

# Oxford Energy and Environment Comment

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## What Expertise?

On who should be drafting the framework documents for a new Global Climate Fund

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### Introduction

While consensus on establishing a new multilateral climate fund is emerging, there are a number of as yet unresolved issues concerning how this should be done. One of them, as highlighted by the AWG-LCA Chair in her statement at the Pre-COP Ministerial meeting in Mexico City, (4–5 November 2010),\* is the question: who exactly should be drafting the documents required for establishing such a fund?

The debate on this issue began in earnest after the United States tabled a ‘Three-Step-Proposal’ for establishing a new fund:<sup>3</sup>

**Step 1 – A COP Decision.** The first step is a COP decision, possibly at Cancun, that a new fund is to be established.

**Step 2 – Operationalizing the Fund through a Working Group.** Noting this COP decision, a temporary multidisciplinary Working Group (WG) of experts from all interested countries is to be convened, led by finance ministries in a fully inclusive manner (but outside the UNFCCC). The task of the WG is two-fold: (i) to develop the framework documents for the Fund, setting forth key issues including funding criteria, financial instruments, role of the secretariat, access modalities, etc., and (ii) to select, at its final meeting, the founding Board of the Fund, which is then to adopt the framework documents.

**Step 3 – An MOU between the COP and the Fund.** Once the Fund is established (Step 2), it is to formalize its relationship with the COP as an operating entity of the Financial Mechanism by agreeing an MOU which sets out the terms of ‘guidance and accountability’.

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\* *In my view, the establishment of the new fund is a key element of the outcome and I am confident that this can be completed. I am concerned that there is disagreement over how to organize a professional design phase for the new Fund and that Parties should find a mutually agreeable way to resolve this issue.* [‘Elements for a balanced outcome,’ Speaking notes by the AWG-LCA Chair, Margaret Mukahanana-Sangarwe. Available at: [http://unfccc.int/files/meetings/ad\\_hoc\\_working\\_groups/lca/application/pdf/pre\\_cop16\\_speech\\_lca\\_chair.pdf](http://unfccc.int/files/meetings/ad_hoc_working_groups/lca/application/pdf/pre_cop16_speech_lca_chair.pdf)]

The key point in the present context is that the drafting process (Step 2) is to be '*led by finance ministries*'.<sup>4</sup> What does this mean? Is it that the WG is to be convened by one or several finance ministries? Is it that the invitations to join the WG are to be sent to finance ministries? Or is it that officials from finance ministries are meant to somehow take the lead in carrying out the drafting in the WG?

The US submission at the recent Tianjin UN climate conference suggests (at least) the first interpretation, namely that the WG is to be convened by finance ministries.<sup>\*</sup> Obviously, the three interpretations are not mutually exclusive. Indeed, it stands to reason that if finance ministries do convene the process, then they would send the invitations to their peers, and would possibly even try to ensure that they take the lead, say, in writing the first draft of the required framework documents.

Having worked on the governance structure of a number of multilateral funds and funding institutions,<sup>5</sup> the authors of this Comment were somewhat puzzled by the idea that a particular type of government institution should be given the lead in such a drafting exercise. As one of them has argued in another context,<sup>6</sup> there are two types of expertise that are key in such a drafting process: (i) *technical expertise* regarding the content of what is to be established, and (ii) *political expertise* regarding the acceptability of the resulting drafts to whoever is meant to approve it. Given that in the US three-step proposal, the WG drafts are to be approved by a body appointed by the drafting WG, it stands to reason that the political expertise is automatically built into the system,<sup>†</sup> and that accordingly the desire for finance ministry leadership – if concerned with expertise at all – would have to be about technical expertise.

This then leads to the question of what sort of technical expertise would be most useful in drafting *a governing instrument and other necessary governing documents establishing the Fund and a process for board selection*, and where such expertise is most likely to be located?

### What Expertise and Where?

Drafting the governing documents for a multilateral fund is not 'rocket science', it is not something that has never been done before. On the contrary, there are many examples of such documents, and the relevant key expertise has to be a knowledge not only of what is there, but of what has proven to work well, and what may need to be improved. This sort of knowledge is unlikely to be confined to governments and their agencies and ministries, which is why it is indeed important that the drafting group in question be multi-disciplinary. It is, in other words, essential that any drafting process is able to attract the relevant expertise from all sectors – as happened, for example, in the process of establishing the Global Fund to fight AIDS, Tuberculosis and Malaria.

