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A Normative Framework for a Global Compact on Public Climate Finance

By **Liane Schalatek**

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Edited by the Heinrich Böll Foundation

About the author

Liane Schalatek is the Associate Director of the Heinrich Böll Foundation North America. Liane brings 10 years of experience in global governance, specifically international trade and finance, as well as the promotion of gender equality and women's empowerment in the international program work to our team. A particular interest of her work has been awareness and capacity building work on the need to engender macroeconomic policy. Currently, her work focuses on international climate finance, with an emphasis on public climate finance flows and on equitable access to climate funding. A special consideration of her current work is addressing the gender dimensions of climate change (adaptation and mitigation), including with respect to climate finance. Liane holds a M.A. in Political Science and Political Economy from the University of Erlangen-Nürnberg and a M.A. in International Affairs from George Washington University, Washington DC.

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ACKNOWLEDGEMENTS

This paper grew out of a realization within the Heinrich Böll Foundation that many of our own colleagues as well as colleagues from partner organizations all over the world are feeling challenged in the face of the fast pace of developments in global climate change finance to assess not only the quantity but also the quality of climate change financing. We felt that they and others interested in this vital issue could profit from some guidance in form of a normative framework that can serve as a yardstick in assessing the politics of actual climate finance decisions and existing funding instruments.

Thanks go to Barbara Unmüßig and other colleagues at the Heinrich Böll Foundation who encouraged me to take on the task of writing such an analysis of the necessary principles, criteria and guidelines for an equitable, effective and efficient global climate finance compact.

I am grateful to many colleagues at the Heinrich Böll Foundation Headquarters in Berlin, Germany, for their support and help in compiling and publishing this report, especially Lili Fuhr and Björn Ecklundt. Several close colleagues from within the Heinrich Böll Foundation and beyond have taken the time to read earlier versions of this paper and have generously provided their expertise and advice in constructive feedback in order to strengthen the arguments in this paper and its overall presentation and focus. I wish to thank particularly Nancy Alexander, Lili Fuhr, Sven Harmeling, Kristen Hite, Kirsten Maas-Albert, Anne Perrault, Marcos Orellana, Tilman Santarius and Barbara Unmüßig for their help.

All views expressed, and any errors or omissions in the current text, remain my sole responsibility as author. Your comments and thoughts on this paper and the views expressed therein are appreciated. Please send them directly to Liane@boell.org.

PREFACE

Solving the climate crisis is truly a global challenge that one part of the world cannot do without the other. A global deal to save the climate as a common good for all forms of life needs to provide an agreement securing international financial support for mitigation and adaptation action in the South. Staying far below the 2-degrees-Centigrade global warming target compared to preindustrial levels today seems hardly achievable and would in practice mean a no-carbon development path in the North and low-carbon development in the South. Climate justice in that context requires a fair and equitable sharing of emission reduction targets as well as of financial contributions from public sources.

Cancun did not deliver the fair, ambitious and legally binding agreement that many hoped for, and the world now seems further away from it than ever. Yet initial important steps forward have been taken in the field of international climate finance by putting a global finance pledge into the wider climate discourse and setting in motion the creation of a global Green Climate Fund – despite the prominence of the global financial crisis.

That is no coincidence, since solving the climate crisis increasingly becomes an economic challenge and, thus, debates about choosing the right path and mechanisms focus on questions of quantitative facts and figures. Though this preoccupation with the economics of climate change seems unavoidable, as a political foundation deeply rooted in the ecology and justice movement, we strongly believe that it is not enough.

What is missing in the climate finance debate is a normative framework. While a massive scale-up of private finance is urgently needed, it is the responsibility of states as signatories of the UN Framework Convention on Climate Change to assure that human rights, international environmental law and democratic approaches are safeguarded and basic criteria in the mobilization, governance and disbursement of public climate funds are respected. Such a framework is not a burden for a quick allocation and disbursement of public climate finance, as some critiques allege. Instead, we would argue it is necessary to ensure that scarce public money for climate change action is spent in an effective and efficient way that is also equitable.

