operating Procedures, pp. 2-3, para. 3.
[121] Climate Investment Funds, *Governance Framework for the CTF*, p. 8, paras. 29-30; and *Governance Framework for the SCF*, pp. 8-9, paras. 24-25.

Multilateral Fund the secretariat has discretion to invite observers, who may attend unless objected to by at least one third of the Parties present. In the case of the Global Fund, delegations are permitted to include observers subject to a numerical limit. In the case of the CTF, a recipient country will be invited to attend during deliberations on its investment plan, program or project (though its attendance is as a full member rather than as an observer). In all cases, an open policy towards observers is desirable and should be encouraged subject to logistical and other reasonable constraints.

Transparency

In addition to admitting observers a range of means is available to provide a window of transparency into the deliberations and operations of a fund. One means is to ensure that the texts of board decisions are made publicly available. The Adaptation Fund, for example, is required to ensure that "the full text of all decisions taken by the Adaptation Fund Board shall be made publicly available in all six official languages of the United Nations."[122] The Global Fund similarly requires "board decisions and related documentation will be made public" according to its "Documents Policy".[123] In general, an elaborated policy relating to the transparency of board deliberations, and to the transparency of other fund-related activities, is desirable.

Confidentiality

The need for transparency must be balanced against the need for confidentiality in relation to certain specific categories of information. The Adaptation Fund, for example, provides that information marked as proprietary and/or confidential shall not be disclosed without the written consent of its provider, and calls on members to take a written oath declaring that, among other things, they will not disclose any information marked confidential and coming into their knowledge by reasons of their duties in the board.[124]

Conflict of interests

Closely related to issues of transparency and confidentiality are issues of conflicts of interests; both actual and potential, real and perceived. Most fund instruments include requirements relating to conflicts of interests and the means by which they are resolved. The Adaptation Fund's oath of service, for example, requires members to disclose immediately to the board any interest in any matter under discussion before the Adaptation Fund Board which may constitute a conflict of interests or which might be incompatible with the requirements of independence and impartiality. Members are expected to recuse themselves from participating in those matters.[125] Some funds have elaborated detailed policies on ethics and conflicts of interests for their institutions. The Global Fund's policy, for instance, identifies relevant "covered individuals", defines a conflict of interests and provides examples thereof, establishes rules on transparency and disclosure, sets out procedures for when a conflict arises, and addresses specific situations – such as gifts and employment.[126]

[122] UNFCCC, Decision 1/CMP.3, para. 17.
[123] The Global Fund to Fights AIDS, Tuberculosis & Malaria, Board Operating Procedures, p. 6, para. 15.
[124] UNFCCC, Decision 1/CMP.4, paras. 26 to 30.
[125] UNFCCC, Decision 1/CMP.3, para. 30.
[126] The Global Fund, *Policy on Ethics and Conflict of Interest for Global Fund Institutions.*

B. Specialized funds

As noted in the discussion above of the scale and thematic areas for financing, the Convention provides that financial resources are to be provided in a range of areas including:

- Adaptation (Article 4.1, 4.3 and 4.4);
- Mitigation, including forests (Article 4.1 and 4.3);
- Technology development and transfer (Article 4.1, 4.3 and 4.5);
- Communications, capacity building and other actions (Article 4.1, 4.3 and 12.1)

These provisions, and others in the Convention, define a range of areas to which financial resources are to be applied. To ensure an effective and efficient approach, the financial mechanism's institutional arrangements – including its funds and/or fund windows – should be tailored in light of the specific characteristics of each of these different areas (i.e. reflecting the different needs, issues, actors and sectors/systems), while ensuring coherence between the different parts.

Consistent with this approach, **developing countries have called for the Conference of the Parties and the Fund Board to establish specialized funds and funding windows, as well as a mechanism to link the various elements of the architecture**. Such an approach could be realized through the establishment of a number of separate funds or fund windows, or through a single fund to provide dedicated funding to different programs. At a minimum, these should address:

- Adaptation;
- Mitigation (e.g. energy, transport, buildings, industry etc)
- Forests; and
- Technology development and transfer.

Such an approach is consistent with the commitments set out in the Convention (which address each of these topics), and with the Bali Action Plan (which calls for enhanced action on the provision of financial resources to support action on mitigation and adaptation and technology cooperation).

The provision of financial resources through different funds and programs is reflected in the Climate Investment Funds, which includes the CTF to address technology, as well as the SCF that establishes a set of distinct Programs addressing renewable energy and forests and climate resilience (i.e. adaptation) and that are supported by dedicated funding as well as by dedicated sub-committees for each program area. The International Bank for Reconstruction and Development serves as the trustee and has established a trust fund for each of the CTF and SCF programs.[127]

As noted by the G77 and China it is important that the various elements of the architecture are linked through appropriate mechanisms under the authority of the Conference of the Parties. This will help improve the efficiency, effectiveness and coherence of the disbursement of financial resources to achieve the ultimate objective of the Convention, and the accountability of the fund and its operations to the Conference of the Parties.

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[127] Climate Investment Funds, *Governance Framework for the CTF*, p. 10, paras. 38-42; and *Governance Framework for the SCF*, p. 12, paras. 39-43.

As well as an overarching Fund Board (discussed above), the architecture should include appropriate arrangements for administering the funds, securing expert and stakeholder input, assessing the fund's performance generally, as well as appropriate procedures for monitoring and evaluating specific aspects of the fund and its operations. Options for addressing these topics as part of a coherent and effective architecture are discussed further below.

G77 and China Finance Proposal: Design and Structure (Specialized funds)

3. The COP and Board shall establish specialized funds, and funding windows under its governance, and a mechanism to link various funds.

C. Trustee

The **function of the trustee** is generally to:

- Establish and manage a trust fund or funds in accordance with the fund instrument;
- Receive and hold in trust financial contributions;
- Invest and manage the funds (and associated assets and receipts);
- Transfer and disburse funds;
- Undertake its functions in compliance with the instructions of the Fund Board; and
- Report regularly on the fund's financial status and management.

In defining the role of a trustee (or trustees) a range of considerations arise. One is the scale and extent of the trustee's costs that will be covered by the Fund. Fund instruments generally provide that the reasonable costs of the trustee in performing its duties will be covered. The scale of costs, however, may differ significantly between institutions, and should be considered when selecting a trustee.

For this reason, the G77 and China has proposed that **the Trustee should be selected through a process of open bidding to ensure resources are managed as efficiently as possible**; ensuring a larger proportion of donor finance reaches its intended end-use. Candidates for such a process may include: international or regional financial institutions; national financial institutions; and private financial institutions.

A related consideration is the **scope of the trustee's functions vis-à-vis the fund board and other entities** (e.g. the secretariat). In most fund instruments, the trustee performs a well-defined fiduciary role (i.e. like a banker) under the instructions of the operating entity/fund board (i.e. its client). The specific responsibilities of the trustee are usually elaborated further in an agreement between the operating entity and the trustee.

In some cases, the trustee is given a broader responsibility. In the case of the GEF, for example, the World Bank as trustee has the function of "mobilization of resources for the Fund and the preparation of such studies and arrangements as may be required for this purpose".[128] In the case of the Adaptation Fund, the trustee has the additional

[128] Global Environment Facility, *Instrument for the Establishment of the Restructured GEF*, p. 25, Annex B.

function of monetizing the Certified Emission Reductions. In other funds, such as the Global Fund, the Chair of the Board and not the trustee plays a significant role in mobilizing finances.

In the case of the Multilateral Fund, a UN agency serves the role of a "fund treasurer" to receive and administer pledged contributions (including cash, promissory notes or bilateral assistance), and to disburse funds to the fund secretariat and the implementing agencies in accordance with the directive of the board. The function of treasurer is performed by UNEP in Nairobi and by a senior officer based in the fund secretariat. The treasurer attends each meeting of the board and is responsible for preparing: a status of contributions and disbursements for each meeting; the accounts of the fund as well as the reconciliation of the accounts on an annual basis; and any study requested by the Board and/or by Meetings of the Parties to the Montreal Protocol, as relevant.[129]

In the case of an enhanced set of institutions to operationalize the UNFCCC financial mechanism **the role of trustee should be clearly and narrowly defined to avoid conflicts of interests**, with other entities (including the Fund Board, Sub-committees, Secretariat and Technical Panels) providing other relevant functions. Such an approach enables the trustee to focus on its core task, and avoids concerns of the type that have been raised in the context of the World Bank, including the potential for conflicts of interests to arise where one institution is entrusted with multiple and overlapping functions including those of secretariat, trustee, implementing agency and/or co-financier. Just as few individuals would entrust their money to a banker who is also a beneficiary of the funds, or a seeker of co-financing or a provider of secretarial functions to those who determine how funds will be spent, so too donors and recipients alike should support a system that ensures functional independence and appropriate checks and balances.[130] Doing so helps to build trust in the system, and ensure that funds are managed well and directed to where they are most efficient and effective.

