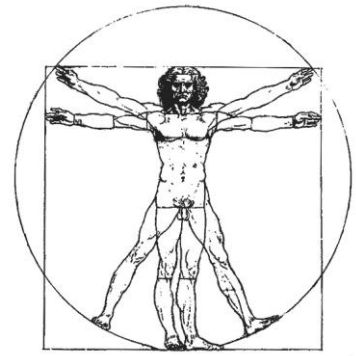


**ecbi** policy brief



# What Functions? What Form?

## Operationalising the Standing Committee

Farrukh Iqbal Khan  
Benito Müller

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CDKN

GIZ

**About the authors:**

*Name*

Test text text

e-mail address

*Name* (other author)

Test text text

Authors' Institutional Logos

(if requested)

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## Introduction

The ‘Cancun Agreements’<sup>1</sup> – widely acknowledged as life-saver of the international climate change regime after the Copenhagen shipwreck – contains a number of important decisions on climate finance. By far the most prominent one has proven to be the decision to *establish a Green Climate Fund, to be designated as an operating entity of the financial mechanism of the Convention under Article 11, with arrangements to be concluded between the Conference of the Parties and the **Green Climate Fund** to ensure that it is accountable to and functions under the guidance of the Conference of the Parties, to support projects, programmes, policies and other activities in developing country Parties using thematic funding windows.*<sup>2</sup>

The COP at Cancun also decided to *establish a **Standing Committee** under the Conference of the Parties to assist the Conference of the Parties in exercising its functions with respect to the financial mechanism of the Convention in terms of improving coherence and coordination in the delivery of climate change financing, rationalization of the financial mechanism, mobilization of financial resources and measurement, reporting and verification of support provided to developing country Parties.*<sup>3</sup> But, it seems, it did so not with quite the same enthusiasm: While the language on the new fund was covering ten paragraphs (with a separate Annex on the terms of reference on how to operationalise it), the only ‘action’ decided with regards to the Standing Committee is that *Parties agree to further define the roles and functions of this Standing Committee.*<sup>4</sup>

The aim of this ecbi Policy Brief is to support the Parties in this endeavour by providing some ideas of *what functions* the Standing Committee (SC) should have, and *what form* it should take. The brief divides into two parts:

Section 1 – roughly the first half of the Brief – describes the *background* of the decision to establish such a body, and *motivations* for doing so. The second half, in turn describes the proposed nature of the SC. Following the well-known adage in the design of governance architectures that ‘Form Follows Function’ (FFF), Section 2 lists the *functions* which the SC sought to perform, in light of the preceding analysis, which in turn provide (some of) the justifications as to *form* described in Section 3.

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<sup>1</sup> Decision 1/CP.16; FCCC/CP/2010/7/Add.1.

<sup>2</sup> §102

<sup>3</sup> §112

<sup>4</sup> *Op. cit.*

# I. Background and Motivations

This Section is to provide some of the background of the decision to establish a Standing Committee and some motivations, particularly for the SC functions listed in Section 2. The Section is divided into three parts.

The first part (1.1) simply provides some general background on the UNFCCC Financial Mechanism as defined in Article 11 of the Convention.

The guiding maxim of the second part (1.2) is: *If it ain't broke, don't fix it!* – or, more precisely: *If it is broken, do fix it!* Put slightly less colloquially: (1.2) discusses what we refer to as ‘Tier One’ issues, that is ***problems with the existing system*** – in particular, ***problems with the current implementation*** of the Financial Mechanism.

The imperative to make something work does not necessarily presuppose that something has proven not to work (‘to be broken’). It also applies to situation where no attempts have been made thus far. (1.3) accordingly turns to ‘Tier Two’ issues of initial implementations/operationalisations, either of the relevant decisions in the Cancun Agreement, or issues that may become pertinent depending on how the negotiations evolve.

## I.1. The Financial Mechanism of the UNFCCC

Article 11 of the United Nations Framework Convention on Climate Change, in Paragraph 1 defines *a mechanism for the provision of financial resources on a grant or concessional basis, including for the transfer of technology*. The same Paragraph stipulates that the Financial Mechanism (FM) thus defined is to *function under the guidance of and be accountable to the Conference of the Parties (COP), and its operation shall be entrusted to one or more existing international entities* (‘operating entities’).

The COP is charged with deciding on the FM’s *policies, programme priorities and eligibility criteria related to this Convention*, while Paragraph 3 requires the COP and the operating entities to agree upon arrangements to give effect to this, including

- (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.*

The Interim Arrangements adopted in Article 21 the Convention designate the **Global Environment Facility**<sup>5</sup> (GEF) as *interim operating entity*, with the proviso that it *should be appropriately restructured and its membership made universal to enable it to fulfil the requirements of Article 11*. The fact that until the creation of the Green Climate Fund, there has been only one operating entity of the Financial Mechanism has led to some confusion about the relationship between the GEF and the FM: While there can be no doubt of the GEF being *an operating entity of the FM*, time and again it is referred to as being the the financial mechanism: The GEF website, for example, currently states that the GEF “*serves as financial mechanism for*”<sup>6</sup> the UNFCCC.<sup>7</sup>

Without wishing to read too much into possible motives, if any, behind this confusion,<sup>8</sup> the fact is a provision in the Convention’s Article 11 definition of the FM which leaves open some interpretative questions, namely

Art. 11.2 *The financial mechanism shall have an equitable and balanced representation of all Parties within a transparent system of governance.*

This paragraph only makes sense if read as applying to some body (or bodies) involved in the governance of the FM. At present, there are three such bodies: the UNFCCC COP and SBI, and the GEF Council, as executive organ of an operating entity. Given that the Parties that are meant to be represented are the members of the (UNFCCC) Conference of Parties, it makes no sense to interpret this paragraph as applying to either the COP or its open-ended Subsidiary Bodies. However, the paragraph does make respect to executive bodies of operating entities, and to committees of the COP as (representative) subsidiary bodies, something that will have to be kept in mind when discussing the form of the Standing Committee (see section 3).

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<sup>5</sup> At the time, the GEF was a project of three organisations: the World Bank, UNDP and UNEP, which became the three original implementing entities of the UNFCCC FM.

<sup>6</sup> <http://www.thegef.org/gef/whatisgef>, accessed 22 May 2011.

<sup>7</sup> “As part of the restructuring, the GEF was entrusted to become the financial mechanism for both the UN Convention on Biological Diversity and the UN Framework Convention on Climate Change.” [http://en.wikipedia.org/wiki/Global\_Environment\_Facility#GEF\_History]

<sup>8</sup> The role of the GEF as an operating entity of the financial mechanism of (i) the Convention on Biological Diversity (CBD), and (ii) the Stockholm Convention of Persistent Organic Pollutants (where it is designated as “the principal entity entrusted with the operation of the financial mechanism”) is subject to the same confusion. Under the Convention to Combat Desertification (CCD) the GEF is actually designated as “a financial mechanism” of the CCD, conforming to the usage of that term in CCD/Art. 4.2 (h): “promote the use of existing bilateral and multilateral financial mechanisms and arrangements”.

## I.2. Tier One: Fixing the existing system – Tying up loose ends

### OVERSEEING OPERATING ENTITIES

At present, the UNFCCC Financial Mechanism (FM) has only one Operating Entity (OE), namely the Global Environment Facility (GEF). It is envisaged that by at COP 17 in Durban, the Green Climate Fund will be established as a second OE. As mentioned above, Article 11 of the Convention stipulates that the FM *shall function under the guidance of and be accountable to the Conference of the Parties*. This has been applied, mutatis mutandis, to both the existing and the prospective new OE (paragraph 102 of the Cancun Agreement).

The original decisions regarding to the operationalisation of COP oversight of operating entities are given Article 11.3 of the Convention:

*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;*

#### ***The Subsidiary Body for Implementation***

In the past, the COP has exercised this oversight function through its Subsidiary Body for Implementation (SBI), established in Article 10 of the Convention, *to assist the Conference of the Parties in the assessment and review of the effective implementation of the Convention*.

The second paragraph of this founding article defines the initial remit of the SBI: Under the guidance of the COP, the SBI was tasked to consider information on national emission inventories and steps taken towards implementation of the Convention, including material relevant for calculating global emissions trends (Art. 12.1.a), as well as information (from developed countries) regarding mitigation policies and measures (Art. 12.1.b), in order to assist the COP in reviewing the developed country Parties commitments.

Over time, this remit was expanded (in accordance with Art. 10.2.d) among other things, to provide assistance in overseeing the OE of the FM. But it is worth noting that the ‘core business’ of the SBI was from the start the implementation of the mitigation objectives of the Convention, as laid down in Article 2. This may well be the reason for the view widely-held among developing country Parties that the areas of primary concern to them – such as adaptation, technology transfer and, last but not least, finance – have not received sufficient



attention in the SBI.<sup>9</sup> As a result, we now have a situation where these areas all have their own (subsidiary) body under the Convention: the Adaptation Committee, the Technology Executive Committee, and the Standing Committee, respectively. The time may have come for the SBI to return to its original remit to function as the *subsidiary body for implementation of mitigation objectives*.

### ***The Current Oversight Procedure***

As mentioned, the oversight of the COP over OEs is currently defined in terms of the provision of guidance by and being accountable to the COP. The annual provision of guidance is launched in an SBI Contact Group, which provides draft guidance to the SBI for endorsement and passed to the COP for approval. The Contact Group is open-ended, i.e. open to all Parties, as is of course the SBI. In other words, the provision of guidance at present involves a trinity of bodies made up (in principle) of exactly the same actors, namely the 195 Parties to the Convention..