When we look at the status quo of international public climate finance, the picture looks rather gloomy. While important pledges are on the table – including the US$30 billion fast start finance and $100 billion a year by 2020 confirmed in Cancun – a coherent financial architecture is still missing, governments are window-dressing and inflating their actual commitments and payments, and some of the investments are actually promoting wrong solutions (e.g., nuclear power, large hydro power dams and other large-scale and often harmful technologies).

Climate finance can do better and many best practices around the world exist already. There is no need to invent a new normative framework for climate finance. From human rights to environmental laws – a long list of codified rights and normative principles is available. The problem is that donors tend to lack coherency and implementation of these in their programs. There is a strong need to learn from past mistakes of development aid organizations and other actors and make sure they are not repeated or exacerbated by new public money for climate finance. We consider it to be a matter of principle(s) and hope that this paper helps to steer the debate in that direction. The framework addresses both bilateral and multilateral actors in the field of climate finance and should also serve as a reference framework for the private sector.

We are very grateful to Liane Schalatek, who has put together this paper and thereby helped to contribute to the creation of a coherent framework for global climate finance rooted in equality, justice and human rights, which will hopefully not only serve the Heinrich Böll Foundation's current and future work on climate finance but inform the work of other groups and organizations internationally.

In the run-up to the United Nations Conference on Sustainable Development 2012 (Rio+20), governments have agreed to focus on the topic of "Greening the Economy in the context of Sustainable Development and poverty eradication." Climate finance is one important cornerstone of that challenge. The Heinrich Böll Foundation is ready to engage with civil society actors and other democratic stakeholders around the world to assure that principles and criteria for what is "green" and what is "sustainable" will be addressed in this context. This paper describes the normative framework for our engagement and, hopefully, inspires others to follow and debate.

Berlin, January 2011

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EXECUTIVE SUMMARY

The anthropogenic origin of global climate change causing greenhouse gas (GHG) emissions today should no longer be disputed. Climate change's adverse effect on people can also no longer be ignored. Those who are most adversely affected are disproportionally found among societies' most marginalized and disenfranchised – women, children, indigenous peoples, the poor, the elderly or handicapped. They also remain largely excluded from participation and decision-making in the global governance regimes and international institutions, such as the UN Framework Convention on Climate Change (UNFCCC) or multilateral development banks (MDBs), which will determine their future livelihood and survival in a rapidly warming world. This is particularly true for global climate change financing. While the last few years have seen the emergence of new financing structures and mechanisms for adaptation and mitigation, a comprehensive global climate finance architecture that collects, allocates and disburses financial resources in an equitable, effective and efficient manner is still elusive.

This paper starts out with a look at the status quo of public climate change finance post-Cancun. It then proposes the use of existing core principles and tools of international environmental law and human rights as the fundamental conceptual guide and compass for charting policy responses to climate change that are rooted in the concept of justice and fairness, especially with respect to evaluating the financial architecture necessary to fund sustainable and efficient climate interventions globally. The application of core democratic values, such as transparency and accountability, as well as participation in decision-making are discussed as cross-cutting issues for climate change finance, irrespective of the various stages of the funding cycle. Climate change financing can be effective, efficient and equitable, only when policy coherence – both with respect to the institutions involved in channeling money flows as well as in the use of funding for concrete mitigation and adaptation measures – is observed. Finally, the paper will discuss those rules, norms and principles in greater detail that apply more specifically to the mobilization, administration and governance as well as allocation and disbursement of public climate change funds within a climate justice framework. A series of compliance checks will be performed to suggest which implementation steps must be taken to move toward this goal. The paper will then look at how current dedicated climate-funding initiatives are measuring up and propose some recommendations for the way forward.

