

Oxford Energy and Environment Brief

January 2011

What to do now?

Elements for organizing the Transitional Committee to establish the Green Climate Fund, based on lessons learned from the Global Fund experience

by Sven Harmeling¹ and Benito Müller²

Introduction

According to the agreement reached in Cancun, the Green Climate Fund (GCF) will be designed by a *Transitional Committee* (TC) to be convened by the UNFCCC Executive Secretary, in consultation with the COP Presidency. The Agreement stipulates that the TC is to have 15 members from developed and 25 members from developing country Parties – the latter representing the relevant UN Groups, as well as Small Islands Developing States (SIDS) and the Least Developed Country (LDC) Group. The task of selecting the TC members has been delegated by the Convener to the five UN regional groups who are to give notice, through their Chairs, of the selected candidates by 31 January 2011. This selection procedure ought to provide the TC with the legitimacy required for COP buy-in, and to incorporate what has been referred to as the ‘political expertise’ to guide the drafting work towards the desired COP approval at Durban in December 2011.

However, there are still some (procedural) issues that need to be looked in order to enable the TC to work as effectively as required by the very tight timetable. The aim of this Brief is to outline a number of proposals on how to address these issues – based primarily on experience from the Transitional Working Group (TWG),³ established in 2001 to work out modalities for the Global Fund (GF) to fight HIV/Aids, Tuberculosis, and Malaria.⁴ – namely:

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¹ Senior Advisor Climate and Development, Germanwatch, harmeling@germanwatch.org

² Director Energy and Environment, OIES, benito.mueller@philosophy.ox.ac.uk

³ For more on the reasons for choosing the TWG as basis see Benito Müller and Sven Harmeling, ‘In the Footsteps of the Global Fund: How to establish the new climate fund’, COP 16 Outreach, 30 November 2010. www.stakeholderforum.org/fileadmin/files/OUTREACH-02.pdf.

⁴ Original information is available at: www.theglobalfund.org/en/twg/

Mutually respected leadership

The GCF is likely to have a profound impact for the international financial architecture of the future. This is why it is important to provide genuine hands-on leadership to this process. How is such leadership to be provided to the process of establishing the GCF? Should it be through the convener, or through TC chair(s)? If it is the latter, should the chair be shared between developed and developing country representatives?

Politically speaking, we believe that the role of convener must be ceremonial and that leadership will have to be provided through the chair of the TC and its drafting groups (see below). In that context, we believe that it will be important to have a balance between developing and developed country chairs, but given the technical nature of the work, this should *not* result in co-chairing arrangements. In other words, while there should be a balance in the distribution of chairs, the TC and its sub-groups should each be chaired by a single mutually-respected person who knows how to manage the task at hand.

Specific drafting groups and clusters of work

One key reason for the successful and rapid work of the Transitional Working Group in preparing the Global Fund was the setting-up of specific continuous drafting groups. This provided an efficient modus operandi, since members of the TWG could focus their work on specific issues, and several issues could be progressed in parallel. At the first meeting of the TWG, the establishment of working groups on some of the key issues was agreed.⁵ These groups prepared first drafts of documents for the second meeting of the TWG only six weeks later. At the same time the process showed flexibility, since further working groups were added at the second meeting of the TWG.

Against this background, it is clear that in the limited time until Durban, the workload prescribed in the *Terms of reference for the design of the Green Climate Fund* can only be carried out through a division of labour and continuous drafting. Moreover, it is important that the TC members and active observers (see below) be involved from the very beginning in the drafting process. Both can only be done in (small) document-specific drafting groups.

The *Terms of reference for the design of the Green Climate Fund* provide a good starting point for the establishment of such specific working or drafting groups. One way of organizing the work would be to **cluster the tasks in four areas**, with a view to establishing four specific working groups at the first meeting of the TC.

First, this would create synergies since some of the tasks are closely interlinked. Second, dividing the 40 members into four groups leaves a workable size for each group. The following box proposes a specific clustering of the ten tasks (a – j) into the four areas (A) Legal arrangements, (B) Funding arrangements,⁶ (C) Evaluation, safeguards, and accountability, and (D) Outreach and inclusion. All of

⁵ See Report of the first meeting of the TWG:

www.theglobalfund.org/documents/twg/Meeting_report_F_011030.pdf

⁶ In the context of funding arrangements, it is important to emphasize that while the TC will have to make **certain collective assumptions as to the magnitude of expected funding** – this is an important design parameter – the TC, as a technical drafting body, should **not get involved in negotiations on how that funding will be raised**.

these groups can then draw on the existing documents from other funds. Furthermore, such clusters could also help to focus consultation meetings with different constituencies on certain issues.