The SBI generally meets twice a year for a fortnight, with an agenda that has been steadily increasing in size. The Agenda of the 32<sup>nd</sup> SBI session (Bonn, 31 May–11 June 2010), for example, had 19 items, many of which with sub-items, among them: *Report of the Global Environment Facility to the Conference of the Parties and guidance to the Global Environment Facility*, which –together with *Fourth review of the financial mechanism*, and *Assessment of the Special Climate Change Fund* – made up the agenda item 5. *Financial mechanism of the Convention*. In Cancun, at its 33<sup>rd</sup> session, a further sub-item (*Least Developed Countries Fund*) was added.

As indicated above, most of the work on this agenda item was carried out in a Contact Group. The work on SBI Agenda Item 5 was concluded on Saturday 3 December, and a draft decision on guidance to the GEF (FCCC/SBI/2010/L.39 and Add.1) forwarded to the COP for consideration and adoption. According to the Daily Programs, the Contact Group met formally three times for a total of three hours,<sup>10</sup> and taking into account the additional informal meetings (closed to observers), the time allocated in 2010 to oversight over the existing OE was less 9 hours.<sup>11</sup>

To review the Financial Mechanism and give guidance to its OE in that amount of time would seem to be Herculean task. One of the reasons why it was nonetheless possible to complete the task in the very limited time available, as pointed out by one of the lead negotiators in a personal communication, was that the guidance tends to be very repetitive, year in, year out.

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<sup>9</sup> Technology transfer, for example, was only added to the SBI agenda in 2007 at COP 13 in Bali (and even that, some people say, because the Chinese delegation outmanoeuvred those opposed to the idea).

<sup>10</sup> 2 June, 10-11:30am, 8 June 10 to 11am, and 1 December 10 – 10:30am.

<sup>11</sup> Contrary to general practice, these informal consultations were announced in the Daily Programmes of Cancun, namely: 2 Dec. 10 –10.45, and 3 Dec. 10–11.30. Extrapolating from this to the practice at SB 32, and taking into account that the oversight was only one of 3 (4) sub-items, it seems reasonable to assume that the time taken up in informal consultation on oversight of the OE in 2010 was not more than six hours.

## ***Mantra Guidance and the SEI Report***

Consider, for example, the issue of funding developing country National Communications, as addressed in Article 4.3 of the Convention<sup>12</sup> stipulates that Annex II Parties are to *provide new and additional financial resources to meet the agreed full costs incurred by developing country Parties in complying with their obligations under Article 12, paragraph 1* (National Communications) through the OE(s) of the FM. In light of the fact that this was adopted in 1992, the finding of the Fourth Overall Performance Study of the GEF – noted in the fourth review of the FM by the SBI<sup>13</sup> – that *the Global Environment Facility support*

### **Box 1.1: SBI Draft Guidance to the GEF on funding National Communications**

- **2006:** The COP *invites the Global Environment Facility, as an operating entity of the financial mechanism of the Convention, ... (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;*
- **2007:** The COP *requests the Global Environment Facility, as an operating entity of the financial mechanism of the Convention:*
  - (g) *To continue to ensure that financial resources are provided to meet the agreed full costs incurred by developing country Parties in complying with their obligations under Article 12, paragraph 1, of the Convention;*
  - (j) *To refine, as appropriate, operational procedures to ensure the timely disbursement of funds to meet the agreed full costs incurred by those non-Annex I Parties that are in the process of preparing their third and, where appropriate, fourth national communications;*
- **2008:** The COP *reiterates the following requests to the Global Environmental Facility made by the Conference of Parties at its thirteenth session to the Global Environmental Facility:*
  - (a) *To continue to ensure that financial resources are provided to meet the agreed full costs incurred by developing country Parties in complying with their obligations under Article 12, paragraph 1, of the Convention;*
  - (b) *To refine, as appropriate, operational procedures to ensure the timely disbursement of funds to meet the agreed full costs incurred by those non-Annex I Parties that are in the process of preparing their third and, where appropriate, fourth national communications;*
- **2009:** No guidance (Copenhagen)
- **2010:** The COP *requests the Global Environment Facility:*
  - (c) *To work with its implementing agencies to further simplify its procedures and improve the effectiveness and efficiency of the process through which non-Annex I Parties 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, and to avoid gaps between enabling activities of current and subsequent national communications, recognizing that the process of preparation of national communications is a continuous cycle;*
  - (d) *To finalize any remaining operational procedures to ensure the timely disbursement of funds for those Parties that decide to access resources for the preparation of their national communications through direct access;*

<sup>12</sup> See Annex II.1

<sup>13</sup> FCCC/SBI/2010/L.38/Add.1, 4 December 2010.

*continues to be in line with guidance from the Conference of the Parties; does seem somewhat incongruous with the fact that the implementation of Article 4.3 still regularly figures in the COP guidance to the GEF, (as exemplified in Box 1.1).*<sup>14</sup>

It stands to reason that something is wrong with the oversight regime if after close to two decades the Parties still feel they need to re-iterate guidance on this issue. But what?

In 2007, the Stockholm Environment Institute (SEI) published a paper<sup>15</sup> assessing, among other things, *the adherence by the GEF to guidance from the UNFCCC Conference of the Parties.*[p.1] The summary conclusion is that the GEF funds *are not technically adequate for responding to developing countries' needs, owing both to the complex design of the funds and to poor implementation of the guidance.* The paper did ruffle some feathers when it first appeared, although it is actually not as one-sided as it has been made out to be. It does list a number of examples where guidance has been followed,<sup>16</sup> and not just where it was not. More importantly, it stresses the importance *to understand the nature and reasons for non-adherence to guidance if the situation is to be improved.*

The paper concludes *that non-adherence relates to both the design and the implementation of guidance. The design of guidance can lead to non-adherence if guidance is unspecific or ambiguous. For example, the COP has not defined adaptation costs in a way that allows the GEF to make a clear distinction between adaptation and development. As a result, the GEF has developed and applied the concepts of additional and incremental costs to determine its share of project funding. [...] Even if guidance is relatively unambiguous, implementation of the guidance can still contradict the design intent. For example, COP guidance stipulates that funding under the SPA and the SCCF be available only to developing countries, yet countries with economies in transition have received or are about to receive funding as well.*[15]

One oversight aspect the paper does not address evaluations. It is not possible to hold someone accountable, and for that matter to provide proper guidance, without evaluating their performance. The tools currently used in that respect are the annual reports to the COP by the GEF, as duly noted in the annual guidance, the GEFs Overall Performance Studies, carried out periodically by the GEF's Evaluation Office, and the Review of the Financial Mechanism carried out at regular intervals by the SBI. One problem with this is that the first two are produced by the entity which is meant to be held accountable (with the inevitable concerns

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<sup>14</sup> For a listing of the language concerning National Communications in the guidance drafted by the SBI between 2006 and 2010, see Annex II.3.

<sup>15</sup> Annett Möhner & Richard J.T. Klein, *The Global Environment Facility: Funding for Adaptation or Adapting to Funds?* Climate & Energy Working Paper, Stockholm Environment Institute, June 2007

<sup>16</sup> *GEF funding under the LDCF is more favourable than under the SCCF. This responds to guidance from the COP, which requested the GEF to take into account the circumstances of LDCs when developing the co-financing scale (UNFCCC Decision 3/CP.11).*[p.10]

about a potential bias), while the Review is, as witnessed in its latest incarnation, is not really a performance evaluation.<sup>17</sup>

In other words, a remedy for the current shortcomings in the oversight regime of the FM may have to involve enhanced guidance as well as improved holding to account.

#### **OTHER LOOSE END: DETERMINATION OF FINANCIAL NEEDS**

Article 11 of the Convention specified guidance on how to operationalise the FM not only with respect to the oversight over operating entities, but also regarding financial needs assessments. Paragraph 3, in particular, demanded that the operating entity/ies of the FM agree with the COP on arrangements concerning, inter alia, the

- (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.*

This task was acknowledged in the MOU between the COP and the GEF Council, and the COP decided to refer the issue – together with a draft proposal submitted by the G77 and China (see A.II.2) – for consideration to the SBI at its next session (July 1996). In December 1997, COP 3 (Kyoto) decided to adopt the *Annex to the Memorandum of Understanding [with the GEF Council] on the determination of funding necessary and available for the implementation of the Convention* (Decision 12/CP.3)

A Note by the UNFCCC Secretariat on this topic (see A.II.2) published in April 2004 describes the Annex in question as prescribing *that in anticipation of a replenishment of the GEF, the COP will make an assessment of the amount of funds that are necessary to assist developing countries, in accordance with the guidance provided by the COP, in fulfilling their commitments under the Convention over the next GEF replenishment cycle. It outlines information that should be taken into consideration in determining the amount of funding necessary and available for the implementation of the Convention.*

In that context, it is interesting to note the differences between the Annex as adopted and the the G77+China proposal. On the ‘supply side,’ as it were, the Annex introduces information on:

- (d) *Other sources of funding available for the implementation of the Convention.*

On the ‘demand-side’, by contrast, the information on *financial resources requested by developing country Parties to meet the agreed incremental costs of measures covered by Article 4.1 of the Convention* of the proposal is narrowed down to information *as agreed between a developing country Party and the international entity or entities referred to in Article 11 of the Convention*. Indeed, the proposal reference to information on

- (c) *Financial resources requested by developing country Parties to meet the costs of adaptation to the adverse effects of climate change*

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<sup>17</sup> The closest the Fourth Review gets to making evaluative statements is in its extensive acknowledgment of the GEF’s own Overall Performance study. The rest of the Review consists mainly of requests to the GEF, akin to the annual guidance.

is dropped altogether in the Annex.