G77 and China Finance Proposal: Design and Structure (Trustee)

4. Funds would be administered by a Trustee or Trustees selected through a process of open bidding.

D. Secretariat

The function of a Secretariat is to support the Parties and the Fund Board to discharge its functions and achieve the objectives of the Fund. A Secretariat would provide organizational, administrative and technical support to the Fund Board, as well as to its sub-committees and expert, consultative and assessment bodies. To perform its role successfully, a Secretariat should be comprised of professionals with expertise in management, administration, finance, climate change and other relevant fields.

In the various funds, secretariat functions are provided by different agencies. In the case of the Multilateral Fund, an independent secretariat was established to support the Fund Board. Its activities include:

- Developing the three-year plan and budget and a system for fund disbursement;

[129] Multilateral Fund, *Institutional Arrangements.* Available from http://www.multilateralfund.org/institutional_arrangements.htm.
[130] Khor, Martin. "World Bank Climate Funds Under Fire From G77 and China", Third World Network, 3 April 2008. Available from http://www.twnside.org.sg/title2/finance/twninfofinance20080401.htm.

- Managing the business planning cycle of the Multilateral Fund;
- Monitoring the expenditures and activities of the implementing agencies;
- Preparing policy papers and other documents;
- Reviewing and assessing investment projects, country programmes and the business plans and work programmes of the implementing agencies;
- Liaising between the Committee, governments and implementing agencies; and
- Servicing meetings of the Executive Committee.[131]

In the case of the Climate Investment Funds, the World Bank serves as Secretariat. In the case of the GEF, the GEF Secretariat provides this role. In the case of the Adaptation Fund, Parties to the Kyoto Protocol invited the GEF to provide secretariat functions on an interim basis to be reviewed in 2011.

In designing an effective Secretariat consideration should be given to its relationship with other entities, its scale and its leadership. The purpose of the Secretariat is to serve the Parties and the Fund Board. Consequently, **the Secretariat's functional independence of other entities is important**. Just as any effective national system separates and balances different roles and powers, so to must an effective international arrangement. This is particularly true where a variety of different actors are likely to be involved, large sums of money are to be managed, and discussions of financing may become politicized, as is likely in the case of climate change.

In the case of the Multilateral Fund, for example, the Secretariat is dedicated to serving the Fund Board and is independent of the Secretariat to the Ozone Convention. This helps to ensure that disbursement of funding remains distinct from the political discussions regarding interpretation and implementation of the Ozone Convention and Montreal Protocol, and the negotiation of substantive new rules and procedures. In this regard, Parties may wish to keep the secretarial functions required to support the disbursement of climate finance (i.e. the Fund Secretariat) separate from those designed to support the climate negotiations (i.e. the UNFCCC Secretariat). At the same time, an appropriate relationship between the two (while maintaining independence) could help to build synergies and ensure coordination.

The **scale of the Secretariat should logically reflect the scale of the tasks entrusted to it**. This includes providing administrative and technical support to a Board that, in turn, is expected to manage and disburse multiple billions of dollars. In light of the scale of resources required (starting, at the lower end, with the figure of $100 billion included in the Copenhagen Accord through to the much larger estimates based on empirical analysis) a substantial secretariat is likely to be required. By way of comparison, the World Bank distributes around USD 7 billion in trust fund disbursements and around USD 46 billion in total lending per year (2009 figures) and has a staff of about 9000 people in almost 120 country offices.[132]

Ultimately, the scale of the Fund Secretariat will depend in part on other decisions regarding the Fund, and its role vis-à-vis other institutions. Nevertheless, if the Fund is to help spur the rapid and fundamental transformation of national economies and societies that is required to address climate change – a transformation some senior

[131] Multilateral Fund, *Institutional Arrangements*. Available from http://www.multilateralfund.org/fund_secretariat.htm. The Secretariat also performs a monitoring and evaluation function, established by the Executive Committee in May 1997.

[132] World Bank, *Fiscal Year Summary for 2009*. Available from http://siteresources.worldbank.org/EXTAR2009/Resources/6223977-1252950831873/AR09_Ch3.pdf.

economists have referred to as "the next industrial revolution" – then a substantial institution will be required.

Finally, employing experienced professionals and ensuring the highest quality of leadership will enhance the effectiveness of the Secretariat. **The Secretariat's Office of President or Chief Executive Officer should be filled by a senior official** with an understanding of the needs and challenges of developing countries and extensive experience related to government, finance and international affairs. Parties should elect this person on the basis of experience and integrity, and candidates could include senior individuals with extensive public or private sector experience, and significant networks and relationships of value to the Fund and its Board, including, for instance, ex-finance ministers or other senior officials from developing countries.

G77 and China Finance Proposal: Design and Structure (Secretariat)

2. The COP will appoint a Board, which shall have an equitable and balanced representation of all Parties within a transparent and efficient system of governance. The Board shall be assisted by a Secretariat of professional staff contracted by the Board.

E. Expert and technical panels

To be effective **the financial mechanism, and the UNFCCC more broadly, must galvanize the expertise and engagement of experts** on issues relating to climate change via its subsidiary bodies and other means.

In practice, **addressing climate change will require a major scaling-up of expert engagement and advice at the international level, and in all sectors, countries and regions**. This effort must build on the experience of the UNFCCC Expert Group on Technology Transfer (EGTT) (see Annex 3), the Intergovernmental Panel on Climate Change, and other relevant entities[133]; it will need to engage effectively with existing institutions; and it should establish new institutions as appropriate to advise the fund and to help catalyze and coordinate practical actions.

Expert and technical panels have been established in the context of other relevant funds and Conventions. The GEF, for example, has a Scientific and Economic Advisory Panel hosted by UNEP and comprising around fifteen members with expertise across all GEF key areas of work (biodiversity, biosafety, climate change, coastal and fresh water management, sustainable land management, persistent organic pollutants, and integrated ecosystem management). The Climate Investment Funds each establish a Partnership Forum that includes representatives of contributor and eligible recipient countries and other stakeholders.[134]

The Montreal Protocol has established a set of expert groups (known as Technical Options Committees or TOCs) to provide technical advice on the principal sectors in which ozone-depleting substances are used. The co-chairs of each of these committees are drawn from developed and developing countries, and the committees include experts drawn from government agencies, industry, academia, and civil society. The co-chairs, in turn, participate in an overarching group (known as the Technical and Economic

[133] The IPCC's role as a scientific institution designed to synthesize and present authoritative scientific information on climate change is important. At the same time, more regular technical advice and information is needed on a real-time basis to help guide action on climate change. The role of any enhanced technical institution under the Convention and its financial mechanism should be carefully calibrated to serve these functions while complementing those of the IPCC.
[134] See, Governance Framework for the CTF, pp. 8-9, paras. 31-33; and Governance Framework for the SCF, p. 10, paras. 32-34.

Assessment Panel or TEAP), which consolidates their reports and provides a synthesis of technical and economic information on a regular basis to the Montreal Protocol's Meeting of the Parties.[135] This set of institutions has provided a practical and action-oriented architecture through which experts can engage with each other and with Parties to support the work of the Montreal Protocol. These entities – as well as the Multilateral Fund itself – have contributed significantly to the success of the Montreal Protocol in achieving its objectives.

Building on these experiences, **a set of Technical Panels could be established to support the UNFCCC Financial Mechanism, Subsidiary Bodies and Conference of the Parties**. Building in particular on the experience of the Montreal Protocol (while reflecting the diverse nature of the issues, actors and sectors/systems affected by climate change) these could provide forums in which to collect and consolidate expertise on each of the relevant mitigation and adaptation sectors and sub-sectors, such as those identified by the Intergovernmental Panel on Climate Change. These include:

Mitigation	**Adaptation**
Energy	Health
Transportation	Freshwater resources
Residential and commercial buildings	Coastal and low-lying areas
Industry	Industry, infrastructure and settlements
Agriculture	Food and agriculture
Forestry	Ecosystems and forests
Waste management	

Among other things, Technical Panels could serve the functions of:

- Exchanging information in relation to relevant sectors/systems;
- Helping to build capacity, share experiences and develop best practices;
- Supporting national networks and coordinating mechanisms;
- Identifying practical solutions (policy, economic, technological, etc);
- Identifying means to integrate mitigation, adaptation and other priorities;
- Providing assessments of needs and incremental costs; and
- Helping to match needs with financial, technological and capacity building.

