

INDIGENOUS PEOPLES AND THE GREEN CLIMATE FUND

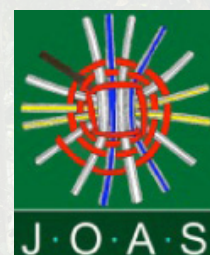
A technical briefing for Indigenous Peoples, policymakers and support groups

August 2012

Forest Peoples Programme and
Indigenous Peoples' Network of Malaysia (JOAS)



Forest
Peoples
Programme



Authors: Francesco Martone and Jen Rubis

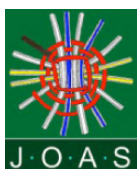
With thanks to: Tom Griffiths, Helen Tugendhat and Gemma Humphrys for their support in reviewing and editing this report.

The authors are responsible for the choice and the presentation of the facts contained in this book and for the opinions expressed therein, which are not necessarily those of Jaringan Orang Asal SeMalaysia (JOAS) and Forest Peoples Programme (FPP).



Forest
Peoples
Programme

1c Fosseyway Business Centre, Stratford Road,
Moreton-in-Marsh, GL56 9NQ, England
Tel: +44 (0)1608 652893 www.forestpeoples.org



Jaringan Orang Asal
Se-Malaysia (JOAS)
Lot 5, 1st Floor, Block M
Donggongan
89500 Penampang, Sabah
<http://orangasal.blogspot.fr/>

Produced by: Forest Peoples Programme and JOAS
August 2012

Design and layout: Gemma Humphrys

Cover photo: Nahua boy in his ancestral territory, South East Peru by Johan Wildhagen.

A NOTE FROM THE AUTHORS

The creation of a fund that will support global action on climate change is one of the concrete outcomes of the 17th Conference of the Parties (COP-17) to the United Nations Framework Convention on Climate Change (UNFCCC) held in Durban at the end of 2011. As Parties continue negotiations on the operation of the Green Climate Fund, the views and recommendations of Indigenous Peoples are not being taken fully into account.

This document is the third updated iteration of a briefing originally titled *Green Climate Fund and Transitional Committee Updates and Background Notes*, which was issued by FPP and JOAS in November 2011. When we first conceptualised this information note we wanted to fulfill two broad objectives. On the one hand, we wanted to inform Indigenous Peoples about the Green Climate Fund by providing a broad background on this new UNFCCC finance mechanism, analysing new developments both at Durban (COP17) and towards Qatar (COP18) and creating a record of relevant key decisions and text. The second key objective was to document the key demands and concerns for Indigenous Peoples for reference by negotiators and policy-makers. To accommodate our objectives and the rapidly evolving developments in climate finance, we have restructured the third edition of this paper such that each section can be easily accessible by different audiences.

This technical document is prepared and submitted for consideration of the 2012 meetings of the International Indigenous Peoples Forum on Climate Change (IIPFCC).

The authors wish to thank Tom Griffiths, Helen Tugendhat and Gemma Humphrys for their support in reviewing and editing this report.

Francesco Martone
Forest Peoples Programme (FPP)

Jen Rubis
Indigenous Peoples Network of Malaysia (JOAS)

EXECUTIVE SUMMARY

The launch of the Green Climate Fund (GCF) was a concrete outcome of the 2011 UN Climate Change Conference in Durban. Parties approved a final decision on the relationship between the Green Climate Fund and the Conference of the Parties (COP) and adopted general agreements on the GCF Board, its specific funding windows and the role of the private sector.

While 2012 will be dedicated to establishing the GCF, discussions have already started on issues such as the structure of this new global fund, its relationship with other environmental funds and the role of the GCF vis-a-vis existing multilateral and bilateral climate finance mechanisms. Key outstanding issues include the relationship of the GCF to the World Bank, what will happen to the ongoing climate finance initiatives, the availability of sufficient financial resources, and the role of the private sector. The next steps in GCF development will relate to its structure, the definition of stakeholder engagement modalities and the establishment of safeguards and compliance mechanisms. All these GCF issues pose significant challenges for Indigenous Peoples.

Through the International Indigenous Peoples' Forum on Climate Change (IIPFCC), Indigenous Peoples seek recognition of their contribution to climate change issues, and respect for their right to be actively engaged and to participate in GCF activities and decision-making. Key demands on climate finance, as stated through global collective statements and declarations, relate to ensuring that Indigenous Peoples do not become more vulnerable in the financing and implementation of climate change projects, and ensuring the full and effective participation of Indigenous Peoples in global and national efforts to mitigate and adapt to climate change.

Ensuring effective environmental and social safeguards and a rights-based approach to climate financing

For Indigenous Peoples a key area of concern is the degree to which the GCF safeguards will be aligned to international standards and obligations set out in the UN Declaration on the Rights of Indigenous Peoples (UNDRIP) and

related human rights instruments, including the right to Free, Prior and Informed Consent (FPIC). There is a need for a clear mechanism for assessment of compliance with safeguards and GCF rules, backed by a GCF recourse mechanism and participatory systems for Monitoring, Reporting and Verification (MRV).

Ensuring an effective environmental and social safeguard framework for the GCF is critical for Indigenous Peoples. Such a framework is needed to facilitate the mainstreaming of international obligations on Indigenous Peoples' rights and to support participatory processes that can integrate grassroots sustainable development priorities in all GCF-assisted climate actions. GCF safeguards – however – should not be substitutes for much needed and necessary policy, legal and governance reforms that would embed internationally recognised Indigenous Peoples' rights in national legal, judicial and administrative frameworks.

Some Parties to the UN Framework Convention on Climate Change (UNFCCC) are considering the GEF Standards on Environmental and Social Safeguards (SESS) as a basis for the development of a GCF framework. This proposal raises several concerns; the GEF minimum standards do not meet existing international standards on Indigenous Peoples as set out in UNDRIP and related human rights instruments, they do not apply directly to individual projects and they lack effective compliance mechanisms.

Ensuring a dedicated funding mechanism for Indigenous Peoples

Indigenous peoples call for direct access funding windows for Indigenous Peoples under adaptation and mitigation. While direct access is referred to in the Durban decision, this currently refers to national governments and the ability of accredited national implementing entities to access the funds. An innovation of the GCF is a special facility to enhance private sector participation. There are strong benefits for creating a similar specific finance facility under the GCF to enable Indigenous Peoples' direct access to small, discrete funds that would strengthen the contributions of indigenous and local

knowledge in climate change adaptation and mitigation.

By scaling up to an international funding window for Indigenous Peoples, the potential benefits envisaged could be delivered through the Green Climate Fund. Such a dedicated arrangement would also have the potential to provide an oversight mechanism for ensuring that the GCF adheres to agreed international standards and conveys funding to national implementing agencies, with full respect for the rights of Indigenous Peoples and with guarantees for their effective participation in all GCF-assisted projects and programmes affecting their rights and interests in general.

Ensuring Indigenous Peoples' full and effective participation in governance

The Durban decision on the GCF allows for the designation of active observers. Indigenous Peoples call for active observer status in the GCF in order to increase transparency and to ensure respect for the right to participation of Indigenous Peoples in UN processes. Experience in other funds shows that active observer status is potentially useful where the rules of procedure allow Indigenous Peoples and other groups to make direct interventions on issues relevant to the operation and policies of the fund. Indigenous peoples have not yet been recognised as active observers in the GCF, though they may participate as normal observers with limited participation rights. In a March 2012 submission to the GCF secretariat, Indigenous Peoples' organisations and support NGOs, including JOAS and FPP, raised crucial issues about GCF measures needed to enable the full and effective participation of Indigenous Peoples in its activities. In addition to the appointment of at least one Indigenous Peoples' active observer to the Board, the signatories to the submission recommend that the UN Permanent Forum on Indigenous Issues should also participate in the Board meeting as an observer. The submission further recommends the designation of a focal person in the secretariat, the establishment of an Indigenous Peoples' advisory body and the establishment of a dedicated travel fund with voluntary contributions and trust funds to enable Indigenous Peoples to fully and effectively participate in the activities of the Green Climate Fund.

THE GREEN CLIMATE FUND IN 2012: OBSERVATIONS, RECOMMENDATIONS AND KEY ISSUES FOR INDIGENOUS PEOPLES

The launch of the Green Climate Fund (GCF or the Fund) was a concrete outcome of the 2011 UN Climate Conference in Durban. Well aware of the difficulties in reaching agreement on key contentious issues i.e. binding emissions reductions and quantitative financial commitments, Parties focused on defining the architecture of a future climate regime. Despite lengthy and difficult negotiations, Parties approved a final decision on the relationship between the Green Climate Fund and the Conference of the Parties (COP) and adopted general agreements on the GCF Board, its specific funding windows and the role of the private sector.

Many key matters however, remain unresolved. These include the relationship of the GCF to the World Bank, what will happen to the ongoing climate finance initiatives, and how much money will be available¹.

The role of the private sector is a contentious issue for many social movements and civil society organisations who see its involvement in the GCF as a possible move to use future public finance to support large corporate interests². In a joint letter to the Transitional Committee, over 150 NGOs, including Indigenous Peoples' organisations expressed their concern that such a facility would:

'allow multinational corporations to directly access GCF financing for activities in developing countries, bypassing those countries' governments...the role of the private sector in the GCF must be decided, managed, regulated and incentivised at the national and sub-national levels in line with countries' preferences and needs, not corporate bottom lines'³

1. Nakhooda, S. and Shalatek, L. "The Green Climate Fund: Ready, set, go?" 20 February 2012: OXFAM, CAN Europe, APRODEV, CIDSE: "Green Climate Fund ready for lift-off but still lying empty", 21 February 2012

2. Friends of the Earth US: "Submission to the Transitional Committee on the role of private sector in the Green Climate Fund", July 29, 2011 http://unfccc.int/files/cancun_agreements/green_climate_fund/application/pdf/foe_submission_on_ws_iii.pdf

3. Letter to Members of Transitional Committee, 1 December 2011. Available at: http://libcloud.s3.amazonaws.com/93/b8/c/895/2/12-1-11_priv_sect_facility_GCF_lett_

While 2012 will be dedicated to establishing the Fund, discussions have already started on issues such as the structure of the GCF, its relationship with other existing funds and the role of the Fund vis a vis existing finance mechanisms.

In a possible scenario ("the Fund of Funds"), the GCF could coordinate all global climate funds (CIF, Adaptation Fund, the GEF etc.)⁴ and track private sector investments. Under this arrangement, the GCF Board would establish common rules and the Fund would also have its own financial resources. Other global climate funds would come under the GCF's Adaptation and Mitigation funding windows, but retain their governance structure, while the GCF Board would take on overarching governance responsibilities and respond to the COP.⁵

The next steps in GCF development pose significant challenges for Indigenous Peoples, who are seeking recognition of their unique contribution to climate policies and actions, and their right to be actively engaged and participate in the GCF activities and decision-making processes.

The International Indigenous Peoples' Forum on Climate Change (IIPFCC) is the key global forum through which Indigenous Peoples debate and reach consensus on key climate change issues. Two central positions developed by the IIPFCC throughout the last few years on climate finance are:

- to ensure that Indigenous Peoples do not become more vulnerable in the financing and implementation of climate change projects and,
- to ensure the full and effective participation of Indigenous Peoples in global efforts to mitigate and adapt to climate change. (*cf Section 2: Summary of International Indigenous Peoples Forum on Climate Change (IIPFCC) statements on climate finance issues*)

FINAL_w_sigs.pdf

4. For a comprehensive list of existing Climate funds, see: <http://www.climatefundsupdate.org>

5. Barbut, M. "Climate Finance: Putting the Puzzle Together": 11 January 2012

KEY CONSIDERATIONS

Environmental and social safeguards and monitoring of these safeguards should be important priorities for an effective Green Climate Fund.