Proposed clusters of work for specific drafting groups

A: Legal arrangements

- (a) The legal and institutional arrangements for the establishment and operationalization of the Green Climate Fund;
- (b) The rules of procedure of the Board and other governance issues related to the Board;
- (f) The role of the secretariat and the procedure for selecting and/or establishing the secretariat;

B: Funding arrangements

- (c) Methods to manage large scale of financial resources from a number of sources and deliver through a variety of financial instruments, funding windows and access modalities, including direct access, with the objective of achieving balanced allocation between adaptation and mitigation;
- (d) The financial instruments that the Fund can use to achieve its priorities;
- (e) Methods to enhance complementarity between the Fund's activities and those of other bilateral, regional and multilateral funding mechanisms and institutions;

C: Evaluation, safeguards and accountability

- (g) A mechanism to ensure periodic independent evaluation of the Fund's performance;
- (h) Mechanisms to ensure financial accountability and to evaluate the performance of activities supported by the fund. to ensure the application of environmental and social safeguards, as well as internationally accepted fiduciary standards and sound financial management to the fund activities;

D: Outreach and inclusion

- (i) Mechanisms to ensure appropriate expert and technical advice, including from relevant thematic bodies established under the Convention;
- (j) Mechanisms to ensure stakeholder input and participation;

Source: Original language and numeration taken from 1/CP.16, but re-arranged by the authors

Broad expertise and skills to support the TC

In paragraph 110 of the Cancun LCA Agreement, the COP invites, as mentioned above, the UNFCCC Executive Secretary, in consultation with the President of the Conference of the Parties, to convene the initial meeting of the Transitional Committee, with members having the necessary experience and skills notably in the area of finance and climate change. The task of selecting members of the TC has, following UNFCCC custom, been delegated to the relevant regional and negotiating groups. While such delegation is essential for the desired buy-in by the COP as a whole, it does pose some practical problems with regard to the spectrum of expertise, and the skills set that will ultimately be represented on the TC. To be quite clear, *this is not to denigrate in any way the skills that will be brought to the TC by the members thus chosen, but merely to highlight a potential scope problem.*

As has been argued elsewhere,⁷ it would be ill-advised to restrict the expertise available for drafting the new fund's framework documents to a single sector, or agency type. Indeed, the broader the

⁷ Benito Müller and Achala Chandani, *What Expertise?: On who should be drafting the framework documents for a new Global Climate Fund*, Oxford Energy and Environment Comment November 2010. www.oxfordenergy.org/pdfs/comment_02_11_10.pdf.

spectrum of experience the drafting body can draw upon, the more effective and efficient will be its work. The (potential) problem with the above-mentioned selection procedure is that there is really no realistic way of ensuring the desired diversity of experience amongst the selected members.

However, there is room for ensuring the desired diversity of experience in the drafting process. For one, there is the option of complementing the expertise of the TC members through active observers from relevant civil society constituencies (see below). But equally important is the COP having *requested the UNFCCC Secretariat in consultation with President of the Conference of the Parties, to make arrangements enabling relevant United Nations agencies, international financial institutions, and multilateral development banks, along with the secretariat and the Global Environment Facility, to second staff to support the work of the Transitional Committee for the design phase of the Green Climate Fund.* This leaves open the option of providing a full spectrum of ‘institutional experience’ at the process support level. But what institutions should be represented and how?

As concerns the latter, it is clear that there would have to be a balance between the institutions in question. In other words, no one of them should be represented disproportionately, in order to avoid institutional (conflicts of) interests which could reign in and compromise the work of the Transitional Committee. A warning example here is that of the early days of the Adaptation Fund (AF), where the staff from the Global Environment Facility (GEF) – the provider of Secretariat services to the AF Board – drafted documents which in the first place were developed along the usual GEF and World Bank rules. These drafts did not take into account that the AF was established on a fundamentally different basis, with the AFB members at the helm of the process. This created a lot of tension in the first two meetings of the AFB, something that needs to be avoided in the TC, if only because of the time constraints.

Indeed, it stands to reason that there should not be more than three participants per institution, and up to three per type of institution mentioned in the Cancun Agreement. That is to say,

- up to three *UN agencies* (e.g. UNEP,⁸ UNDP, WHO⁹);
- up to three *international financial institutions* (e.g. the Global Fund, the Adaptation Fund, Montreal Protocol ML Fund);
- up to three *multilateral development banks* (such as the World Bank Climate Investment Funds, European Bank for Reconstruction and Development, IMF, or other regional MDB);
- the *Global Environment Facility*; and
- the *UNFCCC Secretariat*.

Active observer input to harness additional expertise

One of the important lessons from the Transitional Working Group experience is the value of active engagement by different types of non-government stakeholders. The TWG was composed of a broad mix of different actors, with a view to harnessing expertise from many angles. While there was a clear majority for governments (29 out of 44 members), international organizations, NGOs, and private sector representatives were considered to be equally important, having the same decision-making rights. The distribution of members between the different constituencies was as follows:

⁸ Inter alia, UNEP staff are providing treasurer services to the Montreal Protocol ML Fund.

⁹ The WHO has played an important role accompanying the operationalization of the Global Fund.

- Governments – developed countries (17 members)
- Governments – developing countries (12)
- International Organizations (incl. European Commission and Presidency) (6)
- NGOs (4)
- Private Sector (5)

The documents available from the TWG indicate consensus about the positive impacts of this broader set-up. The Cancun Agreement fails to fully incorporate this critical lesson learned in establishing the Global Fund. The drafting process appears to be restricted to the TC members who are most likely to be predominantly, if not exclusively, from the government sector. However, the Agreement does mandate the TC to be *open to observers*, and to *encourage input from all Parties and from relevant international organizations and observers*. This, as indicated above, does leave room for extending the scope of available expertise.

