

# Comments on the U.S. intervention related to the establishment of the new Fund ('the Intervention')

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## Existing Institutions

The *Intervention* – delivered at the LCA informal breakout group on finance institutions of 9 June 2010 – contains a number of interesting points which I think are definitely steps in the right direction. For one, the intervention clarifies the US position with regards to the thorny issue of 'existing institutions'

**The World Bank:** while the intervention insists on the Bank as the trustee of the Fund, it goes to some length that any other role is up for discussion.

**The MDBs:** While emphasising the importance of MDBs "in co-financing large-scale mitigation and adaptation investments" the Intervention also stresses an openness "to considering, under the right circumstances and with appropriate fiduciary standards, how *domestic institutions* could access financing directly from the Fund."

This, in my mind, is of particular importance, because it opens up the possibility to 'park' the issue of existing institutions and focus instead of functions and governance. It also leaves open the option of direct access, in general, and of disbursement to National Funding entities, in particular. For more on why I think both of these options are of importance, see *The Reformed Financial Mechanism of the UNFCCC Part II. The Question of Oversight: Post Copenhagen Synthesis Report* (available at <http://www.oxfordclimatepolicy.org/>), in particular sections C.6 and C.7.

## Establishing the Fund

The intervention envisaged three steps in setting up the new fund. A COP decision, a period of designing the (instrument for) the Fund, and an MOU between the Fund and the COP.

### A framing COP decision

I think that there is indeed the need for what could be called a 'blue print decision' by the COP, specifying the architectural framework for the fund, without going into too much detail. Indeed, I do not think that such a blue print should name individual institutions, such as specifying a trustee.

### Designing the instrument

I completely agree with the key assertion that in establishing/designing a fund, "*it is essential to have the right people involved*"[Line 32]. What I strongly disagree is who the 'right' people are meant to be. To be quite clear, I am not saying that finance ministry experts should

not be involved, far from it. But they clearly should not be the only ones involved. They may be experts in finance, but that does not necessarily make them experts in governance and institutional architecture. They may know how to design a loan, but that is not the same as designing a bank, or for that matter a fund. There are other kinds of experts that may be useful to consult, but more important is the issue of legitimacy of this ‘working group’ (as it is called in line 78), not only because it is meant to design the architecture of the fund, but also because it is taken to nominate its Board (line 79)

The Intervention refers to ‘finance experts from our countries’ coming together in a series of meetings, convened either by the World Bank (because of its technical infrastructure) or “a party or group of parties.” The problem is that legitimacy does not derive from technical expertise or from some self-selected group of countries. It would be crucial not only that all Parties and groupings feel adequately represented in that working group.

I think it would be useful to draw lessons both from the process of selecting the members of the Adaptation Fund Board, which because of its inclusive nature has enabled that body to set up international fiduciary standards which were passed by the COP, and the process that was used to convene the Friends of the Chair in Copenhagen, which led to the Copenhagen Accord which was not.

The point here is simple: if we do wish to have a constructive relationship between the ‘working group’ (and subsequently the Fund) and the COP, it is crucial that the COP has genuine buy-in into the process of establishing the Fund – which will not be the case if one follows the Copenhagen model of convening the working group.

The overall idea on Fund governance seems to be that, by contrast to the case of the Adaptation Fund, the members of the new Fund would be technical experts *not* selected by the COP. I think the only way in which this might ultimately work is if there is some genuine oversight of this technical board by a body which has the required trust in the COP.

## The Finance Board

The Interventions appears to be rather dismissive of the idea of a Finance Board, but that might be ill-advised. As I mentioned, it seems unlikely that the Fund model proposed in the Intervention would lead to a satisfactory working relationship with the COP in the absence of real oversight, and it has become clear over the years that neither the COP (not the SBI, for that matter) are the sort of bodies that can carry out genuine oversight. To do this it will need a smaller body – such as the proposed Finance Board, provided it has, on the one hand, the prerequisite legitimacy, and ‘teeth’ on the other. The latter, for one will require the ability of the Finance Board to review modalities of operating entities and not just recommend them (as proposed in the latest LCA chair’s text).