This cannot be the place for an in-depth analysis of the procedure adopted to implement Article 11 (d) regarding the determination of financial needs. What is, however, abundantly clear is that this determination *does not amount to a full financial needs assessment*, in any sense of the term.

In June 2008, the SBI – in its consideration of the fourth review of the financial mechanism – requested the UNFCCC Secretariat to provide information *on the assessment of financing needs [of non-Annex I Parties] to implement mitigation and adaptation measures*.<sup>[18]</sup> *In response to this mandate, the secretariat established the National Economic, Environment and Development Study (NEEDS) for climate change project*.<sup>19</sup>

At Cancun (2010), the Secretariat presented a *synthesis report on the NEEDS project*,<sup>20</sup> which the SBI noted and decided to continue to consider it. Again, this is not the place to go discuss the findings of this project, save for emphasizing that its methodology is clearly closer to what a genuine fully fledged implementation of Art. 11 (d) would require, and hence needs to be taken serious in any attempt to enhance the implementation of the Financial Mechanism.

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<sup>18</sup> FCCC/SBI/2008/8, paragraph 30.

<sup>19</sup> FCCC/SBI/2010/INF.7, 24 November 2010.

<sup>20</sup> *Op. cit.*

### I.3. Tier Two: The push for improved governance and coherence in the delivery of international climate finance

#### FOUR CORE FUNCTIONS

‘Tier Two’ issues and functions, in our terminology, are issues and functions that ‘new’, either connected with the Cancun LCA Agreement (‘the Agreement’, see Annex I below), or that might arise in the future. At the heart of this are the **core functions** explicitly assigned to the new Standing Committee (in Paragraph 112 of the Agreement) to *assist the Conference of the Parties in exercising its functions with respect to the financial mechanism of the Convention*:

- [1] *improving coherence and coordination in the delivery of climate change financing;*
- [2] *rationalization of the financial mechanism;*
- [3] *mobilization of financial resources; and*
- [4] *measurement, reporting and verification of support provided to developing country Parties.*

Some of these functions are clearly related to functions originally raised in Art. 11 of the Convention. Functions [3] and [4], in particular, seem to be closely related to the function defined in Art. 11.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.*

Function [2], by contrast, appears to be new, and in need of some clarification, but it seems reasonable to think that it is connected to function [1], which in turn has a respectable pedigree dating back to conclusions of the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change, as taken note of in the initial guidance by the COP (Decision, 11/CP.1, see Annex II.2)

#### ***Improving coherence and coordination in the delivery of climate change financing***

There has been not only a long-term recognition of the fact that climate change financing in support of developing countries is fragmented and disorganised, but there is also broad consensus that there is a need to **improve the coherence** of the overall regime. Where there have been considerable differences in the past is whether this should be achieved through coordinating or consolidating the fragmented funding streams. As it happens, the answer that has emerged is: both! In establishing the new Green Climate Fund, the COP followed the view of those Parties, particularly from developing countries, preferring coherence through consolidation. In tasking the Standing Committee with improving the coordination of climate finance delivery, the COP also followed the view of those Parties, particularly from developed countries, that improved coherence of the funding streams should be achieved not through consolidation but through coordination of the existing fragmented funding patterns.

### ***Rationalization of the financial mechanism***

The Oxford English Dictionary defines “Rationalization” (3. Chiefly Econ. and Sociol.): *The action, fact, or process of applying rational methods of analysis or planning to economic or social organization, esp. in order to achieve maximum profitability or efficiency; spec. the reorganization of a business, industry, etc., so as to reduce or eliminate waste of labour, time, or materials; an instance of this.*<sup>21</sup> Among the illustrative quotations supplied in the OED for this meaning, the most interesting in the present context are:

- *One of the most important aspects of the process of ‘rationalization’ of action is the substitution for the unthinking acceptance of ancient custom, of deliberate adaptation to situations in terms of self-interest.*<sup>22</sup>
- *The company had announced ‘rationalisation’ plans meaning the closure of the Dronfield works.*<sup>23</sup>

It therefore stands to reason that ‘rationalisation’ in this context refers to closing down certain entities of the Financial Mechanism and subsuming their activities under other ones. How exactly this is to happen is to be looked at by the Standing Committee and should not be pre-judged here, but it stands to reason that the usefulness of a plurality of Funds under the Convention and its Kyoto Protocol (Green Climate Fund, LDC Fund, Special Climate Change Fund, Adaptation Fund) will be considered under this heading, with the inevitable implications on the usefulness of a plurality of operating entities: if all the existing funds are subsumed (as funding windows) under a single unified fund, then a plurality of operating entities would seem to be not particularly useful.

### ***Mobilization of financial resources***

Apart from paragraph 112 (Standing Committee) the term ‘mobilization’ appears substantively in two further locations in the Cancun LCA Agreement, namely, under ***Shared Vision*** in paragraph 2.d – affirming that *mobilization and provision of scaled-up, new, additional, adequate and predictable financial resources is necessary* – and, best known, in paragraph 98, recognizing that ***developed country Parties commit, in the context of meaningful mitigation actions and transparency on implementation, to a goal of mobilizing jointly USD 100 billion per year by 2020 to address the needs of developing countries.***

Paragraph 112 itself tasks the Standing Committee with ***assisting the Conference of the Parties in exercising its functions with respect to the financial mechanism of the Convention in terms of ... mobilization of financial resources.*** What is interesting in this context is not so much the fact that the SC is meant to give such assistance, but the implication that it is the function ***of the COP as a whole*** – and not its developed country Parties – to mobilize financial resources in this context.

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<sup>21</sup> Oxford English Dictionary. <http://www.oed.com/view/Entry/158509?redirectedFrom=rationalization#eid>

<sup>22</sup> 1947 A. M. Henderson & T. Parsons tr. M. Weber [Theory Social & Econ. Organiz.](#) i. 112.

<sup>23</sup> 1976 [Star \(Sheffield\)](#) 20 Nov.

### ***MRV of support***<sup>24</sup>

The phrase ‘measurable, reportable, verifiable’ first appeared in the Bali Plan of Action (a.k.a. ‘Bali Road Map’), adopted by the COP in 2007 at its Bali conference, where it caused a lot of heated debate until the very end,<sup>25</sup> with regard to whether it should just refer to *nationally appropriate mitigation actions by developing country Parties*, or also to their support and enablement *by technology, financing and capacity-building*. In the end, the view that it is to apply to both prevailed, but it is important to recognize that the phrase was initially created in the context of mitigation actions, and may consequently not lend itself very naturally to be applied to finance, let alone technology transfer or capacity building.<sup>26</sup>

As concerns the ‘background motivation’ for the insistence by developing countries in Bali on MRV of support – i.e. the question ‘Why?’ – the answer may be best illustrated by an example, taken from Müller (2010).

At the resumed session of COP 6 in Bonn in 2006, the UN negotiations ministers from the EU15, together with Canada, Iceland, New Zealand, Norway and Switzerland, issued a political commitment in the *Bonn Declaration*, promising that they would collectively provide US\$ 410 million annually to developing countries by 2005 for climate change activities.

In 2009, four years after a deadline set by the Bonn Declaration, Marc Pallemerts and Jonathan Armstrong from the Institute for European Environmental Policy published a paper on their attempts to track whether Declaration’s political commitment.<sup>27</sup> They found that while they were able to ascertain easily how much was paid into the dedicated multilateral climate change funds and instruments, they faced considerable ***difficulties in tracking fragmented bilateral transactions***. Assessing climate-related bilateral funding was problematic both methodologically and practically because of a lack of data in the National Communications; varying quality of reporting of bilateral funding; inadequate compliance with the requirement of reporting guidelines; a lack of clarity in defining what constitutes new and additional funding; and a lack of clear uniform criteria for determining the bilateral aid projects which are directly relevant to climate change mitigation or adaptation. The authors speculate that countries could easily have taken advantage of these ambiguities, and could have included contributions not entirely relevant to the implementation of the UNFCCC in order to meet their commitments.

The authors were forced to conclude that the *„average annual level of financial support to developing countries collectively provided by the 15 EU Member States ... through specific*

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<sup>24</sup> This section is based on Benito Müller, *Climate Finance after Tianjin: How to reach a deal at Cancún?* Cebi Policy Brief November 2010: p. 8f.

<sup>25</sup> See, for example, Benito Müller, *Bali 2007: On the road again! Impressions from the Thirteenth UN Climate Change Conference* Oxford Energy and Environment Comment, February 2008, in particular the section on “The Bali Road Map: The many plots of the Ides of December”.

<sup>26</sup> In particular, ‘measurement’ may be tricky, if not impossible, in the context of the latter two.

<sup>27</sup> Marc Pallemerts and Jonathan Armstrong, *Financial Support to Developing Countries for Climate Change Mitigation and Adaptation: Is the EU Meeting Its Commitments?* Institute for European Environmental Policy, January 2009.



*multilateral climate change related funding channels falls well short of the level ... to which they committed themselves. Whether or not the EU is complying with its political commitment under the Bonn Declaration depends entirely on these Member States' bilateral aid efforts and any additional contributions through other multilateral channels. Unfortunately, the information on such efforts ... is insufficient to enable even an informed observer to make a reliable judgment about the volume of aid additional to 2001 levels that is effectively being provided at the present time."*

The preceding account was first published in 2009 as part of a paper on oversight of compliance with financial commitments under the UNFCCC.<sup>28</sup> In response, the author received personal feedback from a senior EU finance negotiator criticizing some of the conclusions put forward by Pallemmaerts and Armstrong. Emphasizing that it was never the idea that funding should be channelled only through multilateral agencies, the critique focused on the claim that there was insufficient information on bilateral flows to form a judgment on compliance. It stated that the EU15 member states had themselves carried out an assessment of the climate relevance of their bilateral cooperation, resulting in a total figure of around US\$ 1.7bn (for 2005-2007). Conceding that *methodologies of different Member States differ, that they are not easy to compare, that there may be flaws (not ill-intended as the authors seem to suggest)*, the critique suggests that *a more objective conclusion or "reliable judgment" would have been "all the un-clarity notwithstanding there is a good chance that donors have lived up to the promise in the Bonn Declaration"*.