While an effective environmental and social safeguards framework is critical, it should not substitute for the need for necessary reforms that would embed internationally recognised Indigenous Peoples' rights at the national level.

RECOMMENDATION 1: Ensuring effective environmental and social safeguards and a rights-based approach to climate financing

Introduction

Since the Green Climate Fund funds concrete action on climate change adaptation and mitigation, a robust set of safeguards and a system aimed at ensuring compliance is an overarching priority.

In the Durban decision, the Board's role and function include to:

18. (e) Develop environmental and social safeguards and fiduciary principles and standards that are internationally accepted;

In implementing this function, the Board is expected to lay out the groundwork to develop safeguards and monitoring systems, as well as a recourse mechanism at its August 2012 meeting.

Indigenous Peoples and safeguards

From the beginning of the REDD+ negotiations, Indigenous Peoples have demanded adherence to international standards to ensure that any international REDD regime, including REDD finance mechanisms, would secure, not violate collective rights to lands, territories and resources.

For Indigenous Peoples a key area of concern is the degree to which the GCF safeguards will be aligned to international obligations such

as the UNDRIP and Free, Prior and Informed Consent (FPIC). At the same time, Indigenous Peoples are calling on the GCF to set up a clear mechanism for assessment of compliance with safeguards and GCF rules, backed by a GCF recourse mechanism and participatory systems for Monitoring, Reporting and Verification (MRV).

Ensuring an effective environmental and social safeguard framework is thus critical for Indigenous Peoples; it facilitates mainstreaming of international obligations on indigenous rights and supports a participatory process that can integrate grassroots sustainable development priorities. This should – **however** – not substitute the need to operate the necessary policy, legal and governance reforms that would embed internationally recognised Indigenous Peoples' rights in national legal, judicial and administrative levels.

Concerns on the different sets of safeguards

While in the *Fund of Funds* scenario existing funds would retain their rules and safeguards, it is unclear what would happen if the existing fund has no safeguard procedure.

For instance, in the Adaptation Fund (AF), the safeguard policies of the implementing agency would apply. If it is delivered via a national implementing agency, e.g. the Ministry of Environment, the national environmental and social policies would apply.

In the Climate Investment Funds (CIF), when UN agencies do not have safeguard policies, the policies of the implementing Multilateral Development Bank apply.⁶ Furthermore, it is not at all clear whether if – once the relevant funding windows are set up in the GCF – initiatives such as the CIF, the UNREDD and the FCPF would be dissolved honoring the *sunset clause* included in their charters and rules. The sunset clause specifies that these pilot programmes would terminate once the UNFCCC set up a dedicated Fund to support adaptation, mitigation, REDD and other relevant climate change actions.⁷

6. Fukuda, K., Wakiyama, T., and Shimizu, N. 2011. *Financial Support to the Implementation of Adaptation Measures – Comparative Analysis of the Adaptation Fund and the Climate Investment Funds, and Implications for the Design of the Green Climate Fund* IGES Working Paper CC-2011-03, November.

7. Orenstein, K. 2012. 117 groups urge Climate Investment Funds to sunset, support for Green Climate Fund. Friends of the Earth US, [blog] 19. April. <http://www.foe.org/projects/economics-for-the-earth/blog/2012-04-117-groups-urge-climate-investment-funds-to-sunset-s>

KEY CONSIDERATIONS

The Green Climate Fund should not adopt the GEF's Environmental and Social Safeguard Standards (ESSS) instruments as these do not provide clear strategies to prevent harm in the implementation of adaptation and mitigation projects. Nor can the GEF Principles and Guidelines for Engagement with Indigenous Peoples substitute for an indigenous policy in line with current internationally agreed standards.

The Green Climate Fund should recognise the UN Declaration on the Rights of Indigenous Peoples and, in order to facilitate work on development of safeguards, could mainstream and operationalise the articles of the Declaration as an appropriate minimum standard for proposed mitigation and adaptation projects.

Concerns over the possible adoption of GEF standards

The GEF SESS

Some Parties to the UN Climate Convention are considering the possibility of proposing the GEF safeguard standards as a basis for the development of a GCF framework. Both the Indigenous Peoples Task Force on the GEF and the GEF NGO network, have provided critical analyses on the GEF's Policy on Agency Minimum Standards of Environmental and Social Safeguards (SESS).⁸

The key issues in relation the GEF safeguard standards are:

- The GEF minimum standards do not meet existing international standards on Indigenous Peoples as set out in UNDRIP and related human rights instruments. These standards are largely based on outdated World Bank safeguards.
- The GEF 'key principles' which outline areas no-go areas for GEF projects fail to prohibit involuntary resettlement in GEF projects

8. See Annex III for a list of key documents.

(stating only that it should be avoided). Direct GEF funding for physical relocation, however, is prohibited.

- The SESS are primarily used to assess alignment of GEF implementing agency safeguards and policies with GEF minimum standards. The minimum standards do not apply to individual projects and do not have an effective enforcement mechanism or compliance framework. Instead they rely on the grievance mechanisms of the agencies.
- The five year reviews of agency accreditation do not need to take into account social and environmental performance. Failure to comply with the set minimum standards results not in suspension of accredited status but in an agreed plan to achieve compliance.
- The standards were designed to reflect the 'lowest common denominators' among existing GEF agencies and fail to promote or recommend the use of best practice in social and environmental safeguards.
- The SESS fails to apply the fundamental FPIC safeguard standard for Indigenous Peoples in line with international norms and obligations. In addition, the SESS restricts FPIC to recipient countries that have ratified ILO169,⁹ leading to an IPTF member to observe that "There is no justification for restricting FPIC only to ILO 169 countries as these states have to implement FPIC anyway"¹⁰

The GEF minimum standard framework is akin in some respects to the one adopted under the World Bank's Forest Carbon Partnership Facility's (FCPF) "Common Approach" to safeguards. Under this system, formal recognition as a potential FCPF implementing agency is tied to the minimum condition that its policies are substantially equivalent to World Bank/FCPF safeguard standards. In cases

9. See paragraphs 6 and 7 of the GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards www.thegef.org/gef/sites/thegef.org/files/documents/C.41.10.Rev_1.Policy_on_Environmental_and_Social_Safeguards.Final%20of%20Nov%2018.pdf

10. FPP. 2012. Indigenous peoples call on Global Environment Facility to honour its commitments. FPP E-newsletter, April: <http://www.forestpeoples.org/topics/global-environment-facility-gef/news/2012/04/indigenous-peoples-call-global-environment-facil>

where agency standards exceed those of the World Bank, the highest standards will apply. However where agency standards do not meet the Common Approach standards, World Bank safeguards and policies apply by default – a back-up system which does not exist for the GEF standards. Where an agency is judged to fail to comply with the GEF standards, a time-bound plan will be established to bring them into compliance, and financing can still flow while compliance is being achieved.

There are, however, some encouraging features of the SESS that should be considered, including the adoption of an exclusion list that lists all types of projects and activities that the GEF will not finance.

GEF Principles and Guidelines for Engagement with Indigenous Peoples

In line with the commitment of former GEF CEO Monique Barbut to engage with Indigenous Peoples, a set of principles and guidelines were presented as an information document to the GEF Council at their 42nd meeting. While not meeting the original commitment to develop a binding policy on indigenous peoples, the principles and guidelines do contain some noteworthy mechanisms to increase engagement of Indigenous Peoples in GEF processes. However, Indigenous Peoples have observed that the document does not meet current international standards on Indigenous Peoples and should form only a first step towards stronger and more effective protections to be developed in the future.¹¹ While still in revision, with 'technical changes' requested by a party, it remains to be seen how these guidelines will be developed and whether this will lead to a policy in due cause.

RECOMMENDATION 2: Ensuring Indigenous Peoples' access to a dedicated fund for financing climate change actions

Indigenous Peoples call for direct access funding windows for Indigenous Peoples in adaptation and mitigation. While direct access is referred to in the Durban decision, this currently refers to national governments and the ability of accredited national implementing

11. For example, the public statement released by the Asian Indigenous Peoples' Caucus (2012) and the statement by Indigenous Peoples at the 42nd GEF Council Meeting (IPTF-GEF 2012). See Annex III for full reference.

entities to access the funds.¹²

An innovation of the Fund is a special facility to enhance private sector participation. There are strong arguments for creating a similar specific finance facility under the GCF to enable Indigenous Peoples' direct access to small, discrete funds that would strengthen the contributions of indigenous and local knowledge in climate change adaptation and mitigation and also support self-determined development programmes and projects.

Examples of funds for Indigenous Peoples

Existing models exist for dedicated indigenous funds. The International Fund for Agricultural Development (IFAD) Indigenous Peoples Assistance Facility¹³ (IPAF) was formerly a World Bank facility for Indigenous Peoples. The Forest Carbon Partnership Facility has a Capacity Building Program for Forest-Dependent People on REDD+.¹⁴

KEY CONSIDERATIONS

Create a direct access funding modality for Indigenous Peoples under both the mitigation and adaptation windows of the GCF.

Ensure this modality is responsive to Indigenous Peoples' issues and needs.

Within the Global Environmental Facility (GEF), the Small Grants Programme (SGP) makes available funding for communities and non-governmental organisations. Indigenous participation within the SGP is reported to be 15% of the total SGP portfolio (June 2006 figures). While this figure could be higher as the GEF does not have dedicated indicators to monitor indigenous participation, this calculation does not take into account the modality of participation – i.e. whether Indigenous Peoples were main implementers or

12. For a review of Direct Access modalities in other Funds and options for the Green Climate Fund, see UNDP and Overseas Development Institute (ODI). 2011. *Direct Access to Climate Finance: Experiences and lessons learned, Discussion Paper*, UNDP. <http://climatefinanceoptions.org/cfo/node/327>

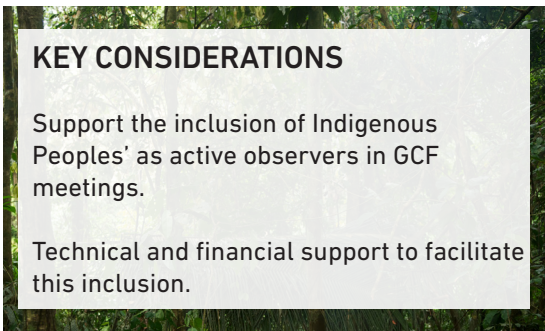
13. International Fund for Agricultural Development. <http://www.ifad.org/english/indigenous/grants/index.htm>

14. Forest Carbon Partnership Facility. Capacity Building Program for Forest-Dependent People on REDD+. www.forestcarbonpartnership.org/fcp/sites/forestcarbonpartnership.org/files/Documents/Program_Description_English_11-15-09_updated.pdf

beneficiaries of the grants.

Proposals for developing a fund facility for Indigenous Peoples

Developing a facility for Indigenous Peoples at an international or regional scale could provide an important opportunity to deliver additional benefits that complement national level actions on climate change.



Potential benefits of a dedicated GCF IP facility include:

- a. Setting up of a governance body composed of Indigenous Peoples, allowing them to be able to exercise full participation in the Green Climate Fund,
- b. Creation of a dedicated secretariat with the necessary expertise in indigenous issues, which would create a focal body that would, among other functions, oversee the operationalisation of safeguards, ensure GCF coherence with international obligations and provide further support to other funds and programmes,
- c. Establishment and support of a multistakeholder technical committee that would provide complementary scientific and technological advice,
- d. Provision of flexible funding that would support not just grassroots, country-based initiatives, but also regional/transboundary initiatives and international networking and capacity building,
- e. Development and application of concrete indicators on the participation and rights of Indigenous Peoples,
- f. Creation of a global repository for

knowledge management on indigenous knowledge and climate change, subject to full protections for traditional knowledge and innovations.

