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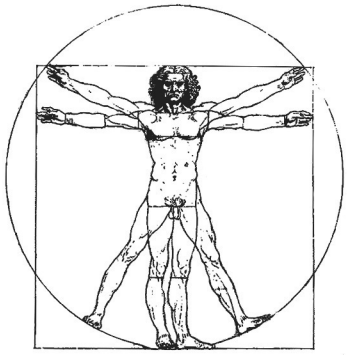

ecbi Report

2011 Bonn Seminar

Form and function of the Standing Committee and the Transitional Committee, and long-term finance

Hotel Collegium Leoninum, Bonn

12 June 2011

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Report of the sixth ecbi Bonn Seminar

Senior UNFCCC negotiators discussed the importance of 'ownership' over the process of designing the Green Climate Fund; the form and function of the Steering Committee; and sources of long-term finance

The sixth ecbi Bonn Seminar was held on 12 June 2011 at the Hotel Collegium Leoninum in Bonn. It was attended by over 25 UNFCCC negotiators from developed and developing countries (*see list of participants in Annex 1*).

ecbi Director Benito Müller introduced the Initiative and the purpose of the Bonn Seminar. He said the goal was not necessarily to agree at the end, but rather to better understand each other and the basis of national positions. He introduced the agenda, covering three main areas of discussions on climate finance:

- Sources of long-term finance.
- The form, structure and purpose of the Standing Committee set up by the Cancun Agreement.
- The progress on discussions by the Transitional Committee for the design of the Green Climate Fund.

1. Sources of long-term climate finance

Erik Haites from Margaree Consultants, Canada, kicked off the discussions on long term sources of climate finance with a presentation. Haites pointed to the need for periodic needs assessments for climate finance, suggesting that this could be a potential role for the new Standing Committee.

He felt an immediate concern was to ensure that the Green Climate Fund (GCF) receives funding. Given the economic situation in Annex II countries and the fact that amounts to be contributed by Parties is not formally negotiated or discussed among Parties, the prospects that the GCF would receive sufficient funding do not look good. Haites felt the Annex II countries would find it difficult to even renew their Fast Start Finance pledges, leave alone long-term finance. He felt only a small portion would go through the GCF, even if developed countries do contribute to climate finance.

This situation increases the urgency of identifying innovative sources of international finance, said Haites, and yet the discussions on innovative sources show no notable progress towards implementation. Although the High Level Advisory Group Climate Finance set up by the UN Secretary General was tasked with assessing innovative sources, he felt the report of the AGF missed an important distinction between funds that that would go to national Treasuries, and "international" sources that could be channelled directly for climate change.

Haites pointed out that many other global processes, including the Millennium Development Goals, were also considering the same innovative sources of finance. The one source where a strong case could be made for climate change is in the proposal for levies on revenues from aviation and shipping.

The European Union has already made advances towards implementing aviation levies, and has passed legislation stating that from the start of 2012, emissions from all domestic and international flights – from or to anywhere in the world – that arrive at or depart from an EU airport will be covered by the EU Emissions Trading System. Other countries have legally challenged this legislation,[1] but even if the EU loses the legal case, it looks likely that they will find some way of implementing the legislation. Next year, the EU will debate the inclusion of the shipping sector in the ETS as well. Other countries are likely to follow the EU's example.

However, even assuming the EU is successful in implementing its legislation, the resulting funds will be channeled to national treasuries, not to the Green Climate Fund or to the international climate effort. The funds will be lost to the international system. Once the funds start flowing to national treasuries, said Haites, it will be difficult to make a case to redirect them to the international system.

In the discussion that followed, a representative from the Least Developed Country (LDC) group said a discussion was scheduled in the next few days among the LDCs, on the LDC proposal for an International Air Travel Adaptation Levy. Some LDC

[1] In December 2009, the US Air Transport Association of America (ATA) and three of its members - American, Continental and United - formally filed a lawsuit challenging aviation's inclusion in the EU's ETS from 2012. The matter is being heard in the European Court of Justice. China has also made its opposition to the scheme known.

members were concerned that the levies would affect them negatively, and ways were being sought to address these concerns.