The key lesson from the experience of the Bonn Declaration is that contributions and compliance must be assessed with certainty, not merely probability.<sup>29</sup> Any uncertainty will automatically be interpreted in terms of trying to avoid payments by “doctoring the figures.” As concerns trust-building, or rather further trust-erosion, this would be worse than transparent non-compliance.

## **SUPPLEMENTARY FUNCTIONS**

Apart from these four ‘core’ Standing Committee functions ([1] to [4]), there a number of tasks identified in the Agreement that either have a bearing on the Standing Committee, or indeed, would best carried out by it.

There is, for example, the task – identified in paragraph 128 of the Agreement – to establish how the new Technology Mechanism is to relate to the Financial Mechanism. This issue, and

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<sup>28</sup> Benito Müller, *On the Need to Certify: Oversight of compliance with financial commitments under the UN Framework Convention on Climate Change*, Oxford Energy and Environment Comment, December 2009. Available at <http://www.oxfordclimatepolicy.org/publications/mueller.shtml>

<sup>29</sup> The *problem of MRV of finance*, incidentally, *still persist*, as can be gauged from the following ‘health warning’ with regard to the compilation and synthesis of the information on financial contributions in the fifth national communications by the UNFCCC Secretariat indicates: *The overall figures for and trends in financial resources allocated to climate change by Annex II Parties in the 2005–2010 reporting period are presented in this chapter. It is important to mention that many data gaps and inconsistencies in reporting approaches among Annex II Parties and across periods still persist, which was also noted in the previous synthesis report,3 and, thus, the following conclusions should be interpreted with due caution* [FCCC/SBI/2011/INF.1/Add.2; 20 May 2011]

indeed the more general question of *how the other (new) bodies of the UNFCCC regime*, such as the new Adaptation Committee<sup>30</sup>, *are to relate to the Financial mechanism* will need to be kept in mind when deciding on the functions of the Standing Committee.

There are also a number of tasks assigned to the Transitional Committee for designing the new Green Climate Fund in its Terms of Reference (see Annex I, below), which we believe, should ultimately be reflected in functions of the Standing Committee.

For example, the Transitional Committee has been charged with providing recommendations to the COP regarding:

- [5] *methods to enhance complementarity between the Fund's activities and those of other bilateral, regional and multilateral funding mechanisms and institutions; and*
- [6] *a mechanism to ensure periodic independent evaluation of the Fund's performance.*<sup>31</sup>

While it is debatable whether the Transitional Committee is really the right place to design these methodologies, it is clear that putting the GCF/Board in charge of them would be highly questionable:<sup>32</sup> Having an 'independent' evaluation commissioned by, and report to, the body that is to be evaluated, for example, is – while not uncommon – *not best practice*. But who else should be in charge of these functions? Since it stands to reason that other operating entities of the Financial Mechanism would equally benefit from genuinely independent evaluations, the Standing Committee would seem to be the natural choice, particularly if it supports the provision of COP guidance to these entities.

As to the task of *enhancing complementarity* between bilateral, regional and multilateral funding mechanisms and institutions (including the GCF), it is equally clear that it would be inappropriate to give this sort of 'quasi regulatory' function to any of the entities that are meant to be 'regulated'. Indeed, this may well be why *improving coherence and coordination in the delivery of climate change financing* is listed in the Agreement as the first 'core' function of the Standing Committee (see above). According to 'Ockham's razor',<sup>33</sup> the SC is the most plausible and natural locus for this function.

Indeed there is yet another function to be elaborated by the Transitional Committee which, for the same reasons, ought to be carried out by the Standing Committee: According to paragraph 1 (c) of its TOR, the Transitional Committee is to

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<sup>30</sup> Paragraph 20.

<sup>31</sup> TC TOR, paragraph 1 (e) & (g)

<sup>32</sup> Given that the sole purpose of the Transitional Committee is to propose the design for the new Green Climate Fund, one could be forgiven to think that whatever the TC designs is to be operated by the Fund. But this does not necessarily follow, and in the present case would be quite inappropriate.

<sup>33</sup> The philosophical principle referred to by the nineteenth Century Scottish philosopher Sir William Hamilton as '*Ockham's razor*' (also known as *principle of economy/parsimony*) is attributed to 14th-century English logician William of Ockham and sometimes expressed as *pluralitas non est ponenda sine necessitate*; (plurality should not be posited without necessity), or *entia non sunt multiplicanda praeter necessitatem* (entities should not be multiplied unnecessarily). For more on this see Benito Müller, Benito Muller *Procrustes' Bed & Ockham's Razor: The debate on existing institutions in climate finance*, Oxford Energy and Environment Comment Nov-09, [http://www.oxfordclimatepolicy.org/publications/documents/comment\\_01\\_11\\_09.pdf](http://www.oxfordclimatepolicy.org/publications/documents/comment_01_11_09.pdf)

- [7] *develop and recommend to the Conference of the Parties for its approval at its seventeenth session operational documents that address [...] methods to manage the large scale of financial resources [...] with the objective of achieving a balanced allocation between adaptation and mitigation.*

This issue was taken up by the Co-facilitators of Work Stream I in question 5 of their call for submissions by observer organizations on 13 May 2011: *How do we define and achieve “balanced allocation” between adaptation and mitigation?* Two of the three submissions from the *Research and Independent NGO* constituency touched on this issue, and indeed they agreed:<sup>34,35</sup> The ‘balance’ in question does not refer to the relative sizes of the GCF mitigation and adaptation windows, but to the overall global levels of mitigation and adaptation funding.

Accordingly, it stands to reason that judgments regarding the need for redressing imbalances of this type need to be based on information about these global flows, which is not necessarily part of the competency of the GCF, or any other funding entity. Moreover, it stands to reason that a judgment about the global (im-) balance of funding for mitigation and adaptation is sufficiently political to be taken collectively by all Parties, in which case it could clearly be within the mandate of the Standing Committee to support the COP in making these judgments. As it happens, in the Copenhagen draft LCA decision, it was proposed to assign this function to the Finance Board, the ‘predecessor’ of the Standing Committee.<sup>36</sup> Indeed, the list of functions proposed for the Finance Board (see Annex A.II.4) should be as much a guideline for the Standing Committee as the core functions identified in the Cancun Agreements.

Finally, there are functions which Standing Committee might be best suited to perform that depend on the future evolution of the regime. For example, if the Parties were to agree to *assessed contributions* for financing climate change activities, then clearly there would need to be a body performing such assessments on behalf of the COP, and it stands to reason that the Standing Committee would be best placed to manage such a process.

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<sup>34</sup> Benito Müller and Anju Sharma, “Submission of views regarding the questions for the first technical workshop of the Transitional Committee suggested by the co-facilitators of work stream I”, Oxford Institute for Energy Studies, 20 May 2011; [www.eurocapacity.org/finance/documents/OIES%20Submission%20final.pdf](http://www.eurocapacity.org/finance/documents/OIES%20Submission%20final.pdf)

<sup>35</sup> Jonathan Pickering, “Response to question 5 of Workstream I (Scope, guiding principles, and cross-cutting issues) of the Transitional Committee for the Design of the Green Climate Fund”, The Australian National University, 20 May 2011; [www.eurocapacity.org/finance/documents/Green%20Climate%20Fund%20TC%20-%20ANU.pdf](http://www.eurocapacity.org/finance/documents/Green%20Climate%20Fund%20TC%20-%20ANU.pdf)

<sup>36</sup> Paragraph 4 (d), see Appendix A.II.4.

## 2. Functions

The UNFCCC Standing Committee a Subsidiary Body of and reporting directly to the COP, providing support to the COP on all matters and issues concerning finance

### 2.1. Guidance, Recommendations and Review

#### **GUIDANCE AND RECOMMENDATIONS**

*Support the COP by providing:*

1. draft guidance to the Operating Entities (OEs) of the Financial Mechanism of the Convention;
2. recommendations on how other (new) UNFCCC bodies, such as the new Adaptation Committee, are to relate to the Financial mechanism;
3. recommendations to all actors involved in climate finance with a view to improving coherence, coordination in delivery of finance and complementarity in their approaches i.e. comparable standards, guidelines and rules in allocation.
4. recommendations/draft guidance with regards to overcoming thematic and geographical imbalances in the international flows of climate finance;
5. recommendations on rationalising the Financial Mechanism of the Convention;

#### **REVIEW**

*Support the COP in reviewing:*

1. the accountability of the OEs to the COP, inter alia through independent evaluations;
2. the operational rules and modalities of OEs;
3. the modalities for reporting and verifying financial support, including certification by recipient countries (if applicable);
4. resource access modalities, including direct access;
5. (and promoting) comparable standards, guidelines and rules for the allocation of finance;
6. contractual arrangements between COP and OEs;
7. the scale of assessed contribution, if applicable;
8. the adequacy of resources, in particular the needs for, and sources and flows of international financial support.

## 2.2. Reporting and verifying of financial support to developing countries

The Cancun Agreement stipulates (para. 112) that the SC is to support the COP in the “reporting and verification of support provided to developing country Parties”.<sup>37</sup> The question is how is this function to be operationalised?