Information provided by the various Technical Panels could, in turn, be regularly synthesized by an overarching group comprised of relevant experts endorsed by the Conference of the Parties (including the co-chairs of each of the Technical Panels). This Expert Group could, for example, function as a scaled up and considerably broadened EGTT building on the model of the Montreal Protocol's Technical and

[135] K. Madhava Sarma, Stephen O. Andersen, and Kristen N. Taddonio, "Lessons from the Success of the Montreal Protocol", in *The Montreal Protocol: Celebrating 20 Years in Environmental Protection* (Cameron and May, 2007), p. 125 at p. 132 (stating "The TEAP consists of the co-chairs of the TOCs and a few other experts. It has three co-chairs. Each TOC has co-chairs from both developing and developed countries and 20-35 members from all parts of the world. Members of the TEAP are appointed by the Meeting of the Parties (MOPs). Governments may propose members for TOCs. TOC memberships consist of representatives of government environment ministries, industry and academia and a few professional consultants. The co-chairs of the TOCs have full freedom to choose whom they want as members in consultation with the TEAP; their choices will be based on the expertise needed, which may vary over time"). See also Stephen O. Andersen, K. Madhava Sarma and Kristen N. Taddonio ,*Technology Transfer for the Ozone Layer: Lessons for Climate Change* (Earthscan Publications Ltd., 2007).

Economic Assessment Panel. Its results could feed into deliberations by the Fund Board and Sub-Committees (e.g. relating to the relevant Funds and/or Fund Windows on adaptation, mitigation, forests and technology) as well as to the Convention's other Subsidiary Bodies and its Conference of the Parties.

As in the case of the Montreal Protocol, **well-defined technical and expert bodies under the UNFCCC can provide a locus for effective action**. They can enable experts representing the public, private and non-profit sectors to coalesce to identify problems and practical solutions. They can tie into and engage with relevant sectoral and national networks, and help to link them with each other at the international level. And they can feed expertise into the more formal bodies of the Convention, including its Funds and Financial Mechanism, its other Subsidiary Bodies and its Conference of the Parties.

G77 and China Finance Proposal: Design and Structure (Expert groups and technical panels)
5. Each of the separate funds may be advised by an expert group or committee, which could also be supported by a technical panel or panels addressing specific issues addressed by the fund.

F. Consultative panels

A number of fund instruments establish panels designed to provide a forum for engaging and consulting with stakeholders and other partners.

The Global Fund establishes a Partnership Forum to provide persons and entities concerned about the prevention, care, treatment and eventual eradication of HIV/AIDS, tuberculosis and malaria with a forum to express their views on its policies and strategies. It is open to representatives of donors, multilateral development cooperation agencies, developed and developing countries, civil society, NGO and community based organizations, technical and research agencies and the private sector.[136] The forum is mandated to:

- Review progress based on reports from the Foundation Board and provide advice to the Foundation on general policies;
- Provide an important and visible platform for debate, advocacy, continued fund raising, and inclusion of new partners;
- Mobilize and sustain high level coordination, political commitment and momentum to achieve the Foundation's objectives; and
- Provide a communication channel for those stakeholders who are not formally represented elsewhere in the governance structure.

The Climate Investment Funds each establish a Partnership Forum as a "broad-based meeting of stakeholders of the [fund], including contributor and eligible recipient countries, MDBs, United Nations organizations, GEF, UNFCCC, the Adaptation Fund, bilateral development agencies, non-governmental organizations (NGOs), private sector entities, and scientific and technical experts."[137] These serve as a venue for identifying representatives of countries to serve on the fund boards, and provide an "opportunity for independent scientific, technical and other advice on major issues of implementation".[138]

[136],The Global Fund to Fights AIDS, Tuberculosis & Malaria By-Laws, p. 3, Article 6.
[137] Climate Investment Funds, *Governance Framework for the CTF*, pp. 8-9, paras. 31-33; and *Governance Framework for the SCF*, pp. 10-11, paras. 35-36.
[138] Ibid.

UNEP is invited to collaborate in proposing ways to ensure scientific and expert input into the Partnership Forum.[139] As well as the Partnership Forum, the Climate Investment Funds each establish an MDB Committee to facilitate collaboration, coordination and information exchange among the multilateral development banks.[140]

Other funds have adopted less formal structures for engaging with stakeholders. The GEF, for instance, engages with non-governmental organizations principally by accrediting them as part of a network, establishing regional NGO focal points, organizing NGO consultations and providing information through on-line and printed guides and their website.[141] The GEF CEO is also mandated to periodically convene meetings with the heads of its implementing agencies to promote interagency collaboration and communication.[142]

G77 and China Finance Proposal: Design and Structure (Consultative/advisory group)

6. To ensure transparent and efficient governance, other possible components of the structure include a consultative/advisory group of all relevant stakeholders, and an independent assessment panel.

G. Assessment panel

As well as seeking stakeholder input, effective governance requires appropriate checks and balances to assess performance and enable course corrections when required. **Independent assessment of the fund, fund entities and fund operations and projects plays a key role in enhancing decision-making, accountability and effectiveness**.

Assessment is required on a number of related levels:

- **Fund level**. Assessment of the Fund and its overall performance is required to ensure it achieves its objectives and remains accountable to the Parties through the Conference of the Parties.
- **Entity level**. Assessment of the fund's various entities and officers – including its secretariat, trustee and other bodies – is required to ensure the components of the Fund are effectively performing their functions and contributing to the effectiveness of the fund as a whole.
- **Thematic level**. Assessment is required of the Fund's operations in each of its specific thematic areas – mitigation (including forests), adaptation, technology, finance, capacity and national reporting – to ensure it is achieving the specific objective set in relation to each thematic area.
- **Project level**. Assessment at the level of implementation – including the provision of financing and its application to specific projects – should be undertaken in collaboration with relevant implementing partners and countries.

Assessment of fund entities, thematic areas and projects can be undertaken by a body or bodies reporting to the Fund Board. Ultimately, assessment of the Fund as a whole is to

[139] Ibid.
[140] *Governance Framework for the CTF*, p. 9, paras. 34-35; and *Governance Framework for the SCF*, p. 10-11, paras. 35-36.
[141] See, for instance, http://207.190.239.143/Partners/partners-Nongovernmental_Organ/partners-nongovernmental_organ.html.
[142] Global Environment Facility, Instrument for the Establishment of the Restructured GEF, p. 19, para. 23.

be undertaken by the Conference of the Parties. Assessments at different levels are related; project assessments, for example, provides information relevant to assessment of the overall effectiveness of the Fund by the Conference of the Parties.

Assessments must be independent to be informative. In this regard, **a body or bodies that are independent of the Fund Board, Secretariat and other entities should undertake the assessment function**, while also remaining accountable to the Board and the Parties. Other funds provide relevant examples:

- **The Global Fund.** The Global Fund, for instance, includes a Technical Review Panel of independent and impartial experts appointed by the fund board to guarantee the integrity and consistency of its review processes, as well as a permanent Ethics Committee of the fund board.
- **The Multilateral Fund.** In the case of the Multilateral Fund, the secretariat is responsible for monitoring activities at different levels, including information relating to project performance reported by implementing and bilateral agencies. It has standardized the format for progress reporting, to facilitate oversight by the Board. The Board, in turn, oversees the Secretariat's monitoring activities and evaluates projects against milestones for the completion of various stages of a project. The Board approves an annual Monitoring and Evaluation work programme that includes proposed evaluation studies as well as a budget for their implementation.[143]
- **The Global Environment Facility.** The GEF has established an Evaluation Office to set minimum requirements for monitoring and evaluation, undertake oversight at program and project levels, and share evidence within GEF. It evaluates sets of projects that involve more than one implementing or executing agency and provides annual performance and impact reports, evaluations of country portfolios and thematic evaluations of programs, processes and cross-cutting or focal areas.[144]

Assessment at the project and thematic level will require a major investment of time and resources. This could be undertaken under the guidance of an independent panel reporting to the Board, and with assistance by an office established within the Secretariat. Assessment of fund entities (including the Secretariat), by contrast, requires a greater level of independence and could be conducted by the independent panel with external assistance. In each case, information would be provided to the Board for its consideration on a regular (e.g. annual) basis. Information on the Fund's performance – including its various entities, thematic areas and projects – could be regularly compiled by the Board for consideration by the Conference of the Parties, which could provide additional oversight and guidance as appropriate. Ultimately the design of any assessment function must reflect the functions and relations of the Fund entities and will have to be adjusted accordingly.