Elements of a Normative Framework for Public Climate Finance

Climate finance decisions are not made within a normative vacuum. An impressive body of conventions, binding treaties, regulations and principles exists that codifies normative frameworks for both international environmental law and universal and unalienable human rights as obligations by which all bilateral and multilateral actors in global public climate change finance are already customarily bound. Individual countries have been signatories to the majority of these legal instruments and thus are bound in their own bilateral funding capacity. Multilateral organizations serving as channels for climate finance are likewise not exempt from those rules, as they apply to their membership, namely sovereign states. However, currently, developed countries pursue climate policy and the funding needed for climate actions as if comprehensive legal frameworks related to environmental protection and universal declarations of human rights, basic notions of justice and fairness, and the core principles of a democratic state were not applicable. Yet, they are. Public climate finance is not a principles-free zone of international and national climate policies. Treating it as such leads to the political incoherence that plagues many of today's political actions for climate-aware development.

International Human Rights Obligations and the Need for Policy Coherence

It is human choices that influence both the pace of climate change and the policy responses to it. A human rights-based approach to climate change sets the ethical and legally binding obligation to put people first. It reminds us that climate change is about human suffering and misery, not an abstract scientific-technological phenomenon. Almost all states worldwide have formally subscribed to both the UNFCCC and UN human rights treaties and should therefore implement their legal obligations in a coherent manner. "Do no harm," namely ensuring that climate intervention does not make matters worse, even if only unintentionally, should be the yardstick against which all climate-funding decisions should be judged. Some climate finance investments have, at best, a dubious benefit for the climate and will harm sustainable development objectives as well as violate human rights in the developing countries where they are made. Public funding for climate change should avoid such investments.

Principles Relevant for the Mobilization of Public Climate Change Finance

A number of important principles, such as those of the Rio Declaration, elaborated under international environmental law should guide the mobilization of public climate finance viewed through the lens of climate justice and human rights. Most fundamentally, the Convention has laid out that its parties need to take climate actions, including on finance, on "the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities" (UNFCCC, Art. 3). The Bali Action Plan from 2007 likewise stipulates that funding must be adequate, predictable, sustainable as well as new and additional (Bali Action Plan, Art. 1(e)(i)).

Transparent and accountable – The MRV of climate finance – namely the measuring of the amounts of public climate finance transferred from developed to developing countries, the reporting of these flows to the global public and the verification of the completeness and accuracy of reported data of climate finance flows from developed to developing country – is crucial to ensure accountability and transparency in finance mobilization. A common reporting format for public climate finance flows is needed, with the goal of separating these from development aid flows.

The polluter pays – This principle (Rio Principle 16) relates the level of GHG emissions to the amount the respective country will have to pay for climate action, although it is unclear whether and how to include historical cumulative emissions (the question of an adequate base year). Besides determining the quantity of climate funding, applying the polluter pays principle will define a legal obligation for compensatory finance, different from aid flows.

Respective capability – Countries' contributions to climate finance should be in the form of mandatory assessed payments and should relate to a measure of national wealth more broadly defined as well as the status and trend of national economic and social development. A country's obligation to pay for climate action should be correlated with a minimum development standard for each of its citizens.

New and additional – Climate change imposes new challenges that are distinct from existing development hurdles. Climate funding should thus be additional to existing official development assistance (ODA) commitments and other pre-existing flows from developing countries in order to avoid the diversion of funding for development needs to climate change actions. This is commonly understood to be above and beyond the ODA target of 0.7 percent of gross national income (GNI) set in 1970, a target which has been unfulfilled by most developed countries.

Adequate and precautionary – In order to "take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects" (UNFCCC, Art. 3.3.), the level of funding needs to be sufficient to keep a global temperature increases as low as possible. Most current global funding needs estimates use a top-down approach by tying their costing to a 2-degrees-Celsius temperature increase scenario. A better gauge of adequacy would be through a devolutionary approach that aggregates estimates based on countries' own climate action plans.

Predictable – Currently, climate change financing flows are characterized by the unreliable and unpredictable nature of voluntary contributions. A sustained and sustainable flow of climate finance is needed medium to long-term in multi-year funding cycles (ideally at least 5–10 years) to allow for adequate investment program planning in developing countries or to scale up or maintain existing efforts.

Principles Relevant for the Administration and Governance of Public Climate Funds

Where public funding for climate change is used, national governments and global funding entities (receiving contributions from developed countries) are obligated – as an indisputable tenet of democracy and citizens' rights – to administer public funds in a way that is both transparent and accountable. Furthermore, accountability suggests that broad stakeholder participation and representation should be ensured in the administration of climate funding on the principle of equity.