Müller pointed out that domestic air passenger levies were already in place in some countries in Europe - including Germany and France - but the proceeds went to the national budgets. In Germany, he was told that the law would have to be changed to redirect the funds to the international climate efforts, and this would be possible only if there is some sort of international agreement. He said whereas other sources such as the Tobin Tax would take time to set up, the passenger levy has already been tried and tested. He then invited participants to raise key elements related to long-term finance, which they felt should be addressed in Durban.

A developing country participant said that both, a goal and a timeframe (of a hundred billion by 2020), has already been agreed. The deadline for Fast Start Finance would end in 2015, leaving a gap of five years. He said his country was proposing a work programme on long-term finance.

Another developing country participant said it was important to have a dedicated institution or process to continue to look at long-term finance and sources - whether it is a continuation of the AGF or the new Standing Committee. Other sources, such as a percentage of the proceeds from Emissions Trading and Joint Implementation, should also be considered. A participant sought clarification on a comment from Haites, on a levy on carbon intensive exports as a source for funding. She asked whether importing or exporting countries would impose the levy. Haites replied that the AGF had considered both, and found the mechanics of implementation too difficult. A recent paper had suggested that exporting countries could implement it themselves. He also said that at the G20 session in April 2011, under a French Presidency, tasked the World Bank, working with regional development banks and the IMF, to analyse possible sources of climate finance and make recommendations to the G20 summit in November 2011.

Müller pointed out that 2020 was not far away, and asked if there was any process or discussions on whether there will be a trajectory for climate finance to increase in the run-up to 2020, or whether it was expected to suddenly shoot up in 2020.

A developing country negotiator said a discussion on this issue had not yet taken place. He said it was important to ensure the funds were made available in time - before climate impacts reach a point beyond which recovery will be much more costly. On the aviation levy, he said developing countries should be allowed to keep the funds generated in country.

A participant from the EU said it was important to talk about the near future, on what would happen after 2012 and how funds would be scaled up. He said developed countries would need good arguments to justify climate financing to their constituencies. It would help if the negotiations make progress. He said many people do not understand why we spend so much time discussing agendas.

On sources, he said parties were left to work out how they come up with money. None of the potential sources are unproblematic. For instance, the EU has come under criticism for moving on aviation and shipping levies, but those who felt that way should come up with a better alternative. Small developing countries would be exempt from the

levy. He felt it was a good idea to discuss this in the Ad Hoc Working group on Long Term Cooperation, to come up with constructive ideas for climate financing from 2013.

Müller questioned the ultimate level of financing the GCF would be expected to process, pointing out that the Fund cannot be designed without knowledge of this scale.

A developing country participant said there was no political will to provide climate financing in developed countries. She said she had heard the argument on justifying financing to tax payers for many years now, whereas the only justification needed was made clear in the legally binding text of the UNFCCC agreement.

She felt the Cancun Agreement was a legitimisation of the Copenhagen Accord, adopting the same wording. The 100 billion figure was not based on any needs assessment, and would most likely come shackled with conditions, locking developing countries into poverty. She felt developed countries were pushing the onus of reducing emissions to developing countries, and the onus of climate financing on the private sector.

A participant from the EU responded that the 100 billion figure was merely an estimate, and acknowledged there were estimates to show that more was needed. But, he said, sometimes the perfect is the enemy of the good. On the ultimate size of the GCF, he said the private sector was unlikely to send a cheque to the Fund, and governments would also hesitate to put money into a new fund until it had proven itself. Hence, there was no way of saying how big the fund would be, and its growth would have to be modular.

A developing country participant said the G77 has put forward a proposal for the continuation of a very interesting project, on needs assessments in 11 developing countries. The project would not be costly, she said, and hoped partner countries would agree to fund it.

A developed country participant cautioned that it would not be fair to burden just one or two sectors to raise easy money for climate change - as in the case of the aviation and shopping levies. He said developed countries were not trying to shirk responsibility by involving the private sector, but rather that was where the money and technology was.

He said the size of the GCF will depend on the capacity to mobilise, and how much confidence the fund inspires in the donors and the private sector. Other channels will also be used, and the ration of funds going through the CF will depend on the solidity of the GCF.