Assessment of the fund and its operation is related to, but distinct from, assessment of compliance by Parties with their commitments under the Convention. Issues relating to measurement, reporting and verification of the provision of financial resources, technology transfer and capacity building by developed countries, and of the actions they support, is addressed separately in the section below on monitoring and evaluation.

[143] Multilateral Fund, *Evaluation.* Available from http://www.multilateralfund.org/evaluation.htm.
[144] Global Environment Facility, *About GEF Evaluation Office*. Available from http://www.thegef.org/gef/about_evaluation_office.

G77 and China Finance Proposal: Design and Structure (Independent Assessment Panel)

6. To ensure transparent and efficient governance, other possible components of the structure include a consultative/advisory group of all relevant stakeholders, and an independent assessment panel.

H. Finance body

The G77 and China have proposed a set of institutional arrangements with a clear hierarchy linking 1) the Conference of the Parties as "the supreme decision-making body of the Convention" with 2) a Board operating directly under the "authority" of the Conference of the Parties and 3) a range of other institutional arrangements reporting to the Board – including a secretariat, trustee and expert groups, technical panels, and arrangements for consultation and assessment.

During the course of negotiations discussions have centered on a potential additional body. The 13 August 2010 version of the negotiating text, for instance, refers to:

- The "board of the new fund" (Chapter III, paragraph 10); and
- A "new body of the financial mechanism" (Chapter III, paragraph 14)

The role of the new body (e.g. a Standing Committee or Subsidiary Body on Finance) would provide the function of strengthening coordination and coherence, improving the delivery of climate finance to developing countries, seeking to help mobilize financial resources, and otherwise help to streamline and improve implementation of the UNFCCC financial mechanism.

A clear hierarchy between these mechanisms will be necessary to ensure accountability to Parties and establish and maintain a prominent role for the Fund Board, which would remain responsible for managing financial resources and for ensuring the coherence of other financial sources, under the guidance of any "new body" and the Conference of the Parties.

I. Relationship to Conference of the Parties

The Climate Convention provides that the Financial Mechanism "shall function under the guidance of and be accountable to the Conference of the Parties". Accordingly, the COP "shall decide on its policies, programme priorities and eligibility criteria related to this Convention".

Developing countries have emphasized the importance of ensuring the mechanism and its operating entities function under the guidance of and remains accountable to the Conference of the Parties. This stems in part from experience with the Global Environment Facility, which in the view of many developing countries has remained insufficiently accountable to the Parties.

In the case of the GEF, the Parties established the GEF as an operating entity of the financial mechanism, to be reviewed every four years. In practice, the GEF is accountable directly to the GEF Assembly, which is comprised of its Member Countries, and is only indirectly accountable to the Conference of the Parties to the UNFCCC. This has led to a range of protracted concerns regarding the role of the GEF and its accountability to the Conference of the Parties (see Annex 1).

As a result, the G77 and China has spoken with one voice in calling for the Fund to be established directly under the authority of the Conference of the Parties.[145] They have moreover confirmed that:

> Any funding pledged outside of the UNFCCC shall not be regarded as the fulfilment of commitments by developed countries under Art. 4.3 of the Convention, and their commitments for measurable, reportable and verifiable means of implementation, that is, finance, technology and capacity-building, in terms of para 1.b (ii) of the Bali Action Plan.[146]

In this context, **the Adaptation Fund provides a model** as it was established with the consensus of all Kyoto Parties directly through a decision of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.[147] Decision 1/CMP.3 establishes an operating entity that is "fully accountable" to the CMP. It states that the CMP:

> *Decides* that the operating entity of the Adaptation Fund shall be the Adaptation Fund Board, serviced by a secretariat and a trustee;
>
> *Decides* that the Adaptation Fund Board shall be established to supervise and manage the Adaptation Fund, under the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, and shall be fully accountable to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol, which shall decide on its overall policies in line with relevant decisions;

The decision demonstrates that **it is clearly within the competence and capacity of the Parties to establish an operating entity that is fully accountable to them**, and to provide that entity with legal capacity. Any constraints therefore are therefore not practical or legal – but rather stem from inadequate political will by some Parties to the UNFCCC.

G77 and China Finance Proposal: Design and Structure (Relationship to COP)

1. The COP is the supreme decision-making body of the Convention, under whose authority and guidance the mechanism will operate. The COP shall decide on the policies, programme priorities and eligibility criteria.

J. Relationship to other entities

Ensuring coherence of the Financial Mechanism and its operating entities, and other relevant bilateral, regional and multilateral channels, can help reduce overlap and redundancy, improve cooperation and synergy, and ensure that both the providers and recipients of financial resources get the most value from the available resources.

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[145] UNFCCC, *G77 and China Proposal: Financial Mechanism for Meeting Financial Commitments under the Convention*, Accra, Ghana, United Nations, August 2008. Available from http://unfccc.int/files/kyoto_protocol/application/pdf/g77_china_financing_1.pdf.
They have also stated that funding pledged outside of the UNFCCC shall not be regarded as the fulfillment of commitments by developed countries under Article 4.3 of the Convention, and their commitments for measurable, reportable and verifiable means of implementation, that is, finance, technology and capacity building, in terms of paragraph 1.b (ii) of the Bali Action Plan.

[146] Ibid.

[147] UNFCCC, Decision 1/CMP.3, Adaptation Fund, FCCC/KP/CMP/2007/9/Add.1.

Of central importance is the **relationship between the fund and other providers of resources**. Also important is the relationship between the fund and entities that support the implementation of funded activities. Defining these roles carefully, and managing them on an ongoing basis, is crucial to the fund's success.

The Convention provides some guidance on these issues. It distinguishes, for example, between the role of the financial mechanism and its operating entities in providing funding for the implementation of the Convention, and funding "related to" implementation of the Convention through "other channels" outside the Convention (Article 11).

It states the Conference of the Parties shall "seek to mobilize financial resources in accordance with Article 4, paragraphs 3, 4 and 5, and Article 11" (Article 7.2(h)). It also says that it and the entity or entities entrusted with the operation of the financial mechanism shall agree on arrangements to determine:

> … in a predictable and identifiable manner of the amount of funding necessary and available *for the implementation* of this Convention and the conditions under which that amount shall be periodically reviewed. (Article 11.3(d), emphasis added)

In relation to "other channels" the Convention says:

> The developed country Parties *may also* provide and developing country Parties avail themselves of, financial resources *related to* the implementation of the Convention through bilateral, regional and other multilateral channels. (Article 11.5, emphasis added)

The Conference of the Parties has emphasized the importance of coherence between financing provided through the Convention's financial mechanism and financing related to implementation of the Convention through other channels. As noted in discussions of the sources of financing above, it has called for:

> Consistency should be sought and maintained between activities (including those related to funding) relevant to climate change undertaken outside the framework of the financial mechanism and the policies, programme priorities and eligibility criteria for activities as relevant, established by the Conference of the Parties. (Decision 11/CP.1)

It is notable that **the Climate Investment Funds have explicitly included "sunset clauses" designed to avoid prejudging the outcome of UNFCCC negotiations**. As noted previously, the SCF Governance Framework states: "Recognizing that the establishment of the SCF is not to prejudice the on-going UNFCCC deliberations regarding the future of the climate change regime, including its financial architecture, the SCF will take necessary steps to conclude its operations once a new financial architecture is effective". Parallel language is included in the CTF Governance Framework.

In relation to the GEF, modalities for determining its role on climate change would be required. Notably, the GEF was established as "an operating entity" (i.e. one among others) of the UNFCCC financial mechanism. **The GEF's role could be refined to address a specific area or areas that are clearly defined to dovetail with a new Fund and other entities established under the authority of the Conference of the Parties**. These could, for instance, include supporting specific groups of countries (e.g.

continuing to provide financial resources to least developed countries through a reformed Least Developed Countries Fund). Or it could include focusing on a particular thematic area such as supporting capacity building.