### REPORTING

1. Set up and manage a Financial Support Registry to record all relevant information on financing channels, in and outside the FM, particularly with reference to the information required in performing the review functions.
2. Act as platform of consultation with private sector, civil society as well as multilateral and bilateral entities.
3. Liaise on all relevant matters with other relevant bodies, in particular but not only, Convention bodies such as the Adaptation Committee, Technology Executive Committee.

### VERIFYING

*Provide the COP with all support necessary to verify:*

1. financial flows to be counted against financial obligations under the Convention, including, if applicable, assessed contributions;
2. certifications by recipient countries.

## 2.3. Other Functions

1. Support the COP in mobilizing of financial resources, including the private sector.
2. Report to the COP.
3. Fulfil any other function assigned by the COP.

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<sup>37</sup> Practitioners will be more familiar with the phrase “Measurement, Reporting, and Verification” – or more likely “MRV”. However, as the support in question is financial, it stands to reason that “measurement” was omitted because it is not really appropriate in the context. The first function under the Reporting heading would probably be the closest that one could get to measurement in this context.

## 3. Form

As mentioned in the Introduction, the idea that ‘Form Follows Function’ (FFF) is a widely known principle in the design of governance architectures, yet not all functions are equally demanding on form. Certain functions can be carried through a number of different forms. In the present context, the most demanding functions in this respect are the ‘Tier One’ oversight functions (Section 1.1).

### 3.1. Accountability of a ‘National Treasure’

Difficulties in holding institutions accountable are by no means unique to the UNFCCC or even the UN system. A recent report<sup>38</sup> by Kitty Ussher – Director of Demos, a London-based think tank – provides some interesting reading in this context. Ussher, a former UK Treasury Minister, and her colleague had off-the-record conversations among others with over 30 senior civil servants, advisers and ministers found *a unanimous view that parliamentary scrutiny of the Treasury could be more effective. The passage of the Finance Bill through Parliament was widely considered to be a joke: the technical nature of the subject matter was not conducive to meaningful discussion by MPs. At the same time Parliament was denied the ability to consider some of the big economic questions of the day since MPs lacked rigorous independent information in a format that was useful to them.*<sup>39</sup> Two of their recommendations are of particular interest in the context of this paper, namely the establishment of

- *A new select committee specifically on taxation policy [...] to run in parallel with the Treasury Select Committee.*
- *A UK Parliamentary Budget Office, functioning as an economic library for MPs. This would be based on the US Congressional Budget Office and should be established to provide rigorous independent analysis to Parliament on topical matters relating to economic policy.*<sup>40</sup>

The relevance of these recommendations to the discussion on the function and form of the Standing Committee is that in a difficult and highly technical area, parliamentary oversight requires a small parliamentary body, dedicated to the task at hand – holding accountable the relevant institutions on behalf of parliament – with a dedicated technical support team. The arguments put forward in support of these recommendations (excerpts of which reproduced in Box 3.1) can easily be paraphrased for the present context.

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<sup>38</sup> Kitty Ussher and Imogen Walford, *National Treasure*, March 2011, [www.demos.co.uk](http://www.demos.co.uk)

<sup>39</sup> *Op. cit.*:17.

<sup>40</sup> *Ibid.*

### Box 3.1. Quotes from *National Treasure*

One area in pressing need of reform is Parliament's relationship with the Treasury. There is currently a significant democratic deficit regarding Parliament's ability to hold the Treasury to account.[37]

The most effective body scrutinising government currently is the Public Accounts Committee. This is because it has the largest staff and greatest access to public accounts information, which has, in the words of a former civil servant, 'the weight of the National Audit Office behind it – a much more forensic experience'. Its reports have altered government policy. But this committee only ever engages post facto and therefore cannot help prevent poorly constructed finance bills from passing.[38]

In particular, taxation is regarded as a highly technical area and has no real consideration within Parliament. [...] Such a failure to judge systematically the taxation system is extreme example of Parliament's current inability to hold the chancellor responsible for the decisions he makes or to judge the efficacy of measures that are proposed. Against such a situation, the Treasury Select Committee is designed to hold ministers to account. Currently, this body, which has a minimum of 11 members, is given little additional research support beyond the usual hard-working handful of clerks. And from this uninspiring base, they are supposed to hold a complex and wide-ranging department responsible.[39]

We recommend that there be a separate taxation select committee that operates in parallel to the Treasury Select Committee, to hold the government to account and to provide a place where backbench MPs can increase their knowledge of the taxation system. This recommendation was supported by the vast majority of those whom we interviewed.[40]

## 3.2. Subsidiary to whom?

Rule 2.8 of the draft Rules of Procedure defines 'subsidiary bodies' as "bodies established by Articles 9 and 10 of the Convention, *as well as any body, including committees and working groups, established pursuant to Article 7(2)(i) of the Convention.*"<sup>41</sup> Technically, it therefore stands to reason that the Standing Committee is indeed a subsidiary body of the Convention, but – as pointed out in a recent advice by the Legal Response Initiative (LRI), see Box 3.2 – this does not automatically mean that the SC is to report directly to the COP.

What are the alternatives to direct reporting to the COP? In fact, in practical terms, there is only one alternative, namely reporting to the Subsidiary Body for Implementation (SBI). In this respect there are a number of sub-scenarios that could be proposed. Where there can be no doubt is that it would *not* be sensible to have the SC and the SBI Contact Group on the Financial Mechanism co-exist independently: One of them will have to take over the role of the other.

Given the track record of the current system's effectiveness – see Section 1.2 – simply relabeling the Contact Group as "Standing Committee" is most unlikely to lead to improved accountability. To genuinely believe otherwise would truly be a triumph of hope over experience. Indeed, given that experience, and the functions over and above to supporting the

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<sup>41</sup> Emphasis added.

COP in holding Operating Entities accountable that the Standing committee is to carry out (not least according to the Cancun Agreement), the only plausible way forward for us is course alluded to in the said section, namely for the SBI to return to its original remit to function as the subsidiary body for implementation of mitigation objectives, and for *the Standing Committee to be the sole subsidiary body of the COP providing support with respect to the Financial Mechanism, and recommendations with respect to the climate finance regime at large.*

**Box 3.2. Quotes from LRI Advice on *Subsidiary Bodies and Finance***

All committees and specialised bodies established by the COP or CMP are technically ‘subsidiary bodies’ but they differ from each other (and the SBI and SBSTA) depending on the provisions (whether in the Convention or COP / CMP decisions) which establish them. These provisions will set out, amongst other things, who can participate, what the mandate of the body is and who the body reports to. In terms of the practice of participants, however, the general view is that only those bodies that have participation of all Parties should be referred to as subsidiary bodies (SBI, SBSTA, AWG-LCA and AWG-KP); but this is not, in our view, strictly correct.

The ‘hierarchy’ of committees/subsidiary bodies and reporting lines is a result of the explicit decision establishing the committee/body rather than established by default.

[...] we would say that the Standing Committee is technically a subsidiary body. However, whether it functions as a ‘typical’ subsidiary body (such as the SBI or SBSTA, with the participation of all Parties) or a specialised body (with restricted participation of the Parties) will depend on how its roles and functions are further elaborated by the Parties pursuant to paragraph 112 of Decision 1/CP.16.

Additionally, who the Standing Committee will report to (i.e. the COP or SBI/SBSTA) is not yet clear and is something the Parties will need to address when elaborating its roles and functions. Based on our responses to part 3 above, there is no reason why it could not report directly to the COP rather than through SBI or SBSTA.

### 3.3. Membership: Composition & Selection

#### **OPEN –ENDED OR REPRESENTATIVE BODY?**

Should the Standing Committee be an ‘open ended’ subsidiary body – i.e. should all Parties be given direct access (as in the case of the SBI or SBSTA), or should it be a representative body<sup>42</sup> with a selected number of Party representatives?

There are two key reasons why we believe that only the representative model is a viable option. For one, ‘open-endedness’ becomes meaningless if Parties do not have the means to attend. This, and the constant UNFCCC budget problems, thus make it unlikely that an open-ended Standing Committee could meet other than in conjunction with the other open-ended subsidiary bodies, that is to say (at most) twice a year. This model, however, has proven to be

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<sup>42</sup> Note that according to the Rules of Procedures of the COP [FCCC/CP/1996/2] – which are deemed to apply to all subsidiary bodies – it is clearly envisaged that they need not be open-ended: *In the case of a subsidiary body that is not open-ended, a majority of the Parties designated by the Conference of the Parties to participate therein shall constitute a quorum.* [Rule 27.3]



inadequate even for the traditional functions of supporting the COP in giving guidance to and holding accountable the hitherto sole operating entity of the Financial Mechanism, and it is unlikely that it would prove to be more effective in doing so for the envisaged increased number, not to speak of all the new functions of the Standing Committee (see Section 2).

An open ended approach is also questionable in light of the overwhelming practice of national parliaments in carrying out functions analogous to the ones of the UNFCCC COP Standing Committee. The vast majority, if not all, of standing committees of national parliaments are limited in number and not open-ended. It may be that this is because no-one has thus far thought of making them open-ended, but the much more likely explanation is that it is generally accepted that the sort of work that these committees have to carry out cannot be done in plenary. And there is little reason why this should not apply to UN plenaries as well, especially if they are not populated by full-time professional negotiators.

### **BALANCED AND EQUITABLE REPRESENTATION**

Art. 11.2 of the Convention stipulates that the Financial Mechanism “shall have an equitable and balanced representation of all Parties within a transparent system of governance.” While at present it is not quite clear what this refers to, it stands to reason that it certainly would have to apply to the Standing Committee. So who should be on the Standing Committee?

As “possession is nine-tenths of the law,” *precedence* is nine-tenths of a successful argument in the present context. The most recent potential precedent in the context of establishing a small body is the Transitional Committee.