Müller pointed out that it was a bit of a chicken and egg situation - the Fund will stay small if its not attractive, but to be attractive it has to have the right design to be large.

A developing country participant asked why developing countries should worry about whether how developed countries deal with their private sector. If the private sector needs incentives, then developed countries should go ahead and provide them, in a way that does not mean more emission cuts for developing countries. She said the more developed countries did for emissions reduction, the less adaptation would cost - it was important to keep the issue of financing closely linked to the climate change debate.

2. Form and function of the Standing Committee

Bo Kjellén, one of the two chairs of the ecbi Advisory Group, chaired the session on the form and function of the Standing Committee.[2] Müller presented the draft of a paper on this issue, which he co-authored with G77 negotiator Farrukh Khan. He said the paper considers the purpose of the Standing Committee, and analyses shortcomings in the governance of climate finance currently that the Standing Committee can address.

Müller said he was puzzled by Article 11.2 of UNFCCC, which called for balanced representation of Parties in a transparent model of governance. There was currently no such body with balanced representation - but the Article could be implemented by agreeing on balanced representation in the Standing Committee.

He said the idea of the Standing Committee came up in the 2010 Oxford Fellowship and Seminar, and was based on an analysis of how country Parliaments fulfill their oversight function - they appoint oversight committees to provide guidance. The Standing Committee could take on a similar role, advising COP on financial issues. There are several reasons to justify this role:

- The role of overseeing operating entities is currently carried out by the Subsidiary Body for Implementation (SBI). The original mandate for the SBI, however, was

[2] The Cancun agreements *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*.[2]

to oversee funding for mitigation action (Article 10 of the UNFCC). Over time, this remit was expanded, among other things, to provide assistance in overseeing the Operating Entity of the Financial Mechanism. However, 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 be the reason for the widely-held view among developing country Parties that the areas of primary concern to them − such as adaptation, technology transfer and finance – have not received sufficient attention in the SBI. As a result, these areas now 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 contact group on the Financial Mechanism has spent less than nine hours on giving guidance to the existing Operating Entity altogether, and the guidance is rather repetitive. This indicates that the current process to give guidance and hold the operating entity accountable is not perfect.
- The UNFCCC recognises the importance of determining financial needs, but it has not been implemented. The only thing that has happened so far is the needs assessment project mentioned earlier. The Standing Committee could be asked to carry out periodic needs assessments.
- The Standing Committee could take on the role of keeping track to ensure that the allocation of resources between the various areas (mitigation, adaptation, technology transfer etc) is balanced - especially if the resources are channeled through various bilateral and multilateral institutions and processes. Based on the Committee's analysis, the COP can instruct the GCF to address shortfalls in certain areas.

In the discussion that followed, a developing country negotiator complimented ecbi in its role on bringing about the agreement on the Standing Committee in Cancun. She said the earlier suggestion to have a Financial Board was not well received, but the suggestion of a Standing Committee was welcomed. The G77 had put forward the idea of the Board because they felt climate finance was neither coordinated, nor coherent. She agreed that the guidance provided to the Global Environment Facility in the past was shallow, and nothing came out of the many complaints made by developing countries.

She asked who would then make decisions on the funding of Nationally Appropriate Mitigation Actions (NAMAs), and which operating entity they should be operated through.

She also asked what would happen to the other existing funds under the Kyoto Protocol. Finally, she asked whether the registry should link with the GCF.

Müller said the draft paper did list a registry on reporting and verifying financial support as one of the functions of the Standing Committee. He said the Cancun decision on the Standing Committee was vague on form and function, and invited participants to voice their views on the shape it should take.

A participant said one of the key issues underlying the negotiations is the extent to which the Standing Committee will have supervisory powers over other entities, other than strictly advisory function the cop. He said the balance there would have an important relation to who is in the Standing Committee and its form.

A developing country participant said Article 10 of the UNFCCC was about implementation. The G77 sees the Standing Committee as a step towards improving implementation, and ensuring that whatever operates as the financial mechanism is different from the GEF, and follows the guidance of the COP. She said the G77 sees the Standing Committee as a useful tool for finally having an effective mechanism. The Committee will function as an intermediary between the COP and the financial entities, ensuring accountability.