Transparent and accountable – While relevant for all stages of the climate-funding cycle, transparency and accountability as democratic core principles are most strongly tied to the governance of climate funds. A transparent administration of public climate funding requires publicly available, accurate and timely information on a mechanism's funding structure; its financial data; the structure of its board; its decision making-process; as well as actual funding decisions made. The principle of accountability demands the existence of a redress mechanism as well as strengthened parliamentary oversight.

Under the authority and guidance of the UNFCCC – With the climate financing question inseparable from the realization of global mitigation obligations under the UNFCCC's Kyoto Protocol and the UNFCCC adaptation action mandate, so should the global oversight of the needed funding for global climate action be entrusted to the authority and guidance of the UNFCCC. The principles of equity and environmental integrity likewise require a broad UNFCCC authority, as each party enjoys an equal vote under the COP, irrespective of a country's role as either financial beneficiary of or financial contributor to public climate finance.

Equitably represented – In a clear break with existing ODA delivery mechanisms and the old, unequal power relationship between donor and recipient countries (which give contributor countries a bigger voice in funding decisions), climate funds need to be governed based on equitable representation. This goes beyond a focus on nation states and requires the inclusion of a broad group of stakeholders into fund management and decision-making structures.

Public participation in decision-making – In violation of countries' obligations under the Aarhus Convention, public participation is still insufficient in most public climate finance instruments and usually relegated to often purely perfunctory consultation processes with no influence on the actual practice of funding decisions. A systematic, comprehensive and targeted "bottom-up" inclusion of relevant stakeholder groups is needed.

Principles Relevant for the Disbursement and Delivery of Climate Change Financing

The ongoing discourse on global climate finance is preoccupied with the slow progress of mobilizing climate finance and how it will be governed globally. Less attention has been given to the principles guiding climate finance disbursement. These are, however, crucial, as they will determine the effectiveness and efficiency of the funds used.

Transparent and accountable – Safeguards are necessary to ensure that the climate funding disbursed reaches those – countries and the most vulnerable population groups within a recipient country – who need it most. In addition to applying and enforcing existing social and environmental guides to public climate financing channeled through MDBs, developing country recipients will have to also domestically apply robust monitoring, reporting and evaluation standards that are based on solid safeguards.

Subsidiarity and national/local ownership – In order to guarantee that the disbursement of funding meets actual spending needs in developing countries, funding priorities should not be imposed upon a country or a community from the outside. Rather, funding decisions – in keeping with the concept of subsidiarity as expressed in the Paris Declaration on Aid Effectiveness and the Rio Declaration (Principle 10) – should be made at the lowest appropriate level.

Precautionary and timely – The absence of full scientific certainty on necessary adaptation and mitigation action should not be used as a reason to postpone or delay funding for possible climate action now (Rio Principle 15). In the absence of binding, assessed contributions of industrialized countries to pay for climate action, performance indicators are necessary to guarantee that voluntary climate finance pledges are turned into the rapid delivery of funds.

Appropriate – Climate funding should not place an extra development burden on the recipient country. Depending on which finance modality is used to disburse climate funds to developing countries – for example grants or loans – recipient countries (many of which are still highly indebted) might be placed in a situation where climate action would come at the expense of its own development priorities or the fulfillment of international human rights' obligations.

(**Directly) accessible for the most vulnerable –** Access to and the benefits of climate finance should be distributed equitably, thus corresponding to the differing needs and capabilities of countries and regions to deal with the challenges of climate change, as well as the social and economic realities of recipient countries and the people living in these countries.

Gender equitable – Women and men, due largely to their gender roles and respective rights (or lack thereof), have differing vulnerabilities to climate change as well as differentiated capabilities to mitigate emissions, adapt to and cope with climate change impacts. These differences need to be taken into account by creating gender-aware climate financing mechanisms and gender-equitable fund disbursement guidelines and criteria.