Among the most concrete means for ensuring coherence is established by the Montreal Protocol. The Protocol establishes a "mechanism for the purposes of providing financial and technical cooperation" (Article 10.1, Montreal Protocol). This includes the Multilateral Fund (Article 10.2, MP), which operates directly "under the authority of the Parties" (Article 10.4, MP). **As well as requiring developed countries to provide assessed contributions "on the basis of the United Nations scale of assessments" (Article 10.6, MP) it also recognizes that many donors will also prefer to provide a proportion of financial resources through regional and bilateral sources**. It therefore provides:

> Bilateral and, in particular cases agreed by a decision of the Parties, regional co-operation may, up to a percentage and consistent with any criteria to be specified by decision of the Parties, be considered as a contribution to the Multilateral Fund, provided that such co-operation, as a minimum:
>
> (a) Strictly relates to compliance with the provisions of this Protocol;
>
> (b) Provides additional resources; and
>
> (c) Meets agreed incremental costs (Article 10.6, MP)

Parties to the Protocol have agreed that up to 20 per cent of the contributions of contributing Parties can be delivered through their bilateral agencies in the form of eligible projects and activities.[148]

G77 and China Finance Proposal: Design and Structure (Relationship to other entities)

7. Modalities for the determination of the role of existing funds and entity/ies for the operation of the financial mechanism will have to be worked out.

[148] Multilateral Fund, *About the Multilateral Fund.* Available from http://www.multilateralfund.org/about_the_multilateral_fund.htm.

IX. MONITORING AND EVALUATION

Effective monitoring and evaluation of financial and other commitments is essential if Parties are to ensure effective implementation of commitments and achieve the ultimate objectives of the Convention and its Kyoto Protocol. **The Convention includes a set of procedures for communicating and reviewing information related to implementation**. In summary, these include requirements that:

- All Parties communicate to the Conference of the Parties information on their national greenhouse gas inventories, a general description of steps to implement the Convention, and any other relevant information (Article 12.1); and
- Developed countries communicate to the Conference of the Parties a detailed description of policies and measures for mitigation and a specific estimate of their effects (Article 12.2) as well as information on measures to transfer finance and technology (Article 12.3).

The Subsidiary Body for Implementation, in turn, is required to:

- Consider information submitted under Article 12.1 to assess the overall aggregated effect of the steps taken by the Parties in the light of the latest scientific assessments concerning climate change; and
- Consider information submitted under Article 12.2 to assist in the review of the adequacy of developed countries mitigation commitments in Articles 4.2(a) and (b) (in accordance with Article 4.2(d)).

In the **Bali Action Plan, Parties called for measurement, reporting and verification** (MRV) of:

- Nationally appropriate mitigation commitments or actions, including quantified emission limitation and reduction objectives, by all developed country Parties[149]; and
- Technology, financing and capacity building to support and enable nationally appropriate mitigation actions (NAMAs) by developing country Parties.

Parties are also discussing whether and how the Bali Action Plan requires NAMAs themselves to be MRV'd. A strict reading of the text suggests that they are not.[150] Nevertheless, **a range of views have been offered on the terms of the Bali Action Plan**:

- One is that NAMAs are not required to be MRV'd. The Convention does not require it; the Bali Action Plan calls for enhanced implementation of the Convention; and the plain meaning of the terms of the Bali Action Plan do not add additional obligations or commitments;

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[149] The mitigation commitments of Annex I Parties that are Parties to the Kyoto Protocol are already measured, reported and verified under Articles 5, 7 and 8 of the Kyoto Protocol. For those Annex I Parties that are not Parties to the Kyoto Protocol (i.e. the United States) comparable procedures need to be established under the Convention through COP decisions. Parties may also wish to consider further elaborating the "multilateral consultative mechanism" for the resolution of questions regarding implementation in Article 13. Further consideration of MRV of Annex I mitigation commitments is beyond the scope of this paper.

[150] Paragraph 1(b)(ii) of the Bali Action Plan refers to:

> Nationally appropriate mitigation actions by developing country Parties in the context of sustainable development, supported and enabled by technology, financing and capacity-building, in a measurable, reportable and verifiable manner;

The adverbial phrase "in a … manner" modifies the verbs "supported and enabled" and not the noun "actions". For it to modify "actions" would have required the addition of a participial adjective such as "*undertaken* in … a manner". To read the phrase otherwise is both awkward in terms of its plain meaning and grammatically incorrect.

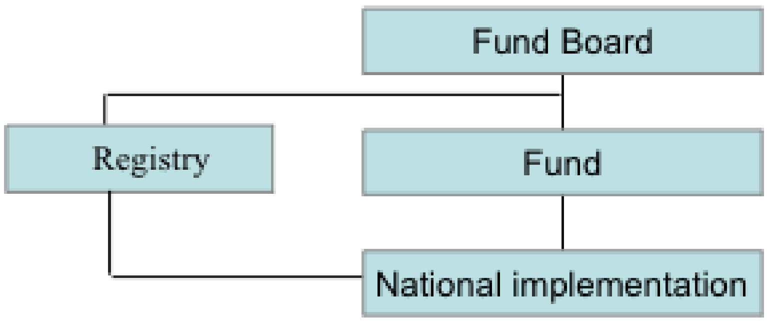
- A second view is that only NAMAs that are "supported and enabled" are to be MRV'd. Other actions are either not NAMAs (as NAMAs are, by definition, "supported and enabled") or they are autonomous and so do not require MRV; and
- A third view is that both internationally "supported NAMAs" and domestically supported "autonomous NAMAs" are to be MRV'd, but in different ways. NAMAs that receive international support are to be MRV'd internationally. NAMAs that receive domestic support are to be MRV'd domestically.[151]

Further discussions are required among Parties to develop a common view on how to implement the Convention's requirements and whether additional measures are needed.

If Parties agree that an additional mechanism is required to measure, report and verify the provision of financial resources, and of related technology transfer and capacity building, then such a mechanism (e.g. a "registry" or other mechanism for recording actions to implement the Convention) should logically be related to the mechanisms established to enhance implementation of the Financial Mechanism.

As noted previously, it is a basic function of the Conference of the Parties and the entity or entities entrusted with the operation of the financial mechanism to agree on arrangements to determine "in a predictable and identifiable manner the amount of funding necessary and available for the implementation of the Convention".

As the entity entrusted with the operation of the financial mechanism, **part of the Board's functions should thus include registering the financial commitments made by Parties under the financial mechanism**, as well as the provision of financial resources related to the implementation of the Convention through bilateral, regional and other multilateral channels. The mechanism could also evaluate the supported projects and other actions (including NAMAs) for consideration by the Board as well as the Subsidiary Body on Implementation and the Conference of the Parties.



[151] Parties that have associated with the Copenhagen Accord have agreed that:

> Mitigation actions taken by Non-Annex I Parties will be subject to their domestic measurement, reporting and verification the result of which will be reported through their national communications every two years. Non-Annex I Parties will communicate information on the implementation of their actions through National Communications, with provisions for international consultations and analysis under clearly defined guidelines that will ensure that national sovereignty is respected. Nationally appropriate mitigation actions seeking international support will be recorded in a registry along with relevant technology, finance and capacity building support. Those actions supported will be added to the list in appendix II. These supported nationally appropriate mitigation actions will be subject to international measurement, reporting and verification in accordance with guidelines adopted by the Conference of the Parties.

A number of Parties have made formal proposals based on and seeking to elaborate the provisions of the Copenhagen Accord within the UNFCCC process. The Copenhagen Accord's provisions themselves "do not have any legal standing within the UNFCCC process even if some Parties decide to associate themselves with it", according to the UNFCCC Secretariat (Notification to Parties, 25 January 2010).

X. OPERATIONALIZING THE FINANCIAL MECHANISM: NEXT STEPS

A. Avoiding pitfalls

Enhanced action to implement the Convention's finance commitments is likely to be more effective – both politically and practically – if it avoids a range of obvious pitfalls. These include, among others, distinguishing clearly between public and private finance, maintaining a balance of rights and obligations and avoiding the undue politicization of financial resources in the negotiations.

Distinguish public and private finance

Ensuring clarity about financial resources requires an effort to distinguish clearly between resources from public and private sources. It requires addressing the apparent tendency (intentional or otherwise) to conflate the two. This tendency is reflected, for example, in the language of the Copenhagen Accord, which states that developed countries commit "to a goal of jointly mobilizing USD $100 billion a year by 2020 … from a wide variety of sources, public and private …".

Both public and private financing is required to address climate change. But their role is distinct and should remain so. **This distinction is particularly important when the proposed source of private finance is a "carbon market".** Stated simply: public sources finance emission reductions for the *developing countries* (i.e. supports emissions reductions by and for them, and that are attributed to them). By contrast, **carbon markets finance emission reductions for the *developed countries*.** Carbon markets, by "offsetting" the developed countries' emissions (i.e. the reductions are attributed to the developed country and not the developing country where the actual reductions take place) actually enable *developed countries* to meet their emission reduction targets, and to do so where it is cost-effective to them (i.e. in developing countries).