Müller said guidance to this effect was necessary, as the Cancun Agreement does not include a role for the Standing Committee in supporting the COP. He said operating entities such as the GCF ad GEF should be evaluated externally, rather than carrying out self-evaluations.

Responding to another question on whether the Standing Committee would be able to have any influence on the operating entities and its capacity to play a central role, Müller said the Committee would have an advisory function to the COP, aimed at improving guidance to the operating entities. Therefore, it is the COP - not the Standing Committee - that needs to have influence over the operating entities/ financial mechanism.

A participant from the European Union (EU) agreed that the role of the Standing Committee should be to improve COP guidance to the financial mechanism. The EU had also suggested the formation of a similar High Level body to have an overview of financial flows, review distribution and identify gaps.

A developing country participant supported an over view role for the Standing Committee, to also set targets and indicators for contributions, and carry out an MRV (monitoring, reporting and verification) function. Agreeing with this suggestion, Müller asked what would happen after such an evaluation by the Standing Committee, if it was found that an operating entity was not performing well.

A developing country participant said the UNFCCC was planning a workshop on the MRV registry, and a better understanding was needed on its function - especially how it would link to the financial mechanism. She stressed that the process should not delay access to funds for developing country NAMAs.

A participant from the EU said that NAMAs should be linked to national sustainable development strategies, with countries in the driving seat. He pointed to direct access and budget support, already practiced in development cooperation, as the way ahead. He said South Africa has submitted a proposal for a national coordinating mechanism to support such an in-country decision-making process. He stressed that the GCF would be one of many channels for climate finance.

Chair Kjellén said the Standing Committee discussion would take place in an interesting and rapidly changing world of development cooperation. He invited further written comments on the draft paper to be provided to the authors.

3. Transitional Committee for the design of the Green Climate Fund

The Cancun Agreement also established a Transitional Committee of 40 members, to design the Green Climate Fund. One of the members of the Transitional Committee, Stefan Schwager from Switzerland, made a presentation on the work of the Transitional Committee. He said the work of the committee was divided into four Work Streams at the first meeting in April 2011, in Mexico, each with two co-facilitators. His presentation focused on Work Stream II, which deals with legal and institutional issues.

Also at the first meeting in April 2011, the Transitional Committee agreed that work under this stream will include, inter alia:

- Legal and institutional arrangements, including fiduciary management issues, for the establishment and operationalization of the GCF.
- Rules of procedure, functions, and responsibilities of the Board and other governance issues related to the Board.
- Role of the Fund's secretariat and the procedure for selection and/or establishing the independent secretariat.
- Trustee arrangements and issues of fiduciary responsibility for the Fund.
- Relationship between institutional arrangements of the GCF and other bodies established under the Convention, including the Standing Committee on finance, as well as national entities.

This mandate was then divided into the following five sub-work streams:

1. **Legal issues**, including:
    a. The legal status (capacity or personality) of the GCF and its components, how such status will be conferred, and the possible liabilities of the components;
    b. The legal relationships between the GCF and its implementing partners, both multilateral and national; and
    c. The accountability relationship between the UNFCCC COP and the GCF
2. **The Board**, including:
    a. The composition and election of the Board, including: the election of members and regional distribution among UN regions; the role of non-governmental actors; the election of Chair(s) and duration of members' service;
    b. The mandate and responsibilities of the Board, especially the extent to which the Board will engage in project/programme approval; and
    c. The rules of procedures and functioning of the Board, especially decision-making.
3. **The Secretariat**, including:
    a. The establishment, as well as its legal status, composition, and recruitment;
    b. The mandate and functions, including its role (if any) in project/programme review, and MRV; and
    c. Relationship with implementing institutions, including project cycles and division of responsibility.
4. **The Trustee** (interim and permanent), including:
    a. Issues regarding the role of the trustee (in addition to 1/CP.16, Paras 104-108), including the investment strategy of the trust fund;
    b. From where the trustee receives instructions;
    c. Relationship between the trustee and implementing institutions, particularly in relation to internationally accepted fiduciary standards;
    d. The review process for interim trustee and process for selection of permanent trustee.
5. **Issues of complementarity and coherence**, including:
    a. The relationship between the GCF and the Standing Committee once constituted;
    b. Methods to ensure complementarity at the national and international level between the GCF and other bilateral, regional, and multilateral funding mechanisms and institutions as well as carbon markets;

c. The specific relationship and complementarity with the GEF and Adaptation Fund within the UNFCCC financial mechanism.