As listed in Table 3.1, the Transitional Committee has 40 members, 15 from developed and 25 from developing countries. The 63% share of developing country representatives is marginally above the 60% average, but still less than the 65% developing country membership share in the UN Economic and social council ECOSOC,<sup>43</sup> which is often seen as the template for many of these UN bodies. One option could therefore be *to follow this precedent of a ‘regionally balanced’ model* in selecting the members of the Standing Committee.

However, the selection of the members for the Transitional Committee has been far from easy. Indeed, apart from the Africa and the LDC Group – both incidentally negotiating groups – none of the other regional constituencies managed to keep the deadline for nominations. Moreover, the fact that most of the political groupings straddle different regions meant that some of them managed to get what some regarded a somewhat disproportional representation of the TC.<sup>44</sup>

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<sup>43</sup> [www.un.org/en/ecosoc/about/members.shtml](http://www.un.org/en/ecosoc/about/members.shtml)

<sup>44</sup> The case in point is the Environmental Integrity Group: **Republic of Korea**, Lichtenstein, **Mexico**, Monaco, and **Switzerland** (with TC members highlighted in bold)

**Table 3.1. UNFCCC Electoral Constituencies and Seat Allocation**

	<i>Africa</i>	<i>Asia</i>	<i>G'LAC</i>	<i>EE</i>	<i>WEOG</i>	<i>AI</i>	<i>NAI</i>	<i>AOSIS</i>	<i>LDC</i>	<i>Total</i>	<i>D'ed</i>	<i>D'ing</i>
<i>Bureau</i>	2	2	2	2	2			1		11	36%	64%
<i>CDM EB</i>	1	1	1	1	1	2	2	1		10	40%	60%
<i>EGTT</i>	3	3	3	8			1	1		19	42%	58%
<i>AFB</i>	2	2	2	2	2	2	2	1	1	16	38%	63%
<i>TC</i>	7	7	7	15			0	2	2	40	38%	63%
<i>TEC</i>	(3)	(3)	(3)			9	9	1	1	20	45%	55%
										<i>Av.</i>	<b>40%</b>	<b>60%</b>
<i>ECOSOC</i>	14	11	10	6	13					54	35%	65%

*Source* : Table 1 in Benito Müller, UNFCCC – The Future of the Process: Remedial Action on Process Ownership and Political Guidance », *Climate Strategies Brief*, Feb. 2011 ; [www.oxfordclimatepolicy.org](http://www.oxfordclimatepolicy.org)

**Legend**

*G'LAC*: GRULAC

*AI*: Annex I

*NAI*: non-Annex I

*D'ed*: Developed country constituencies (EE, WEOG, Annex I)

*D'ing*: Developing country constituencies

Is there a plausible alternative, keeping in mind the strictures of Article 11.2? A recent Climate Strategies (CS) paper on the future of the UNFCCC process<sup>45</sup> considered in some detail the issue of how to select *small drafting groups* with a legitimate representation during negotiations so as to maximize the chances of resulting draft documents being adopted by the represented whole (COP, CMP, SBI, etc.). Keeping in mind the nature of the mandate of the Standing Committee, namely to support the COP, and the functions discussed in the previous Section, it stands to reason that the nature of the representation required on the Standing Committee is precisely the same: to a large extent the Standing Committee is simply a standing small drafting group with the task of producing documents for adoption by the COP.

The CS paper proposal of how to achieve this is to switch from a 'regional' to a '*political balance*', in the sense that political negotiating groups are charged directly with selecting a specific number of representatives. The main problem with this approach was to find which groups should be included as constituencies, so as to ensure not only that all major interest groupings are included, but also that no Party is not represented at all. The model suggested in Table 3.2 includes three developing country constituencies (G77+China, AOSIS, and LDCs) and three developed country constituencies (EU, Umbrella Group, EIG), jointly

<sup>45</sup> Benito Müller, *UNFCCC – The Future of the Process: Remedial Action on Process Ownership and Political Guidance*, Climate Strategies Brief February 2011, available at [www.oxfordclimatepolicy.org/](http://www.oxfordclimatepolicy.org/)

covering nine-tenths of all Parties, with a ‘Non-aligned’ seat to be chosen by the remaining 16 Parties that do not belong to any of these six constituencies.

**Table 3.2. Two Politically Balanced Models**

	(A)	(B)
G77+China*	9	18
Umbrella Group**	3	6
European Union**	3	6
Least Developed Countries*	2	4
Alliance of Small Island States*	2	4
Environmental Integrity Group**	1	1
Non-Aligned	1	1
<b>Total</b>	<b>21</b>	<b>40</b>
* = <i>Developing</i>	62%	65.00%
** = <i>Developed</i>	33%	32.50%
<i>Non-Aligned</i>	5%	2.50%

The CS paper puts forward a general equation concerning the number of seats to be allocated to the different constituencies. While there are many solutions, a minimum number of representatives – namely 21 – is required and the respective solution is given as the model (A) in Table 3.2.; for the sake of comparison, a solution for 40 representatives given as model (B). Possibly the best alternative to the TC model would be to use the first model for 21 members and 21 alternates.

### 3.4. Other Architectural Elements

The concept of ‘architectural form’ with reference to a body such as the Standing Committee, of course, comprises other elements than its relationship to a superordinate governing body and its composition. Indeed, a lot of energy has been put into negotiating these other elements in the process of establishing other entities related to the Financial Mechanism, in particular the Adaptation Fund, where issues such as decision making rules, and the nature of the Trustee and Secretariat were hotly debated.

Fortunately, this is unlikely to be the case for the Standing Committee. For one, being a subsidiary body of the COP, the Rules of Procedure of the COP are deemed to *apply mutatis mutandis to the proceedings of the subsidiary bodies*.<sup>46</sup> As to the provision of secretariat services, there is equally no choice: according to Art. 12.1, the first function of the UNFCCC Secretariat is: *To make arrangements for sessions of the Conference of the Parties and its subsidiary bodies established under the Convention and to provide them with services as required.*

<sup>46</sup> Rule 27.1, FCCC/CP/1996/2.

## Annex I. Cancun LCA-Agreement: Relevant language

46. *Decides* on the following work programme for the development of modalities and guidelines described above, building on existing reporting and review guidelines, processes and experiences:

- (a) The revision of guidelines, as necessary, on the reporting of national communications, including the biennial report:
  - (i) The provision of financing, through enhanced common reporting formats, methodologies for finance and tracking of climate-related support;

52. *Decides* that, in accordance with Article 4, paragraph 3, of the Convention, ***developed country Parties shall provide enhanced financial, technological and capacity-building support*** for the preparation and implementation of nationally appropriate mitigation actions of developing country Parties and for enhanced reporting by these Parties;

66. *Agrees* on a work programme for the development of modalities and guidelines for: facilitation of support to nationally appropriate mitigation actions through a registry; measurement, reporting and verification of supported actions ***and corresponding support***; ...

### **Long-term finance**

98. *Recognizes* that developed country Parties commit, in the context of meaningful mitigation actions and transparency on implementation, to a goal of mobilizing jointly USD 100 billion per year by 2020 to address the needs of developing countries;

99. *Agrees* that, in accordance with paragraph 1(e) of the Bali Action Plan, funds provided to developing country Parties may come from a wide variety of sources, public and private, bilateral and multilateral, including alternative sources;

100. *Decides* that a significant share of new multilateral funding for adaptation should flow through the Green Climate Fund;

### **Green Climate Fund**

102. *Decides* to establish a Green Climate Fund, to be designated as an operating entity of the financial mechanism of the Convention under Article 11, with arrangements to be concluded between the Conference of the Parties and the Green Climate Fund to ensure that it is accountable to and functions under the guidance of the Conference of the Parties, to support projects, programmes, policies and other activities in developing country Parties using thematic funding windows;

### **Standing Committee**

112. *Decides* to establish a Standing Committee under the Conference of the Parties to assist the Conference of the Parties in exercising its functions with respect to the financial mechanism of the Convention in terms of improving coherence and coordination in the delivery of climate change financing, rationalization of the financial mechanism, mobilization of financial resources and measurement, reporting and verification of support provided to developing country Parties; Parties agree to further define the roles and functions of this Standing Committee.

### **Work programme for the Ad Hoc Working Group on Long-term Cooperative Action under the Convention in 2011 on technology development and transfer**

128. *Underlines* the importance of continued dialogue among Parties in 2011 through the Ad Hoc Working Group on Long-term Cooperative Action under the Convention, including on the following matters, with a view to the Conference of the Parties taking a decision at its seventeenth session, in order to make the Technology Mechanism fully operational in 2012:

- (d) The potential links between the Technology Mechanism and the financial mechanism;

### **Capacity Building**

131. *Also decides* that financial resources for enhanced action on capacity-building in developing country Parties should be provided by Parties included in Annex II to the Convention and other Parties in a position to

do so through the current and any future operating entities of the financial mechanism, as well as through various bilateral, regional and other multilateral channels, as appropriate;

### **Terms of reference for the design of the Green Climate Fund**

1. The Transitional Committee shall recommend to the Conference of the Parties for its approval at its seventeenth session and shall develop operational documents that address, inter alia:

(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*;

(e) Methods to enhance complementarity between the Fund's activities and those of other bilateral, regional and multilateral funding mechanisms and institutions;

(g) A mechanism to ensure periodic independent evaluation of the Fund's performance;

## **Annex II. Other relevant language**

### **A.II.I. UNFCCC**

#### **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.

4. The Conference of the Parties shall make arrangements to implement the above-mentioned provisions at its first session, reviewing and taking into account the interim arrangements referred to in Article 21, paragraph 3, and shall decide whether these interim arrangements shall be maintained. Within four years thereafter, the Conference of the Parties shall review the financial mechanism and take appropriate measures.