By scaling up to an international funding window for Indigenous Peoples, the potential benefits envisaged above could be delivered through the Green Climate Fund secretariat. Such a dedicated arrangement would also have the potential to provide an oversight mechanism for ensuring that GCF finance follows agreed standards and conveys funding to national implementing agencies, with full respect for the rights of Indigenous Peoples and with guarantees for their effective participation in all GCF-assisted projects and programmes affecting their rights and interests in general.

Crucially, as noted above, such a dedicated mechanism could also facilitate the effective participation of Indigenous Peoples in the GCF. There are many precedents in the multilateral systems for dedicated voluntary funds that enhance the participation of Indigenous Peoples in specific international mechanisms.¹⁵

RECOMMENDATION 3: Ensuring Indigenous Peoples' full and effective participation in governance

Indigenous peoples are calling for *active observer* status in the GCF. The CIF's Forest Investment Programme and Pilot Program for Climate Resilience have provided *active observer* status to Indigenous Peoples.

Active observers at GCF

The Durban decision on the GCF allows for the designation of active observers. Experience in other funds shows that active observer status is useful. The rules of procedure allow Indigenous Peoples' active observers to make direct interventions on issues relevant to the operation and policies of the fund. Under the World Bank Climate Investment Funds (CIF), for example, the role of observers include the ability to request the floor during discussions to make verbal interventions, request the Co-

¹⁵ The UN Voluntary Fund for Indigenous Populations provides support for participation in UN Permanent Forum on Indigenous Issues, the Expert Mechanism on the Rights of Indigenous Peoples and the Human Rights Council. Presently the one voluntary funding mechanism for indigenous participation in an environmental convention is under the Convention on Biological Diversity.

Chairs to add agenda items to the provisional agenda and recommend external experts to the Co-Chairs to speak on specific agenda items. Such observers in turn are expected to represent the interest of their constituency. Two active observer slots are given to civil society in the GCF - one from the North and one from the South, and private sector representatives are also allocated two slots. Indigenous peoples have not yet been recognised as active observers in the GCF, though they may participate as normal observers **with limited participation rights**.

Indigenous peoples' positions

Indigenous peoples do not accept this discriminatory approach and are seeking geographically-balanced representation as active observers in the GCF Board meetings. To be effective, this representation and engagement should ideally be facilitated through resources for capacity building and funding support for participation.

In a submission sent to the GCF secretariat in late March 2012,¹⁶ Indigenous Peoples' Organisations and support NGOs, including JOAS and FPP, point to a series of key questions that the Board should address at its first meeting. These questions raise crucial issues about GCF measures needed to enable the full and effective participation of Indigenous Peoples in its activities. In addition to the appointment of at least one Indigenous Peoples' active observer (s) to the Board, the signatories to the submission recommend that the UN Permanent Forum on Indigenous Issues should also participate in the Board meeting as an observer.

It is further recommended that a dedicated fund should be established with voluntary contributions and trust funds to enable Indigenous Peoples to fully and effectively participate in the activities of the Green Climate Fund. It is also proposed that an Indigenous Peoples' advisory body and contact person in the secretariat should also be established.

16. Indigenous Peoples and support organisations' comments and recommendations on the modalities for selection, activities and role of observers and active observers in the Board of the Green Climate Fund, April 10. www.forestpeoples.org/topics/un-framework-convention-climate-change-unfccc/publication/2012/indigenous-peoples-and-support

Conclusion

The Parties have opted for a state-centric approach that recognises the capacity of stakeholders to be consulted but not participate directly in the governance system. However *"effective and legitimate multistakeholder bodies are far more likely to emerge from multistakeholder planning and decision processes than from intergovernmental negotiations."*¹⁷ Intergovernmental health institutions, such as UNAIDS and the Global Fund against HIV, Malaria and TBC (GAVI) implement a participatory governance approach. In these cases, observers can play a more active role in the governance structure and activities of the fund, are able to engage in the discussions, table items on the agenda, and may have voting status. By strengthening participation of non-state actors, these institutions are able to achieve their global goals, something that has yet to be said for the less participatory environmental institutions.

Ensuring an active observer seat for Indigenous Peoples is in line with the current international understanding of the right of Indigenous Peoples to full and effective participation and the standards previously set under other climate funds.

17. Abbott, K.W. and Gartner, D. "The Green Climate Fund and the future of environmental governance": Earth System Governance, working paper n.16, 2011

SUMMARY OF INTERNATIONAL INDIGENOUS PEOPLES FORUM ON CLIMATE CHANGE (IIPFCC) STATEMENTS ON CLIMATE FINANCE ISSUES

The Indigenous Peoples Forum on Climate Change (IIPFCC) has developed a series of key demands on climate change, and specific proposals on climate finance throughout 2010 and 2011.

In 2009 the IIPFCC adopted three overarching principles that inform Indigenous Peoples' platforms and demands to the UNFCCC and Parties:

1. Respect of the rights of Indigenous Peoples in accordance with internationally recognised obligations and instruments including the United Nations Declaration of Rights of Indigenous Peoples
2. Full and effective participation of Indigenous Peoples at all decision-making levels, subject to our Free, Prior and Informed Consent (FPIC)
3. Recognition and protection of Indigenous Peoples' traditional knowledge and its contribution to adaptation and mitigation strategies

THE OAXACA PLAN OF ACTION (2011)¹⁸

In order to refine and further define their strategies towards the Durban COP and beyond, Indigenous Peoples from all over the world met with a group of Parties to the UNFCCC in Oaxaca, October 2011. Hosted by the Mexican Government and President of the COP, the meeting was held to discuss a plan of action on climate issues, to analyse the state of the UNFCCC negotiations and to discuss possible commitments by Parties in support of Indigenous Peoples' demands and proposals. The outcome document of this meeting contains elements that are relevant to the Green Climate Fund. Among these are:

18. Oaxaca Plan of Action, 2011. Available at http://ccmin.aippnet.org/index.php?option=com_content&view=article&id=734:the-oaxaca-action-plan-of-indigenous-peoples-from-cancun-to-durban-and-beyond&catid=1:news

Commitments by Some States participating in this Technical Workshop:

11. To submit text proposals for a Durban outcome to include the following:

c) Establishment of a separate REDD+ window under the Green Climate Fund, recognising that REDD+ addresses both mitigation and adaptation, and that access to this fund by Indigenous Peoples should be ensured.
(...)

e) Proposals for a more balanced approach and access to funds for adaptation and mitigation. Adaptation is a bigger concern for Indigenous Peoples who are living in the most vulnerable ecosystems and suffer the most adverse impacts of climate change. Therefore, direct financing and technological assistance for Indigenous Peoples to adapt should be ensured. Traditional knowledge systems and technologies of Indigenous Peoples for adaptation should be supported.

f) In the area of capacity- building, Indigenous Peoples' capacities for mitigation and adaptation should be supported through policy reforms and finance and technology transfer.

II. Concerns and Challenges for Durban (COP 17) and Beyond

6. Lack of commitment by some developed countries to commit significant long-term public funding to the Green Climate Fund;

INDIGENOUS PEOPLES' RECOMMENDATIONS TO STATES

7. To ensure the application of safeguards in the Green Climate Fund; to make the Fund transparent and accountable with an independent governing body which includes the participation of Indigenous Peoples;

8. To call upon the developed countries to commit adequate and long-term funding for the Green Climate Fund, including measures to avoid any funding gaps, and to earmark funds for Indigenous Peoples' projects;

STRATEGIES FOR DURBAN AND BEYOND

e. Developing proposals in conjunction with States to establish mechanisms for Indigenous Peoples to directly access funds from the Green Climate Fund to implement their own climate change mitigation, adaptation, appropriate technologies and capacity building programme

IIPFCC POSITION ON CLIMATE FINANCE (2009)¹⁹

In 2010, the Bangkok meeting of the IIPFCC took a position on finance which included the following priorities:

- Ensure direct and immediate access of Indigenous Peoples to finance through the establishment of a fund dedicated to address the priority needs of Indigenous Peoples.
- Fund governance mechanisms must be directly under the guidance of the COP with transparency and accountability.
- Finance shall be based on public funds with new resources and be additional to development cooperation aid.
- Finance management shall ensure the implementation of cultural, social and environmental safeguards.
- Finance shall reach Indigenous Peoples, local communities and other vulnerable groups

More specifically, the governance of any established climate fund and related financing mechanisms must include equitable representation of Indigenous Peoples and local communities by representatives of their own choosing. The governance structure of any such mechanism should be under the UNFCCC and fully accountable to the COP. Participatory mechanisms should be established to ensure transparency and accountability of all financing procedures and operations.

Financial resources for climate-related

activities should come primarily from public sources and be additional to development aid funds, and not used to leverage private funds. Funds generated with carbon trading should not be used as sources for climate aid, since their unpredictability cannot ensure financial sustainability of funding commitments.

Adequate funding should be made directly available to strengthen the capacity of Indigenous Peoples in all phases of all climate related processes. A dedicated fund should be established to allow Indigenous Peoples and local communities to develop their own activities and contributions to climate change remedial actions.

Safeguards should be established and implemented to prevent harm to Indigenous Peoples and the environment, and tools developed to enhance and facilitate the full enjoyment and the exercise of the rights of Indigenous Peoples in accordance with international standards on human rights, the environment and sustainable development. (IIPFCC, 2009)

¹⁹ IIPFCC. 2009. Policy paper on climate change. www.indigenousportal.com/Climate-Change/IIPFCC-Policy-Paper-on-Climate-Change-September-27-2009.html

UNDERSTANDING THE GREEN CLIMATE FUND: BASICS AND UPDATES

WHAT IS THE GREEN CLIMATE FUND?

The **Green Climate Fund** is the body (*operating entity*) that will operate the financial mechanism of the Climate Change Convention. The Green Climate Fund was launched at the UNFCCC Conference of the Parties (COP) in Cancun, 2010.²⁰

What is the financial mechanism?

The financial mechanism provides money via grants or otherwise. In Article 11 of the framework convention, the financial mechanism is the '*mechanism for the provision of financial resources on a grant or concessional basis, including for the transfer of technology*'. The financial mechanism will function under the guidance of the UNFCCC COP.²¹

Governance

The Fund will be governed by a Board of 24 members, with a balanced representation of developing and developed countries and a Trustee to manage the financial assets of the Green Climate Fund. The Trustee '*shall administer the assets of the Green Climate Fund*

20. Parties decided to "establish a Green Climate Fund to be designated as an operating agency 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" (para 102, Cancun Agreements)

21. UNFCCC, Article 11: "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." Furthermore "The financial mechanism shall have an equitable and balanced representation of all Parties within a transparent system of governance." Paragraph 3 of Article 11 states that the Conference of the Parties and entity or entities entrusted with the operation of the financial mechanism (the Green Climate Fund) will have to agree on :

"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."

only for the purpose of and in accordance with the relevant decisions of the Green Climate Fund Board'.²² The Trustee shall be accountable to the Green Climate Fund Board.

The World Bank was invited to serve as the interim trustee for the Green Climate Fund, with a review three years after the Fund's operationalisation. The decision to have the World Bank as the interim trustee generated a lot of concern from Developing Country Parties, social movements and non-governmental organisations.²³

An independent secretariat will support the operation of the Fund. A Standing Committee was also launched with the purpose - among others - of ensuring coherence and coordination of financial activities related to climate change.²⁴

HOW MUCH MONEY AND WHERE WILL IT COME FROM?