Schwager outlined the following timetable for the work of the group:

MAY 2011

- Prepare and circulate draft work plan (draft circulated 25 May 2011)
- Prepare a factual background note of fact sheets on relevant funds (draft circulated 26 May 2011)
- First Technical Workshop (30 May – 1 June 2011)
- Collect views on draft work plan to finalise at first technical workshop
- Collect views on key elements contained in Work Stream II at first technical workshop and through submissions (invitation for submissions sent 25 May 2011)
- Collect views on background note of factsheets and agree on possible further work

JUNE 2011

- Prepare scoping paper based on views and submissions (before the second Transitional Committee meeting in July 2011)
- Identify options in consultation with Transitional Committee Members based on scoping paper, background paper, and further inputs from Transitional Committee Members
- Second Technical Workshop (TBC 2011)
- Consolidate and reduce options in consultation with Transitional Committee Members
- Third Transitional Committee meeting (TBC 2011)
- Table an options paper on entire work stream discussion for consideration by Transitional Committee Members
- Fourth TC meeting (TBC 2011)
- Reduce options within paper and finalise work stream II operational document(s) for COP

Schwager said the Transitional Committee attaches great importance to transparency and to the involvement of civil society observers. All documents were available on the UNFCCC website; the Transitional Committee meetings were webcast; and submissions were invited from civil society. He emphasised the challenge of a heavy workload; fast pace; and maintaining a country-driven process. This was complicated by logistical problems such as delayed meetings; members not being able to attend due to visa and other travel problems; and the increasingly technical nature of the discussions.

Schwager said the committee would make use of all relevant experience, and rely on the experience of existing institutions to help the work along. At the request of the Transitional Committee and the Co-Facilitators of Work Stream II, the Secretariat has prepared a number of background documents, including useful factsheets on the governance arrangements of existing funds. Scoping papers will also be produced based on submissions received so far. Based on the work of the technical workshops, a document will be produced for consideration at the 2011 COP in Durban.

In the discussion that followed, a developed country participant said the next Transitional Committee workshop in Japan would be preceded by a workshop on the merits and shortcomings of existing funds. Müller asked what the relationship between the Board, Green Fund and the COP would be, and asked what would be the exact moment when the Green Fund comes into being - would the operational principles would have to be adopted by the Board first.

A developing country participant, also a Transitional Committee member, pointed out that in total, the Transitional Committee only had six days to come up with the document for COP. Clearly, this was not enough and the activity between meetings of the Transitional Committee was equally important. She felt that the Transitional Committee members were not given sufficient opportunity to provide input, or make comments on documents drafted by the Technical Support Unit (TSU). Another EU participant agreed that the Transitional Committee members should at least know who is involved in drafting the text, so that they know who to send comments to.

A participant from the EU said submissions were invited in writing, and substantive discussions should be held between meetings. He said the Tokyo meeting should focus on substance, rather than procedures. A developing country participant took exception to the implication that developing country negotiators were focused on procedures rather than substance, saying procedures were important for ownership.

Müller sought clarity on why the Transitional Committee members were not involved in drafting documents, and asked whether the GCF Board should be allowed to approve changes to the founding documents.

Schwager said although the Transitional Committee did not wish to be driven by the TSU, they had to depend on the TSU given the limited time, the existing method of functioning was the “best of the worst” they could have. He sought views on issues such as whether the GCF should have a legal identity.

Another developing country participant (and member of the Transitional Committee) agreed that involvement and clarity of process was very important for ownership of the process. He said it was still not clear how input from Transitional Committee members is included in the documents. Such a participatory process might consume more time, but it would be time well spent. He said the GCF should follow the Adaptation Fund model rather than the Global Environment Facility model, and that this should be reflected in the documents. Another developing country participant underlined the importance of grant-based rather than loan-based funding through the GCF.