However, given that most governing bodies of multilateral funds are still the exclusive domain of government officials, there is a relevant type of knowledge that only they will have, namely the

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<sup>\*</sup> *The Conference of the Parties welcomes the offer by the Ministry of Finance of [Party X [and Party Y]] to convene a Transitional Working Group in a series of meetings, to be open to all interested Parties and led by finance ministries, to prepare a governing instrument and other necessary governing documents establishing the Fund and a process for board selection.* [FCCC/AWGLCA/2010/MISC.6/Add.1; p.10]

<sup>†</sup> If the drafting group actually has the right to appoint who is to approve their drafts, namely the Fund Board, then it is unlikely that they will choose a board that is likely not to approve the drafts. However, the problem with this approach is that there is no assurance that the resulting fund governance would then be acceptable to the COP in order to enter into an operating entity MOU. In sum, the proposed three-step process may in the short term (Step 2) avoid the need to involve 'political' expertise, but this may then backfire in the longer term (Step 3), and it would be wise to avoid another COP rejection in this context.

knowledge of how the different models work in practice, as seen from within. In that context, it may indeed make sense to give the drafting lead to representatives of a certain type of government body (agency/ministry), assuming that this is where this knowledge principally resides. The question then has to be: is it indeed finance ministries that are generally the repositories of this type of working knowledge of international funds?

To throw some light on this issue, the authors considered the ‘institutional origins’ of the executive bodies of a number of international fund and funding institutions,<sup>\*</sup> namely:

- the Kyoto Protocol Adaptation Fund,
- the Montreal Protocol Multilateral Fund,
- the World Bank Climate Investment Funds,
- the GEF Trust Fund,
- the Global Fund to Fight AIDS, Tuberculosis, and Malaria (GF), and
- the World Bank International Development Association (IDA).

**Table 1. Shares of representatives from different types of government agencies/ministries**

	<i>Finance</i> <sup>a</sup>	<i>Environm./ Health</i> <sup>b</sup>	<i>Foreign Affairs</i> <sup>c</sup>	<i>Develop. Agencies</i> <sup>d</sup>	<i>MDBs</i> <sup>e</sup>	<i>other</i>
Adaptation Fund Board <sup>i</sup>	13%	50%	13%	6%	0%	19%
Montreal Protocol Multilateral Fund Executive Committee <sup>ii</sup>	9%	69%	9%	6%	0%	9%
Clean Technology Fund Trust Fund Committee	44%	13%	6%	13%	19%	6%
Strategic Climate Fund Trust Fund Committee	27%	7%	20%	20%	7%	20%
GEF Council <sup>iii</sup>	19%	34%	19%	16%	9%	3%
Global Fund (GF) Board	0%	47%	27%	20%	0%	7%
World Bank IDA Board of Directors <sup>iv</sup>	50%	0%	13%	13%	0%	25%

<sup>i</sup> Full members; <sup>ii</sup> Full members and co-opted members, <sup>iii</sup> Full members; <sup>iv</sup> Prior to joining the World Bank

<sup>a</sup> incl. Economics, Trade; <sup>b</sup> in the case of the GF; <sup>c</sup> incl. Embassies; <sup>d</sup> incl. Planning Ministries; <sup>e</sup> incl. World Bank;

**Table 2. Number of Government Finance Representatives, with Annex I/non-Annex I split**

	<i>total number</i>	<i>Annex I</i>	<i>Non-Annex I</i>
Adaptation Fund Board	2	50%	50%
Montreal Protocol Multilateral Fund Executive Committee	3	33%	67%
Clean Technology Fund Trust Fund Committee	7	86%	14%
Strategic Climate Fund Trust Fund Committee	4	75%	25%
GEF Council	6	83%	17%
World Bank IDA Board of Directors	12	58%	42%
Global Fund (GF)Board	0	n/a	n/a

\* This choice was determined by the case studies the authors have been considering in their above-mentioned work.

Table 1 lists the shares of representatives from different categories of government bodies on the executive organs of the different funding entities. Table 2 lists the absolute number of representatives from finance and related ministries, as well as how they are split between developing and developed countries. A clear picture emerges. The institutions with the largest share of finance ministry members are the World Bank IDA (50 per cent), its Clean Technology Fund (44 per cent), and Strategic Climate Fund (27 per cent). What is noteworthy, however, is that even on the IDA Board of Directors, only half came from finance and related ministries. What is also noteworthy is that of these finance ministry representatives, the majority in all but one case are from developed countries.