1. Introduction

The anthropogenic origin of global climate change causing massive greenhouse gas (GHG) emissions today should no longer be disputed. It is described in a series of detailed assessment reports of the Intergovernmental Panel on Climate Change (IPCC), which has bundled the best of the world's scientific knowledge on global warming (IPCC 2007a, 2007b, 2007c, 2008).[1] Its adverse effect on people can also no longer be ignored. Climate change-related effects – such as increased weather variability with flooding, droughts, failing harvests and growing hunger, melting glaciers, spreading diseases, disappearing biodiversity or livelihoods according to an estimate of the World Health Organization – are costing the lives of an additional 150,000 people every year, and the number of climate change victims is bound to increase (WHO 2009). Wide scientific as well as empirical evidence shows its differential impact on groups of people, depending on their income, gender, class, race, age, educational level or geography (IPCC 2007a).[2] Unfortunately, those who are most adversely affected are disproportionally found among societies' most marginalized and disenfranchised – women, children, indigenous people, the poorest, the elderly or handicapped – in the least developed and most poverty-stricken countries and regions of the world, but also in industrialized countries, even if in smaller numbers.[3] While they are the most vulnerable to climate change, they are also the least likely to have the necessary resources to cope with its most adverse impacts. At the same time, these vulnerable people largely remain excluded from participation and decision-making – with their needs and interests more often than not insufficiently represented by their national governments – in the global governance regimes and international institutions, such as the UN Framework Convention on Climate Change (UNFCCC) or multilateral development banks (MDBs), which will determine their future livelihood and survival in a rapidly warming world. This is particularly true for public climate change financing. In the last few years, new financing structures and mechanisms for adaptation and mitigation have emerged, but a comprehensive global climate finance architecture that collects, allocates and

1 The fundamental contribution of the IPCC Report to the general public's understanding of the human contribution to and the human impacts of climate change were honored internationally with the 2007 Nobel Peace Prize.

2 Especially chapters 17 and 19.

3 In 2005, Hurricane Katrina affected African-American women as the poorest segment of the population of New Orleans the hardest and approximately 70 percent of the fatal victims of the 2003 heat wave in Western Europe were elderly women (WEDO 2007).

disburses financial resources in an efficient, effective and equitable manner is still elusive.

This paper starts out with a look at the status quo of public climate change finance[4] post-Cancun. It then proposes the use of existing core principles and tools of **international environmental law** and **human rights** as the fundamental conceptual guide and compass for charting policy responses to climate change that are rooted in the concept of **justice and fairness**, especially with respect to evaluating the financial architecture necessary to fund sustainable and efficient climate interventions globally. The application of **core democratic values,** such as **transparency** and **accountability**, as well as **participation in decision-making** are discussed as cross-cutting issues for climate change finance, irrespective of the various stages of the funding cycle. Climate change financing can be effective, efficient and equitable, only when **policy coherence** – both with respect to the institutions involved in channeling money flows as well as in the use of funding for concrete mitigation and adaptation measures – is observed. Finally, the paper will discuss those rules, norms and principles in greater detail that apply more specifically to the **mobilization, administration and governance as well as allocation and disbursement of climate change funds** within a **climate justice framework**. A series of **compliance checks** will be performed to suggest which implementation steps must be taken to move toward this goal. Although a schematic discussion is proposed, it is important to keep in mind that these principles, rules and norms for public climate change finance are interdependent and thus mutually reinforcing and supporting. While their full implementation is desired and required for a truly fair, equitable, effective and efficient global climate change finance regime, even the selective or partial application of some of these principles would constitute a significant improvement toward a better global climate-financing regime versus the existing status quo. Therefore, the list of concrete measures, as proposed in this analysis, retains relevance and utility as a normative yard stick against which the actual policy decisions of all bilateral and multilateral actors in global public climate finance have to be tallied, even in the likely absence of a full implementation of all its components in the near future.

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4 Public climate change finance is understood as funds deriving from governments or agencies and institutions acting on their behalf, including money from national budgets and innovative international financing sources such as auctioning of emissions permits, taxes or levies meant to raise funding for government purposes.