In the context of the Kyoto Protocol, which set no global limit on emissions, this distinction was less important. In the context of the current negotiations, which seek via the "shared vision" to define and divide among developed and developing countries the remaining global carbon budget, it takes on additional importance. To frame this in terms of carbon budgets: public finance assists developing countries to develop within their share of the carbon budget (i.e. so they can secure higher levels of development benefits from their residual share of the carbon budget); by contrast, **carbon market finance involves a transfer of part of the global carbon budget from developing countries to developed countries** (i.e. denying it to developing countries, to enable developed countries to pollute at higher levels domestically).[152]

It is thus desirable for Parties to clearly distinguish:

- The emission reductions that are to be attributed to the developing countries (e.g. via their NAMAs), and emission reductions that are to be attributed to the developed countries to meet their targets (e.g. via offsetting through the CDM);

[152] The practical implications of the two approaches are quite different. In both cases, the emission reduction occurs physically in the developing country. But in one case, it is attributed to them. In the other case it is attributed to the developed country. This is not an academic distinction. In the context of a limited global carbon budget, public finance enables developing countries to secure a greater level of welfare from the limited carbon space available to them. Carbon market finance, by contrast, effectively transfers more of that carbon budget from the developing countries to the developed countries – enabling them to continue their high emission levels while reducing the carbon space available to developing countries.

- The nature and level of financing that is necessary and available to assist developing countries and their relationship to specific provisions of the Convention; and
- The adequacy of these in light of the provisions of the Convention, and the other elements of the negotiations, including elements of the shared vision (and associated distribution of the carbon budget) of which they are to be a part.

Doing so will improve transparency and enable a more accurate determination by Parties “in a predictable and identifiable manner of the amount of funding necessary and available for the implementation of [the] Convention” (as required by Article 11.3(d)).

Maintain a balance of rights and obligations

The Convention includes a **balanced set of rights and obligations that together reflect a package of commitments**. The importance of all provisions and principles of the Convention was reaffirmed by all Parties in the Bali Action Plan when they resolved to “urgently enhance implementation of the Convention” through a comprehensive process including a shared vision “in accordance with the provisions and principles of the Convention”.

In this context, elements of the balance relating to finance include:

- **The categories of countries eligible for financial resources**: e.g. all “developing countries” relating to provision of financial resources for national communications and implementation of Article 4.1 (see Article 4.3), and technology transfer (Article 4.5); “countries that are particularly vulnerable” for costs relating to adverse effects (see Article 4.4), etc;
- **The categories of costs to be covered**: e.g. national communications; implementation of measures in Article 4.1 (national programmes, technology transfer, forests and other sinks etc)(Article 4.3); costs of adapting to adverse effects (Article 4.4); technology (Article 4.5), etc; and
- **The level of financial resources to be provided**: e.g. “agreed full costs” and “agreed full incremental costs” (Article 4.3); the need for “determination in a predictable and identifiable manner the amount of funding necessary and available for the implementation of the Convention (Article 11.3(d)), etc.

In this regard, **efforts to alter rather than honor this balance of rights and obligations seems likely hamper rather than help the negotiations** – particularly in light of the concerns regarding implementation that led to agreement of the Bali Action Plan. Of particular concern are the efforts by some Parties to change the categories of countries eligible for financial resources – for example through the tendency to narrow existing categories of countries (e.g. from “particularly vulnerable” to “most vulnerable”) or establish new categories of countries (e.g. “major emitters”).

Doing so risks leaving so-called “major emitters” with inadequate resources for adaptation, or “most vulnerable countries” with inadequate resources for mitigation, or middle income countries – which fit neither category – with inadequate resources for either. It threatens to politicize discussions and increase the threat, recognized in the Bali Action Plan, that “delay in reducing emissions significantly constrains opportunities to achieve lower stabilization levels and increases the risk of more severe climate change impacts.”

To the extent that **practical decisions need to be made about prioritizing financing, these are best undertaken through guidelines agreed by the fund Board, under the**

guidance of the COP, and not through attempts to formalize new country categories – which seem likely to create further delay rather than unlock the cooperative efforts required to move discussions forward and enhance cooperative action in practice.

Minimize the politicization of financial resources

A third pitfall to be avoided is the **further politicization of financial resources and their use for political purposes outside the context of the UNFCCC**. This includes the use of financial resources to place undue political pressure on developing countries, or to foster division and discord in the negotiations. It also includes the fulfillment of existing (largely unfulfilled) commitments by developed countries to procure new commitments by developing countries.

In this context, the characterization by some Parties of financial resources at the Copenhagen meeting and afterwards was unfortunate. This included statements by some senior officials representing developed countries that financial resources required to implement the Convention would only be available to those countries that associated with the Copenhagen Accord. It also includes the withdrawal by one major developed country of committed resources from some developing countries on the basis they declined to support the Accord. **Predicating the fulfillment of existing legal commitments on the creation of new ones risks perceptions of financial bullying** and blackmail and is not conducive to progress in the climate negotiations.

B. Defining next steps

Parties have a range of tasks before them relating to enhanced action on the provision of financial resources under the Convention.

Short-term financing

An immediate priority before COP16 in Cancun is **enhancing the transparency of short-term financing** to be provided by developed countries in accordance with the provisions of the Convention. Increased transparency can help to build trust and provide the basis for the development of more robust measurement, reporting and verification procedures. At a minimum, before Cancun developed countries should provide to the Conference of the Parties information on:

- The scale financing proposed in the short-term (e.g. before 2012);
- The proportion that is “new” (i.e. not previously pledged);
- The proportion that is “additional” (i.e. over and above ODA);
- The proportion that is grant-based versus concessional;
- The proportion of any concessional finance that is additional (versus loans to be repaid);
- The proportion for adaptation and for mitigation; and
- The proportion to be provided through the financial mechanism versus “other channels”.

The developed countries should supply information such as this to the Secretariat for compilation and circulation to all Parties. Further information on short-term financing proposed by developed countries can **provide the basis for negotiations before and during Cancun about the scale of short-term financing that is required to**

implement the Convention, and the modalities through which it will be measured, reported and verified.

Longer-term financing

In terms of longer-term financing, Parties remain a considerable distance apart in terms of agreeing the level that is "necessary and available for the implementation of the Convention".

The pledge by developed countries in the Copenhagen Accord to "mobilize" $100 billion offers a start, but it guarantees neither the provision of any specific level of public funding (it refers to a "wide variety of sources") nor that the funding will be provided by the developed countries (they have merely committed to "mobilize" it). Additionally, $100 billion falls well short of any reasonable science- and economic-based estimates of the level of financing required to implement the Convention. **Discussions of long-term finance require a sounder empirical basis rooted more clearly in the requirements of the Convention** and based on factors such as the scale of adaptation and mitigation challenge faced by developing countries, the level of action (e.g. on mitigation) proposed by developed countries, the value of the global carbon budget and its allocation, and other relevant factors. The scale of financing must also be evaluated in relation to other long-term goals such as those relating to temperature and global emission levels.

To complement an ongoing discussion of the scale of financing required in the longer-term, Parties may wish to **focus on the institutional arrangements necessary for determining the level of financing necessary for the implementation of the Convention and the process for agreeing it**. Negotiations on the level of financing required in terms of two- or three-year replenishment periods, based on sound technical and economic information, could help to encourage practical efforts of cooperation among Parties over the longer-term.

A process for cooperation

It is the responsibility of the Conference of the Parties to agree on measures to more effectively operationalize the UNFCCC financial mechanism.

- **Establish working group under the COP**. Parties may wish to establish a working group or standing committee in the context of the AWG-LCA to elaborate key elements of the financial mechanism for discussion by all Parties and inclusion in a draft COP decision and Annexes.
- **Agree framework decision (in line with G77 and China proposal).** In Cancun, Parties could agree a framework decision establishing the key elements of the enhanced financial mechanism, including the Board and other entities. The basic institutional arrangements would be defined and established in this decision, with the details of these arrangements to be elaborated further through discussions during 2011.
- **Define details of fund instrument through further discussions of working group**. Parties would continue discussions of the working group during 2011 and invite participation by both climate and finance experts. This group, which should be open to all Parties, will draft the detailed Fund Instrument and any related documentation for consideration by the COP.

- **Secure final approval of fund instrument by the COP.** Parties could agree to finalize the detailed Fund Instrument and related documentation at COP 17 in Johannesburg in December 2011. The enhanced financial mechanism would be launched and made fully operational before the 20th anniversary of the UNFCCC in 2012.