Looking at aggregates of the people serving on these seven executive bodies, the share of finance ministry representatives in the 153 person aggregate total is 22 per cent, half of which at World Bank based bodies (IDA and CIFs). The analogous shares of finance ministry representatives from developing countries are 7 per cent and 4 per cent respectively. This strongly suggests that *working knowledge of international funding instruments is not concentrated in finance ministries*, and that this is *particularly the case in developing countries*. The lesson has to be that by focussing in some way or other on finance ministries in setting up the drafting body for the new fund, one is likely to miss most of the relevant working experience, particularly from developing countries. It thus seems more reasonable not to focus on any particular type of (government) employers in defining the profile for the drafting group members, but instead to look directly at the relevant type of knowledge and experience. The profile of who is to take the lead, particularly the lead in drafting, has to be *knowledge and experience led*, and not concerned with institutional provenance.

### **The Solution: A Transitional Expert Panel?**

A recent ecbi Policy Brief on *Climate Finance after Tianjin*<sup>7</sup> proposed the idea of a multi-disciplinary, multi-stakeholder *Transitional Expert Panel* (TEP), established by the COP, and working under its guidance, but at arm's length, to draft the framework documents for the new Global Climate Fund.

As such, the idea of such a TEP would seem to be quite compatible with the Working Group idea of the US three-step proposal. The main difference, indeed, would be the underlying assumption relating to who would ultimately be approving the draft framework documents. In the US process, that would be the board of the new fund, as selected by the WG, while the TEP would be submitting its drafts to the COP for approval. Given this, the TEP is in need of both the technical and the political expertise mentioned above.

To obtain this, the COP would select a number of Parties – according to some geographically balanced and equitable representation formula (such as the ‘core model’ discussed below) – who would be requested to send representatives conforming to a certain profile (to be decided by the COP), and the Chair of the TEP, with the help of the UNFCCC Secretariat, would select a number of non-government stakeholder experts, on grounds of their relevant expertise. In short, following the example of the Global Fund Transitional Working Group, the TEP for the new Global Climate Fund would have a number of government and non-government experts.

**Government Experts.** Following a privately circulated idea of a ‘core model’ of COP representation,<sup>8</sup> the TEP could have 21 government delegates, representing a number of COP groupings and key Parties, according to the following composition formula:

- five UN Regions (two representatives each);
- SIDS and LDCs (one each);

- Brazil, China, India, Indonesia, South Africa, European Community, Japan, Russia, and the United States (one representative each).

Key to this model, however, is not only the composition formula, but the fact that each of the Groups in question have the right to select the Party that is to represent them, which is, in turn, entitled to select the appropriate panellist for the TEP (in accordance with the relevant COP profile).

**Non-government Experts.** The TEP Chair, with the help of the UNFCCC Secretariat, should co-opt ten experts from the following five non-government sectors as TEP delegates (two each): (i) Private Sector, (ii) Civil Society Organizations, (iii) Multilateral Development Banks, (iv) Charitable Foundations, (v) Academia, according to a profile/set of criteria approved by the COP.

**Panellist Profiles.** The COP, in its decision to operationalize the new Global Climate Fund, should specify two sets of criteria ('profiles') for TEP delegates. Governments should be requested to delegate experts with a working knowledge of international funds. Non-government experts should be chosen first and foremost because of a proven track record in matters relating to governance of international funds and finance, with particular reference to the sort of expertise that would enable them to write the initial drafts of the relevant documents for consideration by the TEP.

## Endnotes

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- <sup>3</sup> The description of this proposal was first published in Benito Müller, *Why Reinvent the Wheel? On Establishing New Funds while Guiding and Holding Accountable Operating Entities of the UNFCCC Financial Mechanism*, Oxford Energy and Environment Comment, October 2010.
- <sup>4</sup> Intervention by US Special Envoy Todd Stern at Geneva Dialogue on Climate Finance (2 September 2010)
- <sup>5</sup> Benito Müller and Achala Chandani, *The Reformed Financial Mechanism of the UNFCCC: Political Oversight – Managing International Disbursements*, Oxford OIES, forthcoming.
- <sup>6</sup> Benito Müller, 'Climate Finance after Tianjin: How to reach a deal at Cancún?', ecbi Policy Brief, November 2010. Available at [www.EuroCapacity.org](http://www.EuroCapacity.org).
- <sup>7</sup> *Op. cit.*
- <sup>8</sup> Benito Müller, *Enhancing the UNFCCC Process: 1. Process Ownership*, (forthcoming).