The idea is simply to follow the original purpose of the Climate Investment Funds (CIFs), to provide lessons for the UNFCCC processes by admitting *active observers* – nominated by the relevant non-government constituencies – who have the right to participate freely in all discussions and to propose agenda items (but without a vote). To re-emphasize: the point in doing this is *not* to denigrate the expertise of the TC members in any way! It is simply to provide additional cross-sectoral expertise to their task.

The fact that the TC is to be convened by the Executive Secretary of the UNFCCC has the added advantage of a ready-made selection mechanism: the UNFCCC Secretariat regularly invites the recognized UNFCCC NGO constituencies to nominate representatives to participate in the workshops they convene. All it takes to enable the TC to harness *all* the best available expertise – both *inside* and *outside* government – is to include the function of ‘active observers’ in the procedure of the TC. Who could do this? As the function is not explicitly mentioned in the Cancun Agreement, it would probably have to be the TC at its inaugural meeting. To enable this, the UNFCCC Executive Secretary, as convener of this inaugural meeting, would have to put the issue on the agenda for the meeting, with a brief for the TC members, detailing the envisaged function and profile of ‘active observers’ which should be put together in consultation with the UNFCCC observer constituencies.

Currently, there are just under 1400 UNFCCC accredited NGO observer organizations, of which 39 per cent are Environmental NGOs (ENGO), 23 per cent Research and Independent (RINGO), 16 per cent Business and Industry (BINGO), 4 per cent other constituencies, and the remainder (18 per cent) non affiliated. This distribution suggests a balanced representation of four active observers (40 percent) for ENGOs, two each (20 percent) for RINGOs, for BINGOs, and for the rest.

The introduction of ‘active observers’ in this sense – i.e. observer constituency representatives who can formally support the TC process with their personal expertise, and act as conduits for information from, and feedback to, their constituencies – is not meant to displace other more traditional tools of ensuring inclusiveness and transparency, such as the overall openness to observer attendance (as opposed to ‘active participation’), the timely publication of documents (including drafts) on a dedicated (UNFCCC) website, and through webcasting of the TC meetings (as is the practice at the Adaptation Fund Board).

Broad regional and stakeholder consultations to increase support

The Cancun Agreement *recognizes the need to engage a broad range of stakeholders at global, regional, national and local levels, be they government, including subnational and local government,*

private business or civil society, including youth and persons with disability, and that gender equality and the effective participation of women and indigenous peoples are important for effective action on all aspects of climate change.

Another remarkable aspect of the TWG process in this context was the broad stakeholder consultations carried out in a very limited time frame. The three TWG meetings, which happened in the course of little more than two months, were accompanied by four regional meetings and three meetings with specific stakeholder constituencies:

- 30–31 Oct. 2001 Academia
- 12–13 Nov. 2001 Africa
- 12–13 Nov. 2001 Civil Society
- 14–15 Nov. 2001 Asia Pacific
- 18–19 Nov. 2001 Latin America and the Caribbean
- 18–19 Nov. 2001 Commonwealth of Independent States (CIS)
- 6–7 Dec. 2001 Private Sector

Early outreach can considerably increase interest, understanding, and trust both in this design process and in the Fund itself from many stakeholders. In order to use these meetings effectively, participants need time to prepare, to work through draft documents, etc.

In addition, it should be considered which options of high-level outreach should be harnessed. For example, presenting to and exchanging with the meeting of G20 finance ministers, or consideration at the UN General Assembly, could significantly increase political backing for the proposed design of the GCF. This is important, not least because finance ministries will have a decisive role with regard to channelling money in the required scale to the Fund, not only in the longer term, but crucially for the start-up phase.¹⁰

These stakeholder engagements and outreach activities could be incorporated in the work of the TC, as indicated in the potential *TC work plan* as suggested by the authors:

February	Formation of the <i>Secretariat Support Unit</i> ;
March	<i>1st TC meeting</i> : Election of Chairs, setting up of drafting groups and work programme, call for nominations of active observers;
April	First round of <i>regional stakeholder consultation meetings</i> , preparation of initial draft documents by working groups, and background papers through the Secretariat Support Unit;
May	<i>2nd TC meeting</i> : Consideration of first drafts and inputs from consultation meetings; prepare SB report;
June	Report (by chair or convener) to <i>SBI/AWG-LCA</i> in Bonn, second round of <i>stakeholder consultations</i> meetings (at SB.34);
August	<i>3rd TC Meeting</i> : preparation of penultimate drafts (based on stakeholder consultations) to be circulated for consultation by Parties;
October	<i>4th TC Meeting</i> : adoption of final draft documents to be submitted to COP.

¹⁰ For more on the importance of securing start-up funding prior to Durban, see Benito Müller, *Time to Roll Up the Sleeves - Even Higher!: Longer-term climate finance after Cancun*, Oxford Energy and Environment Brief January 2011, www.oxfordenergy.org/pdfs/comment_10_01_11.pdf