2. (Public) Climate Finance Post-Cancun – An Overview of the Status Quo

There is no disagreement among the world's political leadership that in order to prevent further irreversible climate damage, to limit global warming to no more than 2 degrees Centigrade above preindustrial levels and to cope with existing threats and build future climate resilience, large sums of financing from public and private sources are needed, although there is no global agreement on just how much is necessary. A variety of cost estimates exist based on this increasingly unlikely 2-degree trajectory (see Table 1),[5] estimates which range from around US$80–125 billion per annum in public and private finance combined (Project Catalyst 2009)[6] to higher estimates of up to $200 billion just in public finance per year (Oxfam 2010). The G77 and China have called for an annual financial transfer from developed to developing countries equivalent to at least 1.5 percent of Annex I GDP by 2020. While the numbers are high (a comparison: in 2009 official development assistance by member countries of the OECD Development Assistance Committee reached $119.6 billion, for 2010 a total of $126 billion is projected),[7] the amounts are still manageable. However, they could – with political procrastination – easily overwhelm the public taxpayers' funding ability in a few short years, as the Stern Report warned already in 2006.[8] The quick and effective response of G20 governments in 2009 to the global financial crisis in summoning a total of $1.1 trillion in a few weeks to support the International

5 It is important to point out that some of these recent cost estimates are not necessarily comparative but rather illustrative of the amounts discussed in the international climate finance discourse since these estimates often utilize differing understandings of costs (e.g., with some focusing on incremental costs while others use incremental investment costs) and some focus on global financing needs while others look at the needs of developing countries only.

6 See: http://www.projectcatalyst.info/images/2.%20Climate%20Finance/Publications/2.%20Briefing%20papers%20on%20climate%20finance/20091203%20Finance%20Needs%20Briefing.pdf

7 See http://www.oecd.org/document/11/0,3343,en_21571361_44315115_44981579_1_1_1_1,00.html; accessed July 18, 2010; for 2010 estimates, see http://www.oecd.org/document/0,3746,en_2649_34447_44981579_1_1_1_1,00.html; accessed on January 31, 2011.

8 The Stern Review estimated in 2006 that in order to stabilize emission levels, the world would need to spend 1 percent of global GDP by 2050 – equivalent then to about $340 billion – or face ultimately the costs of business-as-usual and a changed climate of up to 20 percent of global GDP (Stern 2006).

Monetary Fund (IMF) and MDBs and to prevent a collapse of the global financial system[9] likewise showed the fundraising potential for a perceived global public common good – in this case global financial stability – driven by a combination of political will, perceived urgency and enlightened self-interest of the globe's governing elite. These factors are, sadly, currently not lined up with respect to the necessary climate finance transfers from developed to developing countries to safeguard another global common: the atmosphere.

The Copenhagen Accord's agreement on climate financing, which was confirmed as a UNFCCC decision in the Cancun Agreements in December 2010,[10] had made a commitment for new and additional funding from a mix of public, private and innovative sources of $30 billion in fast start finance by 2012 to be ramped up to $100 billion annually by 2020.[11] This reflects not realistic short- and long-term global adaptation and mitigation financing needs, but rather the lowest common political denominator for climate financing. It has neither a clear economic nor scientific basis and presents, at best, a fraction of the financing needed to solve the climate crisis. Hailed as one of the few areas where some progress was made at the 15th Conference of the Parties (COP), the Copenhagen Accord's take on climate finance still fell short (Schalatek et al. 2010). While the confirmation of these pledges at the Cancun COP 16 turned the political accord into a legally binding agreement, the lack of specificity with respect to sourcing and scaling up of pledged climate financing remains: In the absence of a baseline, the promise of new and additional funding rings hollow; there is still no timetable with intermediate sign posts for scaling up funding levels between 2012 and 2020; and the recommendations of the UN High Level Advisory Group on Climate Change Financing – which was created in the aftermath of Copenhagen and reported on Cancun about the best innovative financing sources to reach the long-term climate-financing goal – are only taken note of by the UNFCCC parties, but are not considered binding.[12] Without an urgent political agreement on these questions, the new Green Climate Fund (GCF), which is to become operational with a decision by the next COP in Durban late in 2011, is in real danger of becoming a "placebo fund" (Bird et al. 2011).