100 billion per year by 2020.²⁵

The Transitional Committee was not tasked with the definition of the amount of overall funding nor with the definition of the sources of financing - i.e. whether they would be public, private or a combination of the two. The language adopted in Cancun simply referred to the 2010 Report of the Secretary-General's High-Level Advisory Group on Climate Change

22. UNFCCC, 2010. Outcome of the work of the Ad Hoc Working Group on long-term Cooperative Action under the Convention, 1/CP.16/, Paragraph 105.

23. www.worldbankoutofclimate.org; Raman, M. "World Bank's conflict of interest in Green Climate design" TWN Info Service on Climate Change, (May 11/01) , 3 May 2001

24. Additionally, a Standing Committee under the Conference of the Parties will be established with the task of ensuring coherence and coordination in the provision of financing for climate change activities, "*rationalization of the financial mechanism, mobilization of financial resources and measurement, reporting and verification of support provided by developing country Parties*". (art 112 Cancun Agreements). The role and functions of the Standing Committee will have to be defined by the Parties.

25. 98. Recognises that developed country Parties commit, in the context of meaningful mitigation actions and transparency on implementation, to a goal of mobilising jointly USD 100 billion per year by 2020 to address the needs of developing countries (UNFCCC, 2010. Outcome of the work of the Ad Hoc Working Group on long-term Cooperative Action under the Convention. 1/CP.16/, Para 98)

Financing²⁶.

In Durban, no agreement was reached on long term financial commitments, while some progress was registered on the so-called fast track financing. Nevertheless, of the 30 billion USD a year promised in Copenhagen, only 8% has been disbursed, in many cases drawing from already scarce development aid funds.

Some observers question whether the Green Climate Fund will be able to avail of sufficient public funds, and propose carbon pricing as a good tool to raise private contributions.²⁷ Still others, including the outgoing GEF CEO, Monique Barbut, propose putting existing climate finance and funds such as the Climate Investment Funds (CIF) of the World Bank under the umbrella of the GCF -- making the GCF a Fund of Funds. She suggests that this option would enable the GCF to reach the 100 billion USD target.²⁸

Other options include the possibility of raising funds via a shipping (air and sea transportation) levy. This was first proposed in Durban and reiterated by the European Union finance ministers in February 2012. Some experts assess that the amount generated by a global levy on shipping would amount to 10-15 billion USD a year.²⁹ However, the announcement triggered a fierce reaction from a group of countries, including the US, Russia, China and India that met immediately after in Moscow to discuss a common reaction and possible countermeasures, in what Reuters has called the '*first global carbon trade war*'.³⁰

Others are looking at sovereign wealth funds, the bonds market, and pension funds, as well as modalities to engage the private financial sector in leveraging financing for activities under the

Green Climate Fund. Soon after the Durban conference the International Development Finance Club (IDFC) that groups together 19 development banks, announced its commitment to leverage financial support for the GCF, in support of green economy and to create MRV frameworks for climate finance, as well as develop new market-based mechanisms and strengthen existing ones.³¹

Indeed the debate that is developing in the lead up to and in the Rio+20 Conference, in particular on modalities to support Green Economy, will be critical also in terms of options for financing the Green Climate Fund and its activities. In the meantime, the UK, Germany, Denmark and Republic of Korea have announced their pledges to cover set-up costs of the Fund while Brazil announced its contribution of 585 million USD over the next 3 years.³²

WHAT WAS THE TRANSITIONAL COMMITTEE?

A 40 member **Transitional Committee** was established in Cancun in 2010. Observers were allowed to the meetings and staff of UN Agencies, international financial institutions and multilateral development banks had been seconded to support the work of the Transitional Committee. Its goal was to develop operational documents on the Green Climate Fund and recommend these to the Conference of the Parties for approval at the COP17 in Durban.

WHAT WAS THE TRANSITIONAL COMMITTEE SUPPOSED TO DO? (TERMS OF REFERENCE)

The 16th Conference of the Parties (Cancun, 2010) defined the terms of reference for activities of the Transitional Committee (for the full terms of reference, see Appendix I). The Transitional Committee was mandated to develop operational documents on:

26. AGF, 2010: Report of the Secretary-General's High-Level Advisory Group on Climate Change Financing. United Nations, New York, NY, www.un.org/wcm/webdav/site/climatechange/shared/Documents/AGF_reports/AGF%20Report.pdf.

27. Palitza, K. 2011. *Carbon pricing to save Green Climate Fund*, IPS, 7 December 2011

28. Barbut, M. 2012. Climate Finance: Putting the puzzle together. UN Chronicle, 11 January 2012. www.un.org/wcm/content/site/chronicle/home/archive/issues2011/7billionpeople1unitednations/climatefinanceputtingthepuzzletogether

29. EURACTIV: "Finance Ministers eye transport levies to feed climate fund", 21 February 2012

30. "Foes of EU airline CO2 rules agree on tactics" Reuters, 22 February 2012, <http://www.reuters.com/article/2012/02/22/eu-airlines-idUSLE8DM3YD20120222>

31. http://www.ifdc.org/Downloads/IDFC_SmartPartnershipStatement.pdf

32. <http://www.pointcarbon.com/news/1.1753306>, 12 February, 2012; www.bloomberg.com/news/2011-12-08/climate-envoys-close-in-on-setting-up-climate-fund-at-un-talks.html; www.responsible-investor.com/home/article/s.korea_un_green_climate_fund; "Huhne announces UK support for Green Climate Fund", 16 January 2012, <http://www.aldersgategroup.org.uk/news/2012>

- a) Legal and institutional arrangements for the Green Climate Fund
- b) Rules of procedures and other governance issues
- c) Methods to manage the money, which may come from multiple sources. There can be more than one way to manage the money including using different financial instruments, funding windows & access modalities, which can include direct access
- d) Financial instruments that the Fund can use
- e) Ways to ensure complementarity between Fund's activities
- f) Role of the secretariat of the Fund
- g) Evaluation of the Fund
- h) Application of environmental and social safeguards
- i) How expert and technical advice can be provided
- j) How to ensure stakeholder input and participation

NOTE: all documents of the Transitional Committee meetings and workshops, and reports and can be found at: http://unfccc.int/cancun_agreements/green_climate_fund/items/6038.php

While submissions by Parties, intergovernmental organisations and non-governmental organisations can be found at: http://unfccc.int/cancun_agreements/green_climate_fund/items/5868.php

REPORT OF FIRST MEETING OF THE TRANSITIONAL COMMITTEE (Mexico City, 28-29 April, 2011)

The initial meeting of the Transitional Committee took place in Mexico City, from 28-29 April, 2011.³³ On 27 April a meeting with Civil

33. Schalatek, L. 2011. *Designing the New Green Climate Fund: A tentative start for the Transitional Committee – of troikas, tensions, test balloons, work themes and transparency*

Society Organisations was held, organised by the Mexican Ministry of Foreign Relations. This meeting was postponed due to delays in deciding who would be the regional representatives. Critical positions were expressed by the Asian Group (and its chair Saudi Arabia), BASIC group (Brazil, South Africa, India, China) and the Group of Latin American Countries (GRULAC) that called for more time to designate their representatives before convening the first meeting.³⁴

The meeting focused on the election of officers. These took place in closed door sessions without observers and raised strong concerns over the transparency of the process.

Different views emerged among Parties on the role and sources of funding with many industrialised countries supporting a role for the Fund to leverage private sector financing while the G77 focused on public financing and innovative sources. Much discussion developed on the role, principles and purpose of the Green Climate Fund with the US and others stressing that this was unnecessary given that these are already clarified in the Cancun Agreement. China and the G77 stressed that the Green Climate Fund needs to be considered as the operating entity of the financial mechanism of the Convention and governed by the principles contained in the UNFCCC, including the Bali Action Plan and the Cancun Agreements. Developed countries did not address the issue of financial obligations, focusing rather on the functioning principles of the GCF, notably efficiency, effectiveness, and results-orientation.

There was indication that the Green Climate Fund would follow the COP guidance but would not be under its authority. Some Parties raised concerns over the composition of the Technical Support Unit, with too many representatives of the various Multilateral Development Banks, in particular the World Bank. This, in their view also raised serious concerns of conflict of interest.

A decision was taken to organise the work of the Transitional Committee in four *workstreams*:

issues, Heinrich Boell Foundation, May. Harmeling, S. 2011. *Successful start for the design of the Green Climate Fund*. GermanWatch, May.

34. Raman, M. 2011. Unease over UNFCCC post-Cancun process. *Third World Network*, "SUNS #7101, 4 March 2011.

Workstream I on scope, guiding principles and cross-cutting issues, complementarity and added value of existing funds

Workstream II on governance and institutional arrangements such as the composition and functions of the Board, a secretariat, trustee arrangements, relationship with Conventions Bodies such as the Standing Committee

Workstream III on operational modalities, fund managements, leveraging of private sector funds, distribution of funds between mitigation and adaptation

Workstream IV on modalities to ensure expert and technical advice, independent evaluation of GCF performance and development of social and environmental safeguards

REPORT OF SECOND MEETING OF THE TRANSITIONAL COMMITTEE (Tokyo, 13-14 July 2011)

The second meeting of the Transitional Committee was held in Tokyo from 13- 14 July 2011.³⁵ It was preceded by a workshop on experiences from other Funds such as the Montreal Protocol, the Climate Investment Funds, the Global Environmental Facility (GEF) and the Adaptation Fund. Diverging views were registered among Parties on the objectives, purposes, governance and accountability structures as well as the funding instruments of the GCF. Some parties again raised the issue of conflict of interest due to the strong presence of Multilateral Development Banks in the Technical Support Unit in particular the World Bank, given its temporary role as Trustee of the Fund.³⁶

Parties also disagreed on the mission of the Fund, whether it should contribute to the stabilisation of global temperature to 2°C, or support the implementation of the UNFCCC. The US did not want to discuss the scope of the GCF, while some G77 countries supported the

role of the GCF as an implementing fund for the UNFCCC. Japan and Germany supported reference to the implementation of low-carbon climate resilient development under a 2°C scenario.

Other issues that were discussed were:

a. **Guiding principles:** Parties were split on this topic, with developing countries supporting the principles of the UNFCCC and most developed countries arguing that these principles should be cost-effectiveness, efficiency, transparency, accountability.

b. **Funding windows:** No consensus emerged on the number and focus of funding windows for the Fund. There was agreement to start with Adaptation and Mitigation, and leave it to the Board to decide on new windows. Germany and Democratic Republic of Congo (DRC) supported the establishment of a REDD+ window and others the setting up of windows for technology transfer and capacity building. The United Kingdom, Switzerland and Germany also supported a private sector window. There was no agreement on who should allocate the funds across the windows – whether it should be up to the Board or to the Donors.

c. **Direct access:** Much of the discussion was on inclusivity and universality of access for all developing countries, but no Party proposed that civil society organisations might also be implementers and be given the possibility of accessing funds directly.

d. **Country-led strategies:** Discussion developed on the issues of country ownership and the need to focus on the recipient country's own priorities, but no reference was made to participation of stakeholders at the national level, nor of the need to take into account the interests and needs of local communities and Indigenous Peoples

e. **Financing instruments:** Parties discussed the possibility of giving grants to most vulnerable countries. Brazil and Japan supported a grant-only structure while other developed countries proposed a mix of grants, loans and risk guarantees. Consensus was reached on the possibility for the Adaptation window to provide grants.

f. **Source of funding:** Parties concluded that no

35. Schalatek, L. 2011. *From Scoping Options to Decision Making – the work of the Transitional Committee going forward – A summary report of Member Countries' positions and demands post-Tokyo*, Heinrich Boell Foundation, July 2011. Harmeling, S. *Countdown to Cape Town. Report of the Second meeting of the Transitional Committee to design the Green Climate Fund*. GermanWatch, July 2011.