#### **ARTICLE 10. SUBSIDIARY BODY FOR IMPLEMENTATION**

1. A subsidiary body for implementation is hereby established to assist the Conference of the Parties in the assessment and review of the effective implementation of the Convention. This body shall be open to

participation by all Parties and comprise government representatives who are experts on matters related to climate change. It shall report regularly to the Conference of the Parties on all aspects of its work.

2. Under the guidance of the Conference of the Parties, this body shall:

- (a) Consider the information communicated in accordance with Article 12, paragraph 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;
- (b) Consider the information communicated in accordance with Article 12, paragraph 2, in order to assist the Conference of the Parties in carrying out the reviews required by Article 4, paragraph 2 (d); and
- (c) Assist the Conference of the Parties, as appropriate, in the preparation and implementation of its decisions.

#### **ARTICLE 4. COMMITMENTS**

2. The developed country Parties and other Parties included in Annex I commit themselves specifically as provided for in the following:

(a) Each of these Parties shall adopt national policies and take corresponding measures on the mitigation of climate change, by limiting its anthropogenic emissions of greenhouse gases and protecting and enhancing its greenhouse gas sinks and reservoirs. These policies and measures will demonstrate that developed countries are taking the lead in modifying longer-term trends in anthropogenic emissions consistent with the objective of the Convention, recognizing that the return by the end of the present decade to earlier levels of anthropogenic emissions of carbon dioxide and other greenhouse gases not controlled by the Montreal Protocol would contribute to such modification, and taking into account the differences in these Parties' starting points and approaches, economic structures and resource bases, the need to maintain strong and sustainable economic growth, available technologies and other individual circumstances, as well as the need for equitable and appropriate contributions by each of these Parties to the global effort regarding that objective. These Parties may implement such policies and measures jointly with other Parties and may assist other Parties in contributing to the achievement of the objective of the Convention and, in particular, that of this subparagraph;

(b) In order to promote progress to this end, each of these Parties shall communicate, within six months of the entry into force of the Convention for it and periodically thereafter, and in accordance with Article 12, detailed information on its policies and measures referred to in subparagraph (a) above, as well as on its resulting projected anthropogenic emissions by sources and removals by sinks of greenhouse gases not controlled by the Montreal Protocol for the period referred to in subparagraph (a), with the aim of returning individually or jointly to their 1990 levels these anthropogenic emissions of carbon dioxide and other greenhouse gases not controlled by the Montreal Protocol. This information will be reviewed by the Conference of the Parties, at its first session and periodically thereafter, in accordance with Article 7;

(d) The Conference of the Parties shall, at its first session, review the adequacy of subparagraphs (a) and (b) above. Such review shall be carried out in the light of the best available scientific information and assessment on climate change and its impacts, as well as relevant technical, social and economic information. Based on this review, the Conference of the Parties shall take appropriate action, which may include the adoption of amendments to the commitments in subparagraphs (a) and (b) above. The Conference of the Parties, at its first session, shall also take decisions regarding criteria for joint implementation as indicated in subparagraph (a) above. A second review of subparagraphs (a) and (b) shall take place not later than 31 December 1998, and thereafter at regular intervals determined by the Conference of the Parties, until the objective of the Convention is met;

3. The developed country Parties and other developed Parties included in Annex II shall provide new and additional financial resources to meet the agreed full costs incurred by developing country Parties in complying with their obligations under Article 12, paragraph 1. They shall also provide such financial resources, including for the transfer of technology, needed by the developing country Parties to meet the agreed full incremental

costs of implementing measures that are covered by paragraph 1 of this Article and that are agreed between a developing country Party and the international entity or entities referred to in Article 11, in accordance with that Article. The implementation of these commitments shall take into account the need for adequacy and predictability in the flow of funds and the importance of appropriate burden sharing among the developed country Parties.

## **ARTICLE 12. COMMUNICATION OF INFORMATION RELATED TO IMPLEMENTATION**

1. In accordance with Article 4, paragraph 1, each Party shall communicate to the Conference of the Parties, through the secretariat, the following elements of information:

- (a) A national inventory of anthropogenic emissions by sources and removals by sinks of all greenhouse gases not controlled by the Montreal Protocol, to the extent its capacities permit, using comparable methodologies to be promoted and agreed upon by the Conference of the Parties;
- (b) A general description of steps taken or envisaged by the Party to implement the Convention; and
- (c) Any other information that the Party considers relevant to the achievement of the objective of the Convention and suitable for inclusion in its communication, including, if feasible, material relevant for calculations of global emission trends.

2. Each developed country Party and each other Party included in Annex I shall incorporate in its communication the following elements of information:

- (a) A detailed description of the policies and measures that it has adopted to implement its commitment under Article 4, paragraphs 2 (a) and 2 (b); and
- (b) A specific estimate of the effects that the policies and measures referred to in subparagraph (a) immediately above will have on anthropogenic emissions by its sources and removals by its sinks of greenhouse gases during the period referred to in Article 4, paragraph 2 (a).

## **ART. 21. INTERIM ARRANGEMENTS**

3. The Global Environment Facility of the United Nations Development Programme, the United Nations Environment Programme and the International Bank for Reconstruction and Development shall be the international entity entrusted with the operation of the financial mechanism referred to in Article 11 on an interim basis. In this connection, the Global Environment Facility should be appropriately restructured and its membership made universal to enable it to fulfil the requirements of Article 11.

## **A.II.2 MOU between the COP and the GEF Council**

### **MEMORANDUM OF UNDERSTANDING BETWEEN THE CONFERENCE OF THE PARTIES AND THE COUNCIL OF THE GLOBAL ENVIRONMENT FACILITY**

#### **Determination of funding necessary and available**

9. In accordance with Article 11.3(d) of the Convention, which calls for 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, the COP and the Council shall jointly determine the aggregate GEF funding requirements for the purpose of the Convention. Procedures to facilitate such a joint determination will be developed by the COP and the Council and annexed to this Memorandum. [Decision 12/CP.2; FCCC/CP/1996/15/Add.1:p.58]

## **ANNEX ON THE DETERMINATION OF FUNDING NECESSARY AND AVAILABLE FOR THE IMPLEMENTATION OF THE CONVENTION**

1. *Decides* to refer the text of the annex on the determination of funding necessary and available for the implementation of the Convention adopted by the Council of the Global Environment Facility and the draft annex submitted by the Group of 77 and China (FCCC/SBI/1996/L.4) for consideration by the Subsidiary Body for Implementation at its next session; [Decision 13/CP.2; FCCC/CP/1996/15/Add.1:p.60]

### **DRAFT PROPOSAL SUBMITTED BY THE GROUP OF 77 AND CHINA**

Recalling Article 11.1 of the Convention which, in the relevant part, states that the financial mechanism of the Convention shall function under the guidance of and be accountable to the Conference of the Parties, as well as Article 4.7 and 4.8 of the Convention;

Mindful that, in accordance with Article 11.3(d) of the Convention, the amount of funding necessary and available for the implementation of the Convention and the conditions under which that amount is to be reviewed, shall be determined in a predictable and identifiable manner;

The aggregate GEF funding requirements for the purpose of the Convention shall be determined in accordance with the following procedures

#### Determination of funds necessary

1. In anticipation of a replenishment of the GEF, the COP will make an assessment of the amount of funds that are necessary to assist developing countries, in accordance with the guidance provided by the COP, in fulfilling their commitments under the Convention over the next GEF replenishment cycle, taking into account:

- (a) The amount of funds necessary to meet the agreed full costs to be incurred by developing country Parties in order to prepare their national communications under Article 12.1 of the Convention on the basis of the guidelines for national communications of non-Annex I Parties adopted by the Conference of the Parties at its second session;
- (b) Financial resources requested by developing country Parties to meet the agreed full incremental costs of measures covered by Article 4.1 of the Convention;
- (c) Financial resources requested by developing country Parties to meet the costs of adaptation to the adverse effects of climate change;
- (d) Information communicated to the COP from the GEF on the number of eligible programmes and projects that were submitted to the GEF, the number that were approved for funding, and the number that were turned down owing to lack of resources.

#### Availability of funding

2. The GEF will intimate to the COP the funds that are likely to be available over the next replenishment period.
3. The GEF replenishment will be based on the COP's assessment.
4. On the occasion of each replenishment, the GEF will, in its regular report to the COP as provided for in paragraphs 6 and 7 of this Memorandum of Understanding, indicate how it has responded during the replenishment cycle to the COP's previous assessment prepared in accordance with paragraph 1 of this annex, inform the COP of the conclusion of replenishment negotiations and indicate the amount of new and additional funding to be contributed to the GEF trust fund in the next replenishment cycle for the purposes of the GEF, including the implementation of the Convention. The GEF shall clearly indicate the rationale by which the amount described as "new and additional" is regarded as such, *vis-à-vis* other sources of Official Development Assistance.



## **IMPLEMENTATION OF DECISIONS 12/CP.2 AND 12/CP.3: DETERMINATION OF FUNDING FOR THE IMPLEMENTATION OF THE CONVENTION**

Note by the UNFCCC Secretariat [FCCC/SBI/2004/6; 6 April 2004]

### ***I. Introduction***

#### **A. Mandate**

1. The Conference of the Parties (COP) by its decision 5/CP.8, requested the secretariat, in consultation with the secretariat of the Global Environment Facility (GEF), to prepare for consideration by the Subsidiary Body for Implementation (SBI) at its twentieth session a report on the implementation of decisions 12/CP.2 and 12/CP.3 in accordance with Article 11 of the Convention on the determination of funding necessary and available for the implementation of the Convention.