ANNEXES

Annex 1: Selected decisions regarding the financial mechanism

Excerpted text of relevant COP decisions regarding the GEF as an operating entity of the UNFCCC Finance Mechanism:

Decision 11/CP.2 (1996): Guidance to GEF

Expressing concern over the difficulties encountered by developing country Parties in receiving the necessary financial assistance from the Global Environment Facility owing to, *inter alia*, the application of the Global Environment Facility operational policies on eligibility criteria, disbursement, project cycle and approval, the application of its concept of incremental costs, and guidelines which impose considerable administrative and financial costs on developing country Parties,

Also expressing concern over the difficulties encountered by these Parties in seeking funds from the Global Environment Facility, as the interim operating entity of the financial mechanism of the Convention, for the preparation of their initial national communications,

Decision 2/CP.4 (1999): Additional guidance to the operating entity of the financial mechanism

Noting the continued concerns and difficulties encountered by developing country Parties with the availability and disbursement of financial resources, including for the transfer of technology, the problems arising from the GEF project cycle, the application of the concept of incremental costs, and the availability of resources through the GEF implementing/executing agencies,

Noting also the current and ongoing efforts of the GEF to address these concerns, *inter alia*, by streamlining its project cycle, increasing support for country-level coordination, strengthening its monitoring and evaluation programme, ensuring that its activities are country-driven and consistent with national priorities and objectives, further developing its resource allocation strategy to maximize the effectiveness of its climate change activities and making the process of determining incremental costs more transparent and pragmatic,

Decision 6/CP.7 (2002): Additional guidance to an operating entity of the financial mechanism

2. *Invites* the GEF:

> (a) To continue its efforts to minimize the time between the approval of project concepts, the development and approval of the related projects, and the disbursement of funds by its implementing/executing agencies to the recipient countries of those projects;
>
> (b) Further to streamline its project cycle with a view to making project preparations simpler, more transparent and country-driven. In this regard, the project cycles of its implementing/executing agencies should be coordinated with the GEF project cycle;

(c) To urge its implementing/executing agencies to be more responsive to requests for GEF assistance from developing country Parties for climate change related project activities aimed at implementing the guidance of the Conference of the Parties;

(d) Further to encourage the use of national and regional experts and/or consultants to enhance project development and implementation; in this regard, it should make its list of national and regional experts and/or consultants publicly available;

(e) To give consideration to measures to increase opportunities available to developing country Parties for accessing GEF funds for climate change activities aimed at implementing the guidance of the Conference of the Parties, including a review of the adequacy of the number of implementing/executing agencies available to deliver GEF programmes and projects;

3. *Urges* the GEF to adopt a streamlined and expedited approach to financing activities within the framework for capacity-building in developing countries (non-Annex I Parties) contained in decision 2/CP.7;

Decision 6/CP.8 (2003): Additional guidance to an operating entity of the financial mechanism

Did not note problems and concerns

Decision 4/CP.9 (2004): Additional guidance to an operating entity of the financial mechanism

Did not note problems and concerns

Decision 8/CP.10 (2005): Additional guidance to an operating entity of the financial mechanism

2. *Urges* the Global Environment Facility, on matters relating to Article 6 of the Convention, to continue its work in improving access to, and visibility of, opportunities for funding Article 6 activities;

Decision 5/CP.11 (2006): Additional guidance to an operating entity of the financial mechanism

Did not note problems and concerns

Decision 3/CP.12 (2007): Additional guidance to the Global Environment Facility

Noting the concerns expressed by developing country Parties over the implications of the requirements for co-financing, in particular on adaptation project activities,

1. *Requests* the Global Environment Facility, as an operating entity of the financial mechanism of the Convention:

(a) To further simplify its procedures and improve the efficiency of the process through which developing country Parties receive funding for projects for the implementation of their commitments under Article 4, paragraph 1, of the Convention;

(b) To explore options to address concerns of developing country Parties on requirements for leveraging additional funds for projects;

(c) To give a detailed report on the resources available to each developing country Party in the initial implementation of the resource allocation framework, including a list of activities funded with these resources during this initial period in the climate change focal area;

(d) To continue to provide financial support for the implementation of the technology transfer contained in the annex to decision 4/CP.7, including new sub-themes,1 through its climate change focal area and the Special Climate Change Fund established under decision 7/CP.7;

(e) To provide financing to Parties not included in Annex I to the Convention that received the top-up fund but did not conduct their technology needs assessments, to enable these Parties to conduct their technology needs assessments as part of their second national communications, and to provide these funds to Parties not included in Annex I to the Convention that have conducted their technology needs assessments but need to update them, also as part of their second national communications, in addition to the amount approved for the preparation of their second national communications;

2. *Invites* the Global Environment Facility, as an operating entity of the financial mechanism of the Convention:

(a) To further simplify its procedures and improve the efficiency of the process by which Parties not included in Annex I to the Convention receive funding to meet their obligations under Article 12, paragraph 1, of the Convention, with the aim of ensuring the timely disbursement of funds to meet the agreed full costs incurred by developing country Parties in complying with these obligations;

(b) To provide updated information on the operational procedures for the expedited financing of national communications from Parties not included in Annex I to the Convention, for consideration by the Subsidiary Body for Implementation at its twenty-sixth session;

(c) When providing support for technology needs assessments, in accordance with decisions 4/CP.9 and 5/CP.9, to take into account actions to address barriers and constraints as well as the creation of enabling environments and capacity gaps, identified by the Parties not included in Annex I to the Convention and as contained in document FCCC/SBSTA/2006/INF.1;

(d) To produce simple guidelines on how to enhance activities relating to Article 6 in project proposals when applying for Global Environment Facility funding;

3. *Urges* the Global Environment Facility to provide further funding, in a more timely manner, to the developing country Parties, in particular the least developed countries and small island developing States, to allow these countries to implement activities relating to Article 6 and the New Delhi work programme;

4. *Requests* the Global Environment Facility to include, in its regular report to the Conference of the Parties, information on the specific steps it has taken to implement guidance contained in paragraphs 1 and 2 above;

5. *Invites* Parties to submit to the secretariat, by 17 August 2007, their views and recommendations on the funding available to them in the climate change focal area, for compilation by the secretariat for consideration and appropriate action at the Conference of the Parties at its thirteenth session and for transmission through the secretariat to the Council of the Global Environment Facility.

Decision 2/CP.12 (2007): Review of the financial mechanism

2. *Further requests* the Global Environment Facility to recognize and respond to the challenges faced by small island developing States and least developed countries in accessing Global Environment Facility funding highlighted in the third overall performance study of the Global Environment Facility;

Draft decision -/CP.13 (2008): Additional guidance to the Global Environment Facility

2. *Invites* the Global Environment Facility:

> (b) To consider the views of, and any concerns expressed by, Parties regarding their current experiences with the Global Environment Facility and its implementing agencies in relation to the provision of financial support for the preparation of national communications from non-Annex I Parties, as contained in documents FCCC/SBI/2007/MISC.13 and Add.1;

Documents related to financial mechanism: http://unfccc.int/cooperation_and_support/financial_mechanism/items/4270.php

Decisions relating to the financial mechanism: http://unfccc.int/cooperation_support/financial_mechanism/relevant_decisions/items/3656.php

Annex 2: Country Coordination Mechanisms under the Global Fund

The Global Fund recognizes that only through a country-driven, coordinated and multi-sector approach involving all relevant partners will additional resources have a significant impact on the reduction of infections, illness and death from the three diseases. Thus, a variety of actors, each with unique skills, background and experience, must be involved in the development of proposals and decisions on the allocation and utilization of Global Fund financial resources. To achieve this, the Global Fund expects grant proposals to be coordinated among a broad range of stakeholders through a Country Coordinating Mechanism (CCM), and that the CCM will monitor the implementation of approved proposals.