36. A detailed account of the discussion on conflict of interests can be found at Raman, M. 2011. Disagreements in Green Fund Design committee over conflict of interest issues, *Third World Network*, 14 July 2011.

source should be excluded but there were some differences among developed and developing countries on the specific contributions of the different sources. Additionality to development aid (ODA) and innovative sources of financing were also discussed.

g. Role of the private sector and carbon markets: The possibility of supporting small- and medium- size enterprises by means of investment and risk guarantees was mentioned, as well as the possible role of public funds in leveraging private sector money. Some referred to the possible link between the Green Climate Fund and international carbon markets but no substantial discussion ensued.

h. Governance: The role of the Trustee, the functions of the GCF secretariat and the relationship between the GCF and the Standing Committee were discussed without detail.

i. Legal Personality: No clarity emerged on the kind of legal personality for the Fund

j. Monitoring and Evaluation: Some parties pointed to the need to monitor the Fund and others on monitoring and evaluating the Fund's activities. Some argued for an independent evaluation outside of the institutions. The US expressed its opposition to the COP evaluating the GCF and proposed that the Board be tasked with the evaluation. Others objected.

k. Results-based framework: A discussion was held on performance indicators, with some countries asking for inclusion of development and poverty reduction impacts.

l. Stakeholder participation: Brazil proposed a consultation mechanism. DRC proposed inclusion of stakeholders as non-voting members of the Board and a partnership body including civil society and private sector. Generally speaking Parties did not express substantial interest in the matter.

m. Safeguards: A very brief discussion was held with Sweden that proposed that safeguards be aligned to international conventions and practices. Sweden proposed that contributions from Parties and Observers be invited (giving only a couple of weeks deadline for inputs). The US and Germany said safeguards would be critical to ensure access to funding from donors.

REPORT OF THIRD MEETING OF THE TRANSITIONAL COMMITTEE (Geneva, 11–13 September 2011)³⁷

The third meeting produced a 'draft reflections on design issues' document and a draft report to COP 17 with bullet point topics to be put on the table for the Fourth meeting of the Committee that in turn was expected to produce a final report to the COP17. Discussions showed that still no agreement was reached among parties on key issues, such as the legal status, and the Fund's relationship with the COP, the role of the Private Sector, objectives and principles of the Fund, the number of dedicated windows, and financing instruments.

As regards the setting up of the independent secretariat, it was not clear whether this should be meant to be independent from existing institutions of from the Board or the COP and there was disagreement on who should select the head of the secretariat.

Brazil strongly opposed social and environmental safeguards as key principles of the Fund, and other G77 countries also voiced resistance to what they consider a conditionality. A possible compromise was discussed according to which safeguards would have to be implemented by national implementing agencies of the GCF, and the GCF provides technical and financial support. Nevertheless, this does not fulfill the mandate given by the COP for the Transitional Committee to '*elaborate a mechanism to ensure the application of environmental and social safeguards.*'

As regards stakeholder engagement no agreement was met on non-voting member status in the Board. US and Germany proposed 2 seats for Private Sector and 2 for civil society, but the draft outcome document prepared for the last TC meeting refers only to a seat for the Private Sector. The US and the UK underlined their willingness to discuss both safeguard and stakeholder engagement criteria, but in the

37. Schalatek, L. 2011. *The Design Process for the Green Climate Fund – lots of disagreements, little time*, Heinrich Boell Foundation, 30 October.

Raman, M. 2011. Green Climate Fund design committee to focus on key issues, *Third World Network*, 12 September.

Harmeling, S. 2011. *The Green Climate Fund: a steep road towards agreement in Cape Town and Durban*. Report of the Third Meeting of the Transitional Committee. GermanWatch, September.

end it was decided to leave these matters up to the Board of the GCF (whenever it would be set up), including possible steps to develop related instruments and criteria.

As regards funding windows, more countries came in support of a REDD+ window (Spain, Germany, UK, US, Peru), while Brazil and Saudi Arabia strongly opposed. Others proposed windows for Less Developed Countries and Small Insular Developing States, others proposed to integrate capacity-building and technology transfer as cross-sectoral areas of support.

The discussion on private sector engagement dominated both the meeting and the preceding workshop that was attended by private sector representatives and civil society organisations. The establishment of a private sector window was discussed, as well as the possibility of having private sector observers in the GCF Board. Civil society organisations objected to a separate Private Sector window arguing that private sector engagement has to be within the national development plans for the recipient country. Others called for a “financing facility” or a “Private Sector Partnership Facility” with modalities of work similar to those of the Forest Carbon Partnership Facility (FCPF).

REPORT OF FOURTH MEETING OF THE TRANSITIONAL COMMITTEE³⁸ (Cape Town, 16-18 October 2011)

The fourth and last meeting of the Transitional Committee failed to deliver a consensus report to the COP17 due to the opposition of Saudi Arabia and the United States.³⁹ Confronted with a lack of consensus among Parties on various key topics such as objectives, principles, and mission of the Fund, relationship between the GCF and the COP, the GCF legal personality and the role of private sector, the two Co-Chairs decided to table a text in the last day on a “take it or leave it” basis. The text was adopted but being a no-consensus document it might be possible for the COP to re-open the negotiation.

The report sent to the COP17:

38. The report can be found at: http://unfccc.int/files/cancun_agreements/green_climate_fund/application/pdf/tc4-3.pdf

39. Khor, M. 2011. Setback in designing the Green Climate Fund. *Third World Network*, October. www.twinside.org.sg/title2/climate/info.service/2011/climate20111003.htm

a. defines that the Fund will have its legal personality and an independent secretariat but no consensus was reached on the voting system for the Board and no deadlines or methods are proposed for the definition of the legal status

b. gives limited authority to the COP and much authority to the Board – contains no reference to possible COP role in endorsing Board members, selected Executive director and the head of the independent evaluation unit

c. suggests the establishment of a Private Sector Finance Facility with details and access modalities to be defined by the Board. The Board would also define mechanisms to leverage private funds

d. suggests the establishment of adaptation and mitigation windows while the Board would decide for additional windows such as a REDD+ window

e. states that the objective of the GCF is to support a “2. ...paradigm shift towards low-emission and climate-resilient development pathways, by providing support to developing countries to halt or reverse their greenhouse gases emissions and to adapt to the impacts of climate change”; and “promote environmental, social, economic and development co-benefits”

f. does not mention any obligation for donors to contribute with replenishments hinting to the possibility that contribution be only on a **voluntary basis**

g. proposes the inclusion of **2 non-voting members** in representation of civil society in the Board

h. recognises the valuable input that **stakeholders, including Indigenous Peoples** can provide and supports the promotion of their participation in design, development and implementation of projects funded by the GCF and encourages “participatory monitoring by stakeholders”

i. **weakens language on safeguards, instead referring to “best practices” to**

be applied and omitting reference to international obligations:

“65. The Board will agree on and adopt best practice environmental and social safeguards that shall be applied to all programmes and projects financed using the resources of the Fund.

66. The Fund will support the strengthening of capacities in recipient countries, where needed, to enable them to meet the Fund’s environmental and social safeguards, based on modalities that shall be developed by the Board”.

j. suggests the adoption of an information policy and of independent redress mechanism, but does not specify whether the information policy will have to be based on international standards. It specifies that:

69. The Board will establish an independent redress mechanism that will report to the Board. The mechanism will receive complaints related to the operation of the Fund and will evaluate and make recommendations.

DURBAN OUTCOMES AND GREEN CLIMATE FUND (COP 17, November-December 2011)⁴⁰

Though the report of the Transitional Committee was not adopted by consensus, Maite Nkoama-Mashabane, the COP chair and South African Foreign Affairs Minister, made it clear that South Africa and many other Parties (G77 and China, LDCs, AOSIS) considered the launch of the GCF to be a key deliverable in Durban. Hence, the report was first discussed in an informal meeting then in a high-level ministerial with the clear intention of not reopening the debate, but ensuring a focus on resolving key elements in order to speedily launch the Fund.⁴¹

40. Williams, M. 2011. COP discusses Green Climate Fund and other issues. TWN Durban News Update, 2 December 2011. www.twinside.org.sg/title2/climate/news/durban017/durban_update27.pdf

41. Third World Resurgence, Decision on Green Climate Fund Adopted. Third World Resurgence No. 255/256, November/December. www.twinside.org.sg/title2/resurgence/2011/255-256/cover05.htm

The report of the Transitional Committee was adopted as originally drafted, but the COP adopted another decision to further define some of the key elements contained, in particular on the governing structure and interim arrangements. Key issues were the role and attributions of the Board, the legal status, relationship with the Conference of the Parties, the role of the trustee and the procedures for its identification and the establishment of specific funding windows. Other key issues included the location of the interim secretariat, the role of national governments in defining the financing priorities of the Fund and the legal personality.

Intense negotiations led to agreement on all but one issue – the seat of the secretariat, for which three proposals were flagged, notably that the UN Office in Geneva host it, that the GEF hosts it, or that the UNFCCC host it in Bonn, Germany. A compromise was met according to which the UNFCCC Secretariat and the GEF secretariat will operate jointly with a view to establishing an independent secretariat in the UNFCCC buildings in Bonn.

PNG on behalf of the Coalition of Rainforest Nations advocated for the establishment of a separate REDD window, but following Brazil’s strong resistance, the decision was taken to establish two separate windows: adaptation and mitigation. The latter will include financing for REDD+.

Indigenous Peoples advocated for modalities for direct access to financing in the two windows and not in a separate *ad hoc* fund, but no clear decision was taken on the matter. Substantial discussion instead developed on the possibility of direct access to the Fund by the private sector without the necessary authorisation of the designated national authority.

After some intense negotiations the COP adopted a decision on the Green Climate Fund (FCCC/2011/CP/L.9)⁴² according to which, among others:

- the GCF will operate under the guidance of the COP
- the Board will operationalise the Fund

42. UNFCCC COP Decision (FCCC/2011/CP/L.9) Launching the Green Climate Fund. Available at: http://unfccc.int/files/meetings/durban_nov_2011/decisions/application/pdf/cop17_gcf.pdf

- two funding windows will be established: for adaptation and mitigation
- REDD+ will be within the mitigation window
- the trustee (the World Bank for the first three years) will be selected through competitive bidding
- the interim secretariat will be shared by the UNFCCC and GEF
- South Korea, Germany and Denmark have pledged initial financial contributions
- the Board will develop social and environmental safeguards that are internationally accepted as well as a framework of evaluation of performance, a results-based measurement framework, and mechanisms for input and participation of stakeholders including IPs in design, development and implementation of the strategies and activities supported by the Fund
- CSOs will have two seats as active observers in the Board
- a private sector facility will be established

(For full text of the COP Decision see Annex I)

The first meeting of the Board was scheduled in Geneva in late April 2012. By then Parties were supposed to have expressed interest in engaging in the Fund would have nominated their representatives to the Board. The first meeting was expected to adopt a plan of action to develop and adopt procedures and policies as mandated by the Conference of the Parties. In a communication to stakeholders on 10 April, the Interim Secretariat stated that the meeting was rescheduled to 31 May to 2 June as the nomination process had yet to be completed.⁴³ Europe had missed the deadline for nominations as ambassadors failed to resolve a dispute on who would represent them.⁴⁴ In a subsequent communication the Secretariat announced that the meeting was

further postponed to an undecided date.⁴⁵ On 2 August, a formal notification announced that the First Meeting of the Board of the Green Climate Fund would be held from 23-25 August 2012 in Geneva.

Six Parties are currently bidding to host the Green Climate Fund. Germany, Mexico, Namibia, Poland, South Korea and Switzerland have submitted expressions of interest that will be considered at the first meeting. The first Board meeting will also – among others – discuss modalities for participation of Observers.