On the legal nature of the GCF, Müller said as in the case of the Adaptation Fund, this would depend on the Trustee. In the case of the Adaptation Fund, the Trustee (the

World Bank) refused to accept liability for a direct access process, and hence it became essential for the Adaptation Fund Board to adopt a legal identity of its own. Some developing country participants expressed their dissatisfaction with the role of the World Bank as interim trustee for the GCF.

Schwager said the Transitional Committee was under a great deal of pressure to deliver something by the Durban COP, and welcomed country ownership - not by declamations, but through substantive input.

Müller pointed to a similar experience with the Adaptation Fund, where the agenda of the first meeting was a list of documents for the Board to adopt, which had already been prepared for them. Although it took time for the Board to unravel the documents into a form that they were happy to adopt, they had full ownership of the final documents. He said it was important to build this kind of ownership into the Transitional Committee process, and the Transitional Committee members must be involved in the drafting process. He said the ecbi would continue to organise meetings to promote a better working relationship among Transitional Committee members.

Annex I

List of Participants in the ecbi Bonn Seminar 2011

Name	Designation and Department	Country
Aimee Elise Barnes	Directorate of Energy and Climate Change, Ministry of Foreign Affairs	UAE
Andrej Kranjc	Head, International Cooperation Department	Republic of Slovenia
Balisi Gopolang	Department of Meteorological Services	Botswana
Bernarditas Mueller	Department of Foreign Affairs	Philippines
Birama Diarra	Direction Nationale de la Météorologie	Mali
Damdin Dagvadorj	Ministry of Nature and Environment	Mongolia
David Lesolle	Department of Meteorological Services	Botswana
Ebrima Darbo	Principal Assistant Secretary, Ministry of Forestry and the Environment	The Gambia
Erik F. Haites	President, Margaree Consultant Inc	Canada
Gemma O'Reilly	Research Specialist, Office of Climate, Licensing and Resource Use	Ireland
Henning Wuester	Special Adviser, Executive Direction and Management	UNFCCC

Name	Designation and Department	Country
Ivan Parks	Climate Finance, Department for International Development	United Kingdom
Jeannette J. Lee	Energy, Resources and Environment Arctic Studies, John Hopkins University	USA
Johanna Lütterfelds		UNFCCC
Kamel Djemouai	Sous-Directeur de la Coopération Ministere de l'amenagement du territoire, de l'environnement et du tourisme	Algeria
Karen Tscherning	Senior Project Manager, Adaptation, Programmbüro Internationale KlimaschutzInitiative	Germany
Margaret Mukahanana	Permanent Secretary, Ministry of Environment and Tourism	Zimbabwe
Masaki Noke	Deputy Director-General, International Cooperation Bureau, Middle Eastern and African Affairs Bureau, Ministry of Foreign Affairs	Japan
Michele de Nevers	Senior Programme Associate, Centre for Global Development	USA
Mohamed I Nasr	First Secretary, Office of Deputy Assistant Minister for Environmental Affairs and Sustainable Development	Egypt
Orlando Rey Santos	Director de Medio Ambiente Ministerio de Ciencia, Tecnología y Medio Ambiente	Cuba

Name	Designation and Department	Country
Pa Ousman Jarju	Director and UNFCCC Focal Point Department of Water Resources Ministry of Fisheries, Water Resources and National Assembly Matters	The Gambia
Paul Watkinson	Head of Climate Negotiations Team, Ministry for Ecology, Sustainable Development, Transport and Housing	France
Rajiv Kumar	Deputy Secretary, Ministry of Environment and Forests	India
Rajasree Ray	Ministry of Finance	India
Schwan Badirou Gafari	Deputy Head of Environment and Agriculture, Directorate-General of the Treasury	France
Stefan Agne	Climate Finance and Deforestation, Directorate-General Climate Action	European Commission
Stefan Marco Schwager	Senior Adviser, International Biodiversity and climate Financing, Federal Office for the Environment	Switzerland
Stina Gustafsson	Climate Change Department, Swedish Environmental Protection Agency	Sweden

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