The role of country coordinating mechanisms includes:

- Coordinating the submission of one national proposal for funding, drawing on the strengths of various stakeholders to agree on strategy, identify financing gaps in achieving the strategy based on existing support, prioritize needs, and identify the comparative advantages of each proposed partner;
- Selecting one or more appropriate organizations to act as the Principal Recipient for the Global Fund grant;
- Monitoring the implementation of activities under Global Fund approved programs, including approving major changes in implementation plans as necessary;
- Evaluating the performance of these programs, including of Principal Recipient in implementing a program, and submit a request for continued funding prior to the end of the two years of initially approved financing from the Global Fund; and
- Ensure linkages and consistency between Global Fund assistance and other development and health assistance programs in support of national priorities.[153]

Accordingly, country coordinating mechanisms and their members are expected to accept the following responsibilities:

- A CCM should function as a national consensus group to promote true partnership in the development and implementation of Global Fund supported programs and be fully transparent in its decision-making;
- All members of a CCM should be treated as equal partners in the mechanism, with full rights to participation, expression and involvement in decision-making in line with their areas of expertise;
- CCM members representing the non-government sectors must be selected/elected by their own sector(s) based on a documented, transparent process, developed within each sector;
- The government representatives on the CCM should be mandated by, represent the views of and report back to, the senior leadership of the government;
- A CCM should be responsive to all national stakeholders. Individual members should hold regular meetings with their constituents to ensure that representative views and concerns are expressed in the national forum;

[153] Global Fund, *Guidelines and Requirements for Country Coordinating Mechanisms*, p. 2.

- A CCM should ensure that all relevant actors are involved in the process and provide transparency to the general public. As such, it is responsible for ensuring that information related to the Global Fund, such as Calls for Proposals, decisions taken by the CCM, and detailed information on approved proposals for funding, is disseminated widely to all interested parties in the country; and
- A CCM should determine the details of its functioning, including organizational structure, election procedures, frequency of meetings, terms of reference, etc.

In terms of structure, each CCM should elect a Chair and a Vice Chair in accordance with the election procedures determined by its members. It is recommended that CCMs elect a Chair and Vice Chair from different sectors and that the CCM Chair and Vice Chair be from domestic entities. The election of other officers and the development of the organizational structure should be at the discretion of the CCM, considering the local context. CCMs should remain of a manageable size in order to work and discharge responsibilities effectively. Each CCM should document its organizational structure to ensure transparency.

The Global Fund recommends that all countries strive to include the following actors in their CCMs:

- Academic/Educational Sector;
- Government;
- NGOs/Community-Based organizations;
- People living with HIV/AIDS, TB and/or Malaria;
- Key Affected Populations;
- Private Sector;
- Religious/Faith-Based organizations;
- Multilateral and Bilateral Development Partners in-country.

For further information on country coordinating mechanisms under the Global Fund see *Guidelines and Requirements for Country Coordinating Mechanisms* at:

http://www.theglobalfund.org/documents/ccm/Guidelines_CCMPurposeStructureComposition_en.pdf

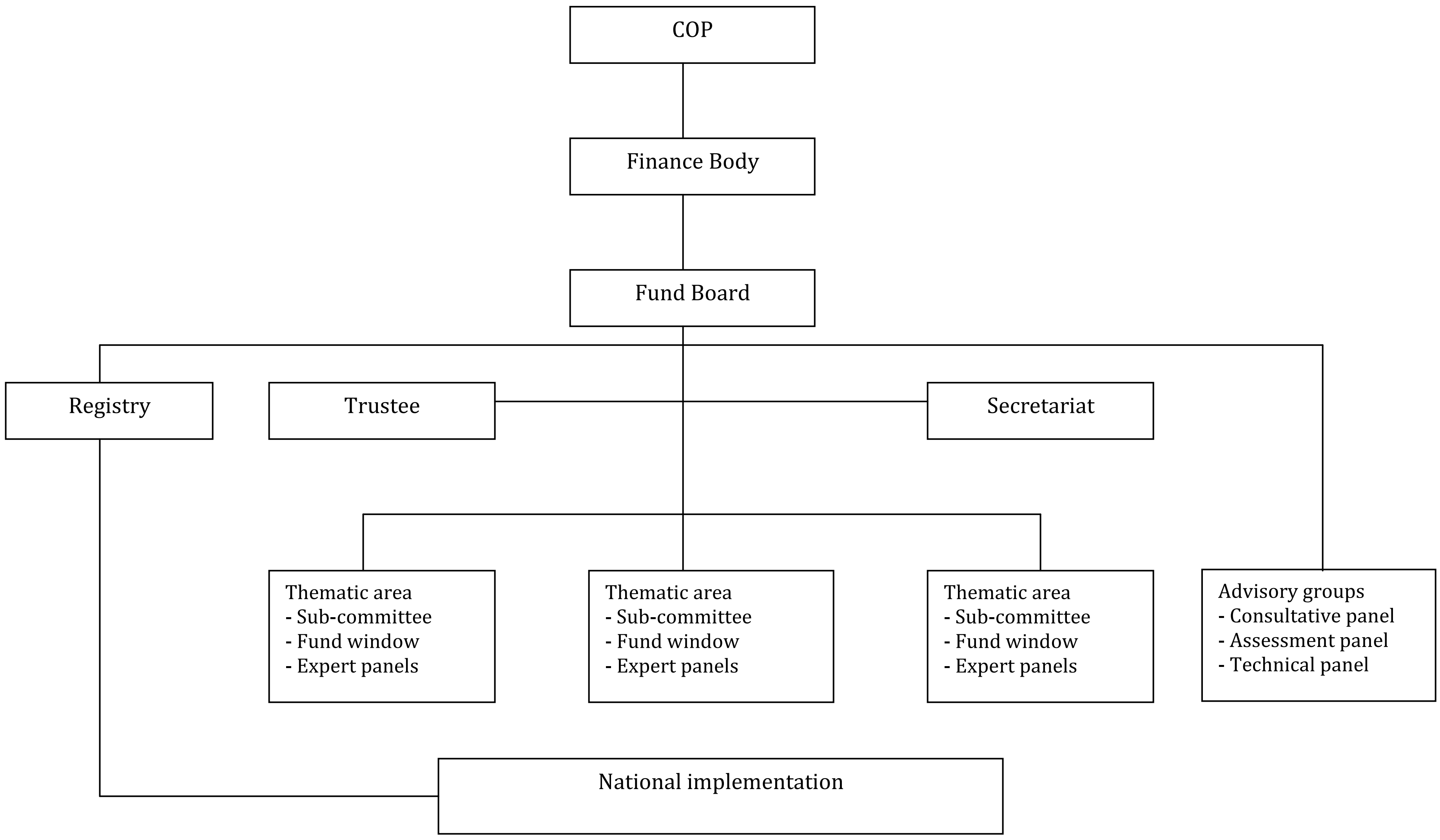
Annex 3: Terms of reference of the expert group on technology transfer

In the context of the UNFCCC, the Expert Group on Technology Transfer provides analysis on ways to advance technology transfer activities to enhance implementation of the Convention's technology-related provisions:

- The expert group on technology transfer shall have the objectives of enhancing the implementation of Article 4, paragraph 5, of the Convention and advancing the technology transfer activities under the Convention.
- The expert group on technology transfer shall analyse and identify ways to facilitate and advance technology transfer activities, including those identified in the annex to the decision 4/CP.7 (Development and transfer of technologies), and make recommendations to the Subsidiary Body for Scientific and Technological Advice (SBSTA).
- The expert group on technology transfer shall report on its work each year and propose a programme of work for the following year for decision by the SBSTA.
- The members of the expert group on technology transfer shall be nominated by Parties for a period of two years and be eligible to serve two consecutive terms. The SBSTA shall ensure that half of the members of the expert group nominated initially shall serve for a period of three years, taking into account the need to maintain the overall balance of the group. Every year thereafter, half of the members shall be nominated for a period of two years. Appointment pursuant to paragraph 5 shall count as one term. The members shall remain in office until their successors are nominated. The members from three relevant international organizations shall serve on an issue-oriented basis.
- If a member of the expert group on technology transfer resigns or is otherwise unable to complete the assigned term of office or to perform the functions of that office, the expert group may decide, bearing in mind the proximity of the next session of the Conference of the Parties, to request the group that had nominated the member to nominate another member to replace the said member for the remainder of that member's mandate. In such a case, the expert group shall take into account any views expressed by the group that had nominated the member.
- The expert group on technology transfer shall annually elect a Chairman and Vice-Chairman from among its members, with one being a member from a Party included in Annex I and the other being a member from a Party not included in Annex I. The positions of Chairman and Vice-Chairman shall alternate annually between a member from a Party included in Annex I and a member from a Party not included in Annex I.
- The members of the expert group on technology transfer shall serve in their personal capacity and shall have expertise in any of the following areas, inter alia, greenhouse gas mitigation and adaptation technologies, technology assessments, information technology, resource economics, or social development.

See:
http://unfccc.int/essential_background/convention/convention_bodies/constituted_bodies/items/2581.php

Annex 4: Diagram of Finance Mechanism



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