43. Interim Secretariat of the Green Climate Fund. Information Note. 10 April 2012. Available at: http://unfccc.int/files/parties_and_observers/notifications/application/pdf/inf_note_20120411.pdf

44. Chestney, N. and Dunmore, C. 2012. EU fails to resolve dispute over UN climate fund seats. Reuters. 30 March 2012. Available at: <http://www.reuters.com/article/2012/03/30/us-eu-climate-fund-idUSBRE82T0ZV20120330>

45. First Board meeting Agenda and documents can be found at <http://gcfund.net/documents.html>

Annex 1a: Durban COP decision launching the Green Climate Fund

Advance unedited version

Green Climate Fund and report of the Transitional Committee⁴⁶ Draft decision -/CP.17

The Conference of the Parties,

Recalling its decision 1/CP.16,

1. *Welcomes* the report of the Transitional Committee (FCCC/CP/2011/6 and Add.1), taking note with appreciation of the work of the Transitional Committee in responding to its mandate given in decision 1/CP.16, paragraph 109;
2. *Approves* the governing instrument for the Green Climate Fund annexed to this decision;
3. *Decides* to designate the Green Climate Fund as an operating entity of the Financial Mechanism of the Convention, in accordance with Article 11 of the Convention, with arrangements to be concluded between the Conference of the Parties and the Fund at the eighteenth session of the Conference of the Parties 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;
4. *Notes* that the Green Climate Fund will be guided by the principles and provisions of the Convention;
5. *Decides* to provide guidance to the Board of the Green Climate Fund, including on matters related to policies, programme priorities and eligibility criteria and matters related thereto, taking into account the Board's annual reports to the Conference of the Parties on its activities;
6. *Requests* the Board to operationalize the Fund in an expedited manner;
7. *Also requests* the Board to develop a transparent no-objection procedure to be conducted through national designated authorities referred to in paragraph 46 of the governing instrument, in order to ensure consistency with national climate strategies and plans and a country driven approach and to provide for effective direct and indirect public and private sector financing by the Green Climate Fund. Further requests the Board to determine this procedure prior to approval of funding proposals by the Fund;
8. *Further requests* the Board to balance the allocation of the Green Climate Fund resources between adaptation and mitigation activities;
9. *Stresses* the need to secure funding for the Green Climate Fund, taking into account paragraphs 29 and 30 of the governing instrument, to facilitate its expeditious operationalization, and requests the Board to establish necessary policies and procedures, which will enable an early and adequate replenishment process;
10. *Invites* Parties, through their regional groupings and constituencies, to submit their nominations for the members of the Board to the interim secretariat by 31 March 2012, in accordance with paragraph 11 of the governing instrument for the Green Climate Fund, with the twelve seats for developing country Parties to be distributed as follows:
 - (a) Three members and alternate members from Asia-Pacific;
 - (b) Three members and alternate members from Africa;
 - (c) Three members and alternate members from Latin America and the Caribbean;
 - (d) One member and alternate member from Small Island Developing States;
 - (e) One member and alternate member from Least Developed Country Parties; and
 - (f) One member from developing country Parties not included in the regional groups and constituencies above; and one alternate member to rotate between developing country Parties included in the groups and constituencies listed above;
11. *Decides* that the Green Climate Fund be conferred juridical personality and legal capacity and shall enjoy such privileges and immunities related to the discharge and fulfilment of its functions, in accordance with paragraphs 7 and 8 of the governing instrument;

⁴⁶ This is the full text of the report that may be accessed at: http://unfccc.int/files/meetings/durban_nov_2011/decisions/application/pdf/cop17_gcf.pdf

12. *Invites* Parties, in line with the objectives set forth in paragraph 11 above, to submit to the Board expressions of interest for hosting the Green Climate Fund by 15 April 2012, based on the following criteria:

- (a) The ability to confer and/or recognize juridical personality and legal capacity to the Fund for the protection of its interests and the exercise of its functions, to give effect to paragraphs 7 and 8 of the governing instrument, including but not limited to the ability to contract, acquire and dispose of immovable and movable property, and institute legal proceedings;
- (b) The ability to provide privileges and immunities to the Fund as are necessary for the fulfilment of its purposes, and to the officials of the Fund as are necessary for the independent exercise of their official functions in connection with the Fund;
- (c) Financial arrangements, administrative and logistical support to the Fund;
- (d) Any other information that the host country wishes to provide;

13. *Requests* the Board, following the receipt of expressions of interest, to conduct an open and transparent process for the selection of the host country, and decide on a host country for endorsement by the Conference of the Parties at its eighteenth session, in accordance with paragraph 22 of the governing instrument;

14. *Requests* the Board and the host country of the Green Climate Fund to develop, in accordance with paragraphs 7 and 8 of the governing instrument, the legal and administrative arrangements for hosting the Fund and to ensure that juridical personality and legal capacity are conferred to the Fund, and privileges and immunities as are necessary are granted to the Fund and its officials in an expedited manner;

15. *Also requests* the Board to establish the independent secretariat of the Green Climate Fund in the host country in an expedited manner as soon as possible, in accordance with paragraph 19 of the governing instrument;

16. *Invites* the Board to select the trustee of the Green Climate Fund through an open, transparent and competitive bidding process in a timely manner to ensure there is no discontinuity in trustee services;

17. *Requests* the Board to initiate a process to collaborate with the Adaptation Committee and the Technology Executive Committee, as well as other relevant thematic bodies under the Convention, to define linkages between the Fund and these bodies, as appropriate;

18. **Recognizing** the need to facilitate the immediate functioning of the Green Climate Fund and ensure its independence, requests the UNFCCC secretariat jointly with the Global Environment Facility secretariat to take the necessary administrative steps to set up the interim secretariat of the Green Climate Fund as an autonomous unit within the UNFCCC secretariat premises without undue delay after the seventeenth session of the Conference of the Parties so that the interim secretariat can provide technical, administrative and logistical support to the Board until the independent secretariat of the Green Climate Fund is established;

19. *Decides* that the interim arrangements should terminate no later than the nineteenth session of the Conference of the Parties;

20. *Decides* that the interim secretariat shall be fully accountable to the Board and shall function under its guidance and authority, and that its head shall report to the Board;

21. *Urges* the Board to move promptly to appoint the head of the interim secretariat;

22. *Decides* that the criteria for the selection of the head of the interim secretariat shall include, inter alia, expertise in the design or management of funds, relevant administrative and management experience, experience in or working with developing countries, and policy expertise;

23. *Requests* the interim secretariat to make arrangements for convening the first Board meeting by 30 April 2012;

24. *Welcomes* the offers of Switzerland and the Republic of Korea to host the first and second meetings of the Board respectively, and invites Parties to host subsequent meetings;

25. *Invites* Parties to make financial contributions for the start-up of the Green Climate Fund, including administrative costs of the Board and its interim secretariat;

26. *Welcomes* the generous offers of the Republic of Korea, Germany and Denmark to contribute to the start-up cost of the Green Climate Fund.

Annex 1b: Governing instrument for the Green Climate Fund

The Green Climate Fund (hereinafter the “Fund”) is hereby established and will operate in accordance with the following provisions:

I. Objectives and guiding principles

1. Given the urgency and seriousness of climate change, the purpose of the Fund is to make a significant and ambitious contribution to the global efforts towards attaining the goals set by the international community to combat climate change.
2. The Fund will contribute to the achievement of the ultimate objective of the United Nations Framework Convention on Climate Change (UNFCCC). In the context of sustainable development, the Fund will promote the paradigm shift towards low-emission and climate-resilient development pathways by providing support to developing countries to limit or reduce their greenhouse gas emissions and to adapt to the impacts of climate change, taking into account the needs of those developing countries particularly vulnerable to the adverse effects of climate change.
3. The Fund will be guided by the principles and provisions of the Convention. The Fund will operate in a transparent and accountable manner guided by efficiency and effectiveness. The Fund will play a key role in channelling new, additional, adequate and predictable financial resources to developing countries and will catalyse climate finance, both public and private, and at the international and national levels. The Fund will pursue a country-driven approach and promote and strengthen engagement at the country level through effective involvement of relevant institutions and stakeholders. The Fund will be scalable and flexible and will be a continuously learning institution guided by processes for monitoring and evaluation. The Fund will strive to maximize the impact of its funding for adaptation and mitigation, and seek a balance between the two, while promoting environmental, social, economic and development co-benefits and taking a gender-sensitive approach.

II. Governance and institutional arrangements

A. Relationship to the Conference of the Parties

4. The Fund will be designated as an operating entity of the financial mechanism under Article 11 of the Convention and will be accountable to and function under the guidance of the Conference of the Parties (COP).
5. The Fund will be governed and supervised by a Board that will have full responsibility for funding decisions.
6. Arrangements will be concluded between the COP and the Fund, consistent with Article 11 of the Convention, to ensure that the Fund is accountable to and functions under the guidance of the COP. In order to ensure accountability to the COP, pursuant to Article 11, paragraph 3, the Board will:
 - (a) Receive guidance from the COP, including on matters related to policies, programme priorities and eligibility criteria and matters related thereto;
 - (b) Take appropriate action in response to the guidance received;
 - (c) Submit annual reports to the COP for its consideration and receive further guidance.

B. Legal status

7. In order to operate effectively internationally, the Fund will possess juridical personality and will have such legal capacity as is necessary for the exercise of its functions and the protection of its interests.
8. The Fund will enjoy such privileges and immunities as are necessary for the fulfilment of its purposes. The officials of the Fund will similarly enjoy such privileges and immunities as are necessary for the independent exercise of their official functions in connection with the Fund.

C. Rules of procedure of the Board

1. Composition

9. The Board will have 24 members, composed of an equal number of members from developing and developed country Parties. Representation from developing country Parties will include representatives of relevant United Nations regional groupings and representatives from small

island developing States (SIDS) and the least developed countries (LDCs).

10. Each Board member will have an alternate member, with alternate members entitled to participate in the meetings of the Board only through the principal member, without the right to vote, unless they are serving as the member. During the absence of the member from all or part of a meeting of the Board, his or her alternate will serve as the member.

2. Selection of Board members

11. The members of the Board and their alternates will be selected by their respective constituency or regional group within a constituency. Members of the Board will have the necessary experience and skills, notably in the areas of climate change and development finance, with due consideration given to gender balance.

3. Term of membership

12. Members and alternate members will serve for a term of three years and be eligible to serve additional terms as determined by their constituency.

4. Chairmanship

13. Two Co-Chairs of the Board will be elected by the Board members from within their membership to serve for a period of one year, with one being a member from a developed country Party and the other being a member from a developing country Party.

5. Decision-making

14. Decisions of the Board will be taken by consensus of the Board members. The Board will develop procedures for adopting decisions in the event that all efforts at reaching consensus have been exhausted.

6. Quorum

15. A two-thirds majority of Board members must be present at a meeting to constitute a quorum.

7. Observers

16. The Board will make arrangements, including developing and operating accreditation processes, to allow for effective participation by accredited observers in its meetings. The Board will invite, to participate as active observers: two civil society representatives, one each from developing and developed countries, and two private sector representatives, one each from developing and developed countries.