#### **B. Scope of the note**

2. This document outlines the arrangements for the determination of funding necessary and available for the implementation of the Convention as contained in the annex to the memorandum of understanding (MOU) between the COP and Council of the GEF adopted by the COP at its third session. It also summarizes the process adopted by the GEF to replenish its Trust Fund in 1995, 1998 and 2002. It further presents the timeline of the forthcoming replenishment and a possible timeline for inputs by the COP so that the funding needs assessment can be taken into consideration during the negotiations on the fourth replenishment of the GEF Trust Fund.

#### **C. Possible action by the Subsidiary Body for Implementation**

3. The SBI may wish to agree on the steps to be taken to assess the funding needs for the implementation of the Convention, prior to the fourth replenishment of the GEF Trust Fund.

### ***II. Agreement between the Conference of the Parties and the Council of the Global Environment Facility***

4. Article 11.3(d) of the Convention specifies that arrangements must be put in place 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. The COP, by its decision 12/CP.3, approved and brought into force the annex to the MOU on the determination of funding necessary and available for the implementation of the Convention. The text of this annex is contained in document FCCC/SBI/1996/14, annex I. The COP and the Council of the GEF will jointly determine the aggregate GEF funding requirements for the purpose of the Convention in accordance with the procedures outlined in the annex to the MOU.
5. The annex to the MOU prescribes that in anticipation of a replenishment of the GEF, the COP will make an assessment of the amount of funds that are necessary to assist developing countries, in accordance with the guidance provided by the COP, in fulfilling their commitments under the Convention over the next GEF replenishment cycle. It outlines information that should be taken into consideration in determining the amount of funding necessary and available for the implementation of the Convention. These include:
  - (a) The amount of funds necessary to meet the agreed full costs to be incurred by developing country Parties in order to prepare their national communications under Article 12.1 of the Convention on the basis of the guidelines for national communications of non-Annex I Parties adopted by the COP at its second session, and the information communicated to the COP under Article 12 of the Convention;
  - (b) Financial resources needed by the developing country Parties to meet the agreed full incremental

costs of implementing measures that are covered by Article 4.1 of the Convention and that are agreed between a developing country Party and the international entity or entities referred to in Article 11 of the Convention;

- (c) Information communicated to the COP from the GEF on the number of eligible programmes and projects that were submitted to the GEF, the number that were approved for funding, and the number that were turned down owing to lack of resources;
  - (d) Other sources of funding available for the implementation of the Convention.
6. The GEF replenishment negotiations will fully and comprehensively take into account the assessment by the COP.
  7. On the occasion of each replenishment, the GEF is expected, in its regular report to the COP, to indicate how it has responded during the replenishment cycle to the previous assessment by the COP. The GEF is also to inform the COP of the conclusion of replenishment negotiations and indicate the amount of new and additional funding to be contributed to the GEF Trust Fund in the next replenishment cycle. In deliberating on the reports submitted to it by the GEF, the COP may consider the adequacy of the resources available for implementation of the Convention.
  8. The reiteration of this process on the occasion of each replenishment will present the opportunity to review the amount of funding necessary and available for the implementation of the Convention in accordance with Article 11.3(d).

## A.II.3. Initial guidance on policies, programme priorities and eligibility criteria to the operating entity or entities of the financial mechanism [11/CP.1]

2. *Also decides* to take note of the following conclusions of the Intergovernmental Negotiating Committee for a Framework Convention on Climate Change:

(a) Outside the framework of the financial 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. Towards this end and in the context of Article 11.5 of the Convention, the secretariat should collect information from multilateral and regional financial institutions on activities undertaken in implementation of Article 4.1 and Article 12 of the Convention; this should not introduce new forms of conditionalities.

## A.II.4. Additional (Draft) Guidance to the GEF as adopted in the SBI regarding National Communications

### 2010

4. Requests the Global Environment Facility:

(c) To work with its implementing agencies to further simplify its procedures and improve the effectiveness and efficiency of the process through which non-Annex I Parties 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, and to avoid gaps between enabling activities of current and subsequent national communications, recognizing that the process of preparation of national communications is a continuous cycle;

(d) To finalize any remaining operational procedures to ensure the timely disbursement of funds for those Parties that decide to access resources for the preparation of their national communications through direct access;

(e) To provide detailed information on funding for projects that have been identified in the national communications of non-Annex I Parties in accordance with Article 12, paragraph 4, of the Convention and subsequently submitted and approved.

(e) To provide detailed information on funding for projects that have been identified in the national communications of non-Annex I Parties in accordance with Article 12, paragraph 4, of the Convention and subsequently submitted and approved.

### 2008<sup>47</sup>

2. Requests the Global Environment Facility:

(f) To ensure, as a top priority, that sufficient financial resources are provided to meet the agreed full costs incurred by developing country Parties in complying with their obligations under Article 12, paragraph 1, of the Convention, noting and welcoming that a number of Parties not included in the Annex I to the Convention (non-Annex I Parties) plan to initiate the preparation of their third or fourth national communications by the end of the fourth replenishment of the Global Environmental Facility;

3. Invites the Global Environmental Facility to inform its implementing agencies of the guidelines for the preparation of national communications from non-Annex I Parties and of relevant provisions of the Convention, in particular its Article 4, paragraph 3, on the provision of new and additional financial resources to meet the

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<sup>47</sup> There was no guidance adopted in 2009 (Copenhagen) [?]

agreed full costs incurred by developing country Parties in complying with their obligations under Article 12, paragraph 1, of the Convention;

4. Reiterates the following requests to the Global Environmental Facility made by the Conference of Parties at its thirteenth session to the Global Environmental Facility:

(a) To continue to ensure that financial resources are provided to meet the agreed full costs incurred by developing country Parties in complying with their obligations under Article 12, paragraph 1, of the Convention;

(b) To refine, as appropriate, operational procedures to ensure the timely disbursement of funds to meet the agreed full costs incurred by those non-Annex I Parties that are in the process of preparing their third and, where appropriate, fourth national communications;

(c) To assist, as appropriate, non-Annex I Parties in formulating and developing project proposals identified in their national communications in accordance with Article 12, paragraph 4, of the Convention and decision 5/CP.11, paragraph 2;

(d) To invite the Global Environmental Facility to continue to provide information on funding for projects that have been identified in the national communications of non-Annex I Parties in accordance with Article 12, paragraph 4, of the Convention and subsequently submitted and approved;

(e) To work with its agencies to continue to simplify their procedures and improve the effectiveness and efficiency of the process through which non-Annex I Parties 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;

## **2007**

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

(g) To continue to ensure that financial resources are provided to meet the agreed full costs incurred by developing country Parties in complying with their obligations under Article 12, paragraph 1, of the Convention;

(i) To work with its implementing agencies to continue to simplify its procedures and improve the effectiveness and efficiency of the process through which Parties not included in non-Annex I to the Convention (non-Annex I Parties) 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;

(j) To refine, as appropriate, operational procedures to ensure the timely disbursement of funds to meet the agreed full costs incurred by those non-Annex I Parties that are in the process of preparing their third and, where appropriate, fourth national communications, in the light of paragraphs 1 (g)–(i) above;

(k) To assist, as appropriate, non-Annex I Parties in formulating and developing project proposals identified in their national communications in accordance with Article 12, paragraph 4, of the Convention and decision 5/CP.11, paragraph 2;

(l) To ensure, together with its implementing agencies, that the analysis of project proposals for the financing of second and subsequent national communications is consistent with the guidelines for the preparation of national communications from non-Annex I Parties;<sup>3</sup>

2. Invites the Global Environment Facility:

(a) To continue to provide information on funding for projects identified in the national communications of non-Annex I Parties<sup>4</sup> in accordance with Article 12, paragraph 4, of the Convention and subsequently submitted and approved;

(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;

## **2006**

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 non-Annex I Parties 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;

## A.II.5. Enhanced action on the provision of financial resources and investment

### **Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention –Draft conclusions proposed by the AWG-LCA Chair in Copenhagen**

FCCC/AWGLCA/2009/L.7/Add.2/Rev.1

#### ***[Finance Board]***

- [2. A Finance Board of the financial mechanism shall be established under the guidance of and be accountable to the Conference of the Parties;]
- [3. The Finance Board shall have an equitable and balanced representation of all Parties within a transparent system of governance in accordance with Article 11, paragraph 2, of the Convention;]
- [4. The Finance Board of the financial mechanism shall:
  - (a) Provide [guidance][assistance] to, and ensure accountability to the Conference of the Parties of, all operating entities of the financial mechanism in accordance with Article 11 of the Convention;
  - (b) Assess the needs for, and sources and flows of, international finance to support activities to address climate change;
  - (c) Recommend a balanced allocation of funding across thematic areas of the operating entities of the financial mechanism based on the information provided by all operating entities;
  - (d) Recommend provisions for unifying modalities to measure, report and verify the support provided to developing country Parties for enhanced action on mitigation, and to monitor, report and review the support provided to developing country Parties for enhanced action on adaptation;
  - (e) Review modalities of operating entities in order to provide simplified, improved, effective and equitable access to financial resources in a timely manner, including direct access;
  - (f) Upon request, provide advice and information to assist developing country Parties in matching financial support for their mitigation and adaptation needs;
  - (g) Report to the Conference of the Parties on a regular basis;
  - (h) Fulfil any other functions assigned to it by the Conference of the Parties;]
- [5. The Finance Board shall be serviced by a secretariat;]

Contact:

Postal Address: 57 Woodstock Road, Oxford, OX2 7FA, UK

Phone +44 (0) 1865 889 128, Fax: +44 (0) 1865 310 527

e-mail: [admn.ocp@gmail.com](mailto:admn.ocp@gmail.com)