8. Additional rules of procedure

17. Additional rules of procedures will be developed by the Board.

D. Role and functions of the Board

18. The Board of the Fund will:

- (a) Oversee the operation of all relevant components of the Fund;
- (b) Approve operational modalities, access modalities and funding structures;
- (c) Approve specific operational policies and guidelines, including for programming, project cycle, administration, and financial management;
- (d) Approve funding in line with the Fund's principles, criteria, modalities, policies and programmes;
- (e) Develop environmental and social safeguards and fiduciary principles and standards that are internationally accepted;
- (f) Develop criteria and application processes for the accreditation of implementing entities of the Fund and accredit implementing entities and withdraw such accreditation;
- (g) Establish subcommittees and panels and define their terms of reference, as appropriate;
- (h) Establish additional thematic windows and/or substructures to address specific activities, as appropriate;
- (i) Establish a framework for the monitoring and evaluation of performance and the finan-

- cial accountability of activities supported by the Fund and any necessary external audits;
- (j) Review and approve the administrative budget of the Fund and arrange for performance reviews and audits;
 - (k) Appoint the Executive Director of the secretariat,
 - (l) Appoint the head of the evaluation unit and the heads of all accountability units;
 - (m) Receive guidance and take action in response to any guidance from the COP and prepare annual reports to the COP on its activities;
 - (n) Develop working and coordination arrangements with other relevant bodies under the Convention and other relevant international institutions;
 - (o) Select, appoint and enter into legal and administrative arrangements with the trustee;
 - (p) Exercise such other functions as may be appropriate to fulfil the objectives of the Fund.

E. Secretariat

1. Establishment of the secretariat

19. The Fund will establish a secretariat, which will be fully independent. The secretariat will service and be accountable to the Board. It will have effective management capabilities to execute the day-to-day operations of the Fund.
20. The secretariat will be headed by an Executive Director with the necessary experiences and skills, who will be appointed by and be accountable to the Board. The Board will approve the job description and qualifications for the Executive Director. The Executive Director will be selected through a merit-based, open and transparent process.
21. The secretariat will be staffed with professional staff with relevant experience. The staff selection will be managed by the Executive Director and will be open, transparent and based on merit, taking into account geographical and gender balance.
22. The selection of the host country of the Fund will be an open and transparent process. The selection of the host country will be endorsed by the COP.

2. Functions

23. The secretariat will be responsible for the day-to-day operations of the Fund, providing administrative, legal and financial expertise. In particular, the secretariat will:
- (a) Organize and execute all administrative duties;
 - (b) Report information on the Fund's activities;
 - (c) Liaise with members, implementing entities, and cooperating bilateral and multilateral institutions and agencies;
 - (d) Prepare performance reports on the implementation of activities under the Fund;
 - (e) Develop the work programme and annual administrative budget of the secretariat and trustee and submit them for approval by the Board;
 - (f) Operationalize the project and programme cycle processes;
 - (g) Prepare financial agreements related to the specific financing instrument to be concluded with an implementing entity;
 - (h) Monitor the financial risks of the outstanding portfolio;
 - (i) Work with the trustee to support the Board to enable it to carry out its responsibilities;
 - (j) Carry out monitoring and evaluation functions;
 - (k) Support the Board in arranging replenishment processes;
 - (l) Establish and run effective knowledge management practices;
 - (m) Perform any other functions assigned by the Board.

F. Trustee

24. The Fund will have a trustee with administrative competence to manage the financial assets of the Fund. The trustee will maintain appropriate financial records and will prepare financial statements and other reports required by the Board, in accordance with internationally accepted fiduciary standards.
25. The trustee will administer the assets of the Fund only for the purpose of, and in accordance with, the relevant decisions of the Board. The trustee will hold the assets of the Fund separate and apart from the assets of the trustee, but may commingle them for administrative and investment purposes with other assets maintained by the trustee. The trustee will establish and maintain

separate records and accounts in order to identify the assets of the Fund.

26. The World Bank will serve as interim trustee for the Fund, subject to a review three years after the operationalization of the Fund.

27. The trustee will be accountable to the Board for the performance of its responsibilities as trustee for the Fund.

III. Administrative costs

28. The Fund will finance the operating costs of the Board, secretariat and trustee.

IV. Financial inputs

29. The Fund will receive financial inputs from developed country Parties to the Convention.

30. The Fund may also receive financial inputs from a variety of other sources, public and private, including alternative sources.

V. Operational modalities

31. The Fund will provide simplified and improved access to funding, including direct access, basing its activities on a country-driven approach and will encourage the involvement of relevant stakeholders, including vulnerable groups and addressing gender aspects.

32. The Board will steer the Fund's operations so that they evolve with the Fund's scale and maturity and will exercise flexibility to allow the Fund to evolve over time and become the main global fund for climate change finance.

A. Complementarity and coherence

33. The Fund shall operate in the context of appropriate arrangements between itself and other existing funds under the Convention, and between itself and other funds, entities, and channels of climate change financing outside the Fund.

34. The Board will develop methods to enhance complementarity between the activities of the Fund and the activities of other relevant bilateral, regional and global funding mechanisms and institutions, to better mobilize the full range of financial and technical capacities. The Fund will promote coherence in programming at the national level through appropriate mechanisms. The Fund will also initiate discussions on coherence in climate finance delivery with other relevant multilateral entities.

B. Eligibility

35. All developing country Parties to the Convention are eligible to receive resources from the Fund. The Fund will finance agreed full and agreed incremental costs for activities to enable and support enhanced action on adaptation, mitigation (including REDD-plus), technology development and transfer (including carbon capture and storage), capacity-building and the preparation of national reports by developing countries.

36. The Fund will support developing countries in pursuing project-based and programmatic approaches in accordance with climate change strategies and plans, such as low-emission development strategies or plans, nationally appropriate mitigation actions (NAMAs), national adaptation plans of action (NAPAs), national adaptation plans (NAPs) and other related activities.

C. Funding windows and fund structure

37. The Fund will have thematic funding windows. Initially the Fund will have windows for adaptation and mitigation. An integrated approach to funding mitigation and adaptation will be used to allow for cross-cutting projects and programmes.

38. The Board shall also ensure adequate resources for capacity-building and technology development and transfer. The Fund will also provide resources for innovative and replicable approaches.

39. The Board will consider the need for additional windows. The Board will have the authority to add, modify and remove additional windows and substructures or facilities as appropriate.

1. Readiness and preparatory support

40. The Fund will provide resources for readiness and preparatory activities and technical as-

sistance, such as the preparation or strengthening of low-emission development strategies or plans, NAMAs, NAPs, NAPAs and for in-country institutional strengthening, including the strengthening of capacities for country coordination and to meet fiduciary principles and standards and environmental and social safeguards, in order to enable countries to directly access the Fund.

2. Private sector

41. The Fund will have a private sector facility that enables it to directly and indirectly finance private sector mitigation and adaptation activities at the national, regional and international levels.
42. The operation of the facility will be consistent with a country-driven approach.
43. The facility will promote the participation of private sector actors in developing countries, in particular local actors, including small and medium-sized enterprises and local financial intermediaries. The facility will also support activities to enable private sector involvement in SIDS and LDCs.
44. The Board will develop the necessary arrangements, including access modalities, to operationalize the facility.

D. Access modalities and accreditation

45. Access to Fund resources will be through national, regional and international implementing entities accredited by the Board. Recipient countries will determine the mode of access and both modalities can be used simultaneously.
46. Recipient countries may designate a national authority. This national designated authority will recommend to the Board funding proposals in the context of national climate strategies and plans, including through consultation processes. The national designated authorities will be consulted on other funding proposals for consideration prior to submission to the Fund to ensure consistency with national climate strategies and plans.

1. Direct access

47. Recipient countries will nominate competent subnational, national and regional implementing entities for accreditation to receive funding. The Board will consider additional modalities that further enhance direct access, including through funding entities with a view to enhancing country ownership of projects and programmes.

2. International access

48. Recipient countries will also be able to access the Fund through accredited international entities, including United Nations agencies, multilateral development banks, international financial institutions and regional institutions.

3. Accreditation

49. The Board will develop, manage and oversee an accreditation process for all implementing entities based on specific accreditation criteria that reflect the Fund's fiduciary principles and standards and environmental and social safeguards.

E. Allocation

50. The Board will balance the allocation of resources between adaptation and mitigation activities under the Fund and ensure appropriate allocation of resources for other activities.
51. A results-based approach will be an important criterion for allocating resources.
52. In allocating resources for adaptation, the Board will take into account the urgent and immediate needs of developing countries that are particularly vulnerable to the adverse effects of climate change, including LDCs, SIDS and Africa, using minimum allocation floors for these countries as appropriate. The Board will aim for appropriate geographical balance.

F. Programming and approval processes

53. The Fund will have a streamlined programming and approval process to enable timely disbursement. The Board will develop simplified processes for the approval of proposals for certain activities, in particular small-scale activities.

VI. Financial instruments

54. The Fund will provide financing in the form of grants and concessional lending, and through other modalities, instruments or facilities as may be approved by the Board. Financing will be tailored to cover the identifiable additional costs of the investment necessary to make the project viable. The Fund will seek to catalyse additional public and private finance through its activities at the national and international levels.

55. The Fund may employ results-based financing approaches, including, in particular for incentivizing mitigation actions, payment for verified results, where appropriate.

56. Financial management practices and financing agreements will be in keeping with the Fund's fiduciary principles and standards and environmental and social safeguards to be adopted by the Board. The Board will develop an appropriate risk management policy for funding and financial instruments.

VII. Monitoring

57. The programmes and projects, as well as other activities, funded by the Fund will be regularly monitored for impact, efficiency and effectiveness in line with rules and procedures established by the Board. The use of participatory monitoring involving stakeholders will be encouraged.

58. A results measurement framework with guidelines and appropriate performance indicators will be approved by the Board. Performance against these indicators will be reviewed periodically in order to support the continuous improvement of the Fund's impact, effectiveness and operational performance.

VIII. Evaluation

59. There will be periodic independent evaluations of the performance of the Fund in order to provide an objective assessment of the results of the Fund, including its funded activities and its effectiveness and efficiency. The purpose of these independent evaluations is to inform decision-making by the Board and to identify and disseminate lessons learned. The results of the periodic evaluations will be published.

60. To this end, the Board will establish an operationally independent evaluation unit as part of the core structure of the Fund. The head of the unit will be selected by, and will report to, the Board. The frequency and types of evaluation to be conducted will be specified by the unit in agreement with the Board.

61. Reports of the Fund's independent evaluation unit will be provided to the COP for purposes of periodic reviews of the financial mechanism of the Convention.

62. The COP may commission an independent assessment of the overall performance of the Fund, including Board performance.

IX. Fiduciary standards

63. The Board will agree on, adopt, and ensure the application of best practice fiduciary principles and standards to the Fund's entities, the trustee's function related to the Fund, and to all operations, projects and programmes financed by the Fund, including the implementing entities.

64. The Fund will support the strengthening of capacities in recipient countries, where needed, to be able to meet the Fund's fiduciary principles and standards, based on modalities that will be established by the Board.

X. Environmental and social safeguards

65. The Board will agree on and adopt best practice environmental and social safeguards, which shall be applied to all programmes and projects financed using the resources of the Fund.

66. The Fund will support the strengthening of capacities in recipient countries, where needed, to enable them to meet the Fund's environmental and social safeguards, based on modalities that shall be developed by the Board.

XI. Accountability mechanisms

67. The Fund's operations will be subject to an information disclosure policy that will be developed by the Board.

68. The Board will establish an independent integrity unit, to work with the secretariat and report to the Board, to investigate allegations of fraud and corruption in coordination with relevant counterpart authorities.

69. The Board will establish an independent redress mechanism that will report to the Board. The mechanism will receive complaints related to the operation of the Fund and will evaluate and make recommendations.

XII. Expert and technical advice

70. In carrying out its functions the Board will develop mechanisms to draw on appropriate expert and technical advice, including from the relevant thematic bodies established under the Convention, as appropriate.

XIII. Stakeholder input and participation

71. The Board will develop mechanisms to promote the input and participation of stakeholders, including private-sector actors, civil society organizations, vulnerable groups, women and Indigenous Peoples, in the design, development and implementation of the strategies and activities to be financed by the Fund.

XIV. Termination of the Fund

72. Termination of the Fund will be approved by the COP based on a recommendation of the Board.

Annex II: Useful Documents

1. 2011. *Civil Society Recommendations for the Design of the Green Climate Fund*, March 2011. http://actionaidusa.org/assets/pdfs/climate_change/CSO_Recommendations_to_GCF.pdf
2. 2011. *NGO and CSO joint letter on the role of the World Bank sent to the Secretary of Foreign Affairs of the Republic of Mexico Patricia Espinosa and the Executive secretary of the UNFCCC Christiana Figueres*. February. www.jubileesouth.org/index.php?option=com_content&task=view&id=326
3. 2011. *NGO and CSO letter on the role of civil society observers in the Transitional Committee, sent to the Secretary of Foreign Affairs of the Republic of Mexico Patricia Espinosa and the Executive Secretary of the UNFCCC*, Christiana Figueres. February. www.ifg.org/pdf/CivilSocietyLetter-RoleofObserverontheTC.pdf
4. 2012. *Indigenous peoples and support organisations' comments and recommendations on the modalities for selection, activities and role of observers and active observers in the Board of the Green Climate Fund*. April 10, 2012 <http://www.forestpeoples.org/topics/un-framework-convention-climate-change-unfccc/publication/2012/indigenous-peoples-and-support>
5. Abbott, K.W. and Gartner, D. 2011. *The Green Climate Fund and the future of environmental governance. Working Paper n.16*. Earth System Governance, September. www.earthsystemgovernance.org/publication/abbott-kenneth-w-green-climate-fund
6. Ballestreros, A. 2011. Cape Town meeting must get details of the Green Climate Fund before Durban. World Resources Institute, [blog] 14 October.
7. Ballestreros, A. 2011. *The Road to the Green Climate Fund*. World Resources Institute, [blog] 14 February. www.wri.org/stories/2011/02/road-green-climate-fund
8. Barbut, M. 2012. *Climate Finance: Putting the puzzle together*. UN Chronicle, 11 January 2012. www.un.org/wcm/content/site/chronicle/home/archive/issues2011/7billionpeople1unitednations/climatefinanceputtingthepuzzlettogether
9. Bird, N., Brown, J. and Schalatek, L. 2011. *Climate Finance Policy Brief n. 4 – Design Challenges for the Green Climate Fund*. Heinrich Boell Stiftung North America, January. www.boell.org/web/140-710.html
10. Euractiv. 2012. *Finance Ministers eye transport levies to feed climate fund*. Euractiv, 21 February 2012. www.euractiv.com/climate-environment/finance-ministers-eye-transport-news-510986
11. Eurodad, 2010. *Why the World Bank is ill-fitted for climate finance – Key principles and recommendations for equitable climate finance governance*. Eurodad position paper. http://climate-justice.info/wp-content/uploads/2011/07/Eurodad_position_paper_on_WB_and_climate_financeFINAL.pdf
12. Friends of the Earth US, 2011. *Submission to the Transitional Committee on the role of private sector in the Green Climate Fund*. http://unfccc.int/files/cancun_agreements/green_climate_fund/application/pdf/foe_submisson_on_ws_iii.pdf
13. Fry, T. 2011. *A Faulty Model? What the Green Climate Fund can learn from the Climate Investment Funds*. Brettonwoods project, June. www.brettonwoodsproject.org/art-568686
14. Fukuda, K., Wakiyama, T. and Shimizu, N. 2011. *Financial support to the implementation of adaptation measures – comparative analysis of the Adaptation Fund and the Climate Investment Funds, and implications for the design of the Green Climate Fund*. Working Paper CC-2011-03. IGES, November. <http://enviroscope.iges.or.jp/modules/envirolib/view.php?docid=3442>
15. Gerebizza, G. 2011. *Can financial markets solve the climate crisis?* Campagna per la riforma della Banca Mondiale, Discussion Note n. 1/2011. www.crbm.org/modules.php?name=download&f=visit&lid=271
16. GermanWatch documents on the Green Climate Fund. www.germanwatch.org/klima/gcf.htm
17. Harmeling, S. 2011. *Countdown to Cape Town*. Germanwatch, July. www.germanwatch.org/klima/gcf.htm
18. Harmeling, S. 2011. *Successful start for the design of the Green Climate Fund*. Germanwatch, May. www.germanwatch.org/klika/ks48e.pdf
19. Harmeling, S. 2011. *The Green Climate Fund: a steep road towards agreement in Cape Town and Durban*. Germanwatch, [online] September. www.germanwatch.org/klima/gcf.htm
20. Harmeling, S. and Müller, B. 2011. *What to do now? - Elements for organizing the*

Transitional Committee to establish the Green Climate Fund, based on lessons learned from the Global Fund experience. Oxford Energy and Environment Brief, January. www.oxfordenergy.org/pdfs/comment_02_01_11.pdf

21. Honkaniemi, N. 2011. *Storm on the horizon: Why World Bank Climate Investment Funds could do more harm than good.* Eurodad, 11 February. www.eurodad.org/whatsnew/reports.aspx?id=4395
<http://insights.wri.org/news/2011/10/Cape-town-meeting-must-get-details-green-climate-fund-right-durban>
22. IIPFCC. 2010. Policy paper on climate change. www.indigenousportal.com/Climate-Change/IIPFCC-Policy-Paper-on-Climate-Change-September-27-2009.html
23. Jubilee South, Campagna per la riforma della Banca Mondiale (CRBM), Institute for Policy Studies (IPS), ActionAid and Gaia. 2010. *Towards a New Global Climate Fund.* Discussion Paper. Global Climate Fund. www.globalclimatefund.org/?page_id=31
24. Khan, F.I. *The Green Climate Fund - what needs to be done for Durban (COP17).* Oxford Energy and Environment Brief, February. www.oxfordenergy.org/pdfs/comment_01_03_11.pdf
25. Khor, M. 2011. *Setback in designing the Green Climate Fund.* Third World Network, October. www.twinside.org.sg/title2/climate/info.service/2011/climate20111003.htm
26. Nakhoda, S. and Schalatek, L. 2012. *The Green Climate Fund: Ready, set, go?* Climate Funds Update, 20 February 2012. www.climatefundupdate.org/news/green-climate-fund-ready-set-go
27. Orenstein, K. 2012. 117 groups urge Climate Investment Funds to sunset, support for Green Climate Fund. Friends of the Earth US, [blog] 19. April. <http://www.foe.org/projects/economics-for-the-earth/blog/2012-04-117-groups-urge-climate-investment-funds-to-sunset-s>
28. Oxfam, Climate Action Network (CAN) Europe, APRODEV, CIDSE. 2012. *Green Climate Fund ready for lift-off but still lying empty.* Oxfam, 21 February 2012. <http://www.oxfam.org/en/grow/pressroom/reactions/green-climate-fund-ready-lift-still-lying-empty>
29. Palitza, K. 2011. *Carbon Pricing to save Green Climate Fund.* InterPressService, [online] 7 December 2011. www.ipsnews.net/2011/12/carbon-pricing-to-save-green-climate-fund
30. Raman, M. 2011. *Disagreements in Green Fund Design committee over conflict of interest issues.* Third World Network, July. www.twinside.org.sg/title2/climate/info.service/2011/climate20110702.htm
31. Raman, M. 2011. Green Climate Fund design committee to focus on key issues. Third World Network, September. www.twinside.org.sg/title2/climate/info.service/2011/climate20110903.htm
32. Raman, M. 2011. *World Bank's conflict of interest in Green Fund design.* TWN Info service on Climate Change, 3 May 2011. www.twinside.org.sg/title2/climate/info.service/2011/climate20110501.htm
33. Sadat, A. 2011. *Green Climate Fund: unanswered questions.* Economic and Political Weekly, XLVI, 15. <http://environmentportal.in/files/green%20climate%20fund.pdf>
34. Schalatek, L. 2011. *Designing - and Funding! - the new Green Climate Fund.* Heinrich Boell Foundation, [blog] January. <http://climatequity.org/2011/01/26/designing-and-funding-the-new-green-climate-fund-2/>
35. Schalatek, L. 2011. *Designing the New Green Climate Fund: A tentative start for the Transitional Committee – of troikas, tensions, test balloons, work themes and transparency issues.* Heinrich Boell Foundation, May. www.boell.org.za/web/cop17-704.html
36. Schalatek, L. 2011. *From anticipation to Confusion and Delay: The First Design Meeting for the Green Climate Fund.* Heinrich Boell Foundation, [blog] March. <http://climatequity.org/tag/green-climate-fund/>
37. Schalatek, L. 2011. *From Scoping Options to Decision Making – the work of the Transitional Committee going forward – A summary report of Member Countries' positions and demands post-Tokyo.* Heinrich Boell Foundation, July. www.boell.org.za/web/cop17-783.html
38. Schalatek, L. 2011. *Suboptimal outcome in the Transitional Committee – No consensus on the design of the Green Climate Fund – A summary report of the 4th and final TC meeting in Cape Town.* Heinrich Boell Foundation, October. www.boell.org.za/web/cop17-802.html
39. Schalatek, L., Nakhoda, S., and Bird, N. 2012. *The Green Climate Fund. Climate Finance Fundamentals,* Brief 11. ODI and HBF, February 2012. www.odi.org.uk/resources/docs/7595.pdf
40. Schalatek, L. 2011. *The Design Process for the Green Climate Fund – Lots of disagreements, little time.* Heinrich Boell Foundation, October. www.boell.org.za/web/cop17-789.html
41. Sierra, K. 2011. *The Green Climate Fund: options for mobilizing the private sector.* Briefing

Paper. Climate and Development Knowledge Network, 6 December 2011 http://cdkn.org/resource/new-cdkn-briefing-paper-the-green-climate-fund-options-for-mobilizing-the-private-sector-2/?loclang=en_gb

42. Decision on Green Climate Fund Adopted. Third World Resurgence No. 255/256, November/December. www.twinside.org.sg/title2/resurgence/2011/255-256/cover05.htm

43. Williams, M. 2011. *COP discusses Green Climate Fund and other issues*. TWN Durban News Update, 2 December 2011. www.twinside.org.sg/title2/climate/news/durban01/durban_update27.pdf

Annex III: Useful Documents on the Global Environmental Fund and Indigenous Peoples

1. Asian Indigenous Peoples' Caucus. 2012. Statement on the GEF Policy Process. www.forestpeoples.org/topics/global-environment-facility-gef/news/2012/04/asian-indigenous-peoples-caucus-statement-gef-po
2. Global Environmental Facility. 2012. *Principles and Guidelines for Engagement with Indigenous Peoples* C.42/Inf.03
3. Global Environmental Facility. 2011. *GEF Policy on Agency Minimum Standards on Environmental and Social Safeguards* C.41/10.
4. Indigenous Peoples' Task Force on the GEF (IPTF-GEF) .2012. Indigenous Peoples' statement on the GEF principles and guidelines on engagement with Indigenous Peoples at the 42nd GEF Council Meeting. www.gefngo.org/view_file.cfm?fileid=568
5. IPTF-GEF. 2012. Statement by the IPTF-GEF at the 41st GEF Council meeting on the SESS.
6. IPTF-GEF. 2011. Issues Paper detailing recommendations on essential elements for an effective rights-based GEF policy on Indigenous Peoples. www.forestpeoples.org/topics/global-environment-facility-gef/news/2012/04/indigenous-peoples-task-force-iptf-gef-issues-pa
7. Rubis, J. 2011. Implementing the UN Declaration on the Rights of Indigenous Peoples: an opportunity to influence GEF policy. Forest Peoples Programme E-Newsletter, July 2011 <http://www.forestpeoples.org/topics/global-environment-facility-gef/news/2011/07/implementing-un-declaration-rights-indigenous-pe>