9 See the London G20 Summit Communiqué at http://www.londonsummit.gov.uk/en/summit-aims/summit-communique/; accessed July 18, 2010. Observers suggest that the United States invested around $3 trillion and committed up to $11 trillion to the rescues of the US economy and the global financial system. See: http://money.cnn.com/ news/storysupplement/economy/bailouttracker/; accessed July 18, 2010.

10 The Cancun Agreements are available at http://unfccc.int/meetings/cop_16/items/5571.php; accessed January 31, 2011.

11 UNFCCC Copenhagen Accord, available at http://unfccc.int/files/meetings/cop_15/application/pdf/ cop15_cph_auv.pdf; accessed July 18, 2010.

12 In early November 2010, the Advisory Group released its report, finding that reaching the $100 billion per year in long-term financing would be challenging, but feasible. The group placed particular importance on the carbon market and a stable carbon price of $25–30 per ton. It also reaffirmed the role of the multilateral development banks in climate financing for the provision of public climate finance (AGF 2010).

Table 1: Overview of Various Cost Estimates of Climate Finance Needs

Estimating the costs of climate change						
Adaptation ($bn per annum)						
Source	**2010-2012**	**2010-2015**	**2010-2020**	**2020**	**2030**	**Assumptions**
European Commission (2009)	3-4			13-30		in 2005 prices (using $1.25 to €1 exchange rate), total net additional ("incremental") costs, assuming successful agreement -30% for developed countries by 2020 compared to 1990, NAMAs by developing countries
World Bank (2006)		9-41				450 ppm stabilization
Stern Review (2006)		4-37				450 ppm stabilization
UNDP Human Development Report (2007)		83-105				450 ppm stabilization
UNFCCC (2007)					28-67	
World Bank: The Economics of Adaptation to Climate Change, EACC (2010)					70-100	in 2005 prices, average annual costs between 2010-2050. Additional public sector (budgetary) costs imposed by CC, not costs incurred by private agents
Project Catalyst (2009)			13-25			assumes 450 stabilization, using $1.25 to €1 exchange rate

Mitigation ($bn per annum)						
Source	**2010-2012**	**2010-2015**	**2010-2020**	**2020**	**2030**	**Assumptions**
European Commission (2009)	1.25			118		in 2005 prices (using $1.25 to €1 exchange rate), total net additional ("incremental") costs, assuming successful agreement -30% for developed countries by 2020 compared to 1990, NAMAs by developing countries
McKinsey & Co (2009)			81-113			using $1.25 to €1 exchange rate, includes tech R&D
Pacific Northwest National Lab (2008)					139	Taken from WB WDR (2009)
UNFCCC (2007)					92-97	in 2005 dollars
Project Catalyst (2009)			69-100			450 stabilization, $1.25 to €1 exchange rate

Source: http://www.climatefundsupdate.org. [13]

Looking at the mere numbers – to the extent that they are available to public scrutiny[14] – industrialized countries, such as those of the EU, seem to be on track with their fast start finance commitment in 2010.[15] A closer look reveals that most of the funding listed by developed countries does not fulfill the "new and additional" qualification, irrespective of which of several indiscriminately used definitions of this term by developed country governments is applied.[16] In times of contracting national budgets, regional financial turmoil and the specter of stagnant global recovery, this does not bode well for reaching or exceeding the Cancun climate finance commitments in the coming years. Thus, the reality of public funding for global climate change mitigation and adaption actions remains inadequate, especially since pledges given with much public fanfare rarely translate without significant losses in actual finance deposits and disbursed program or project funding downstream.[17] Of the total $26.97 billion pledged by industri-

13 The cost estimates give an overview of some of the more prominent recent international costing efforts, although numbers are not necessarily comparative. These estimates were compiled by Jessica Brown, ODI, for http://www.climatefundsupdate.org from the following sources: EC Commission: *Stepping up international climate finance: A European blueprint for the Copenhagen deal*, 2009 (available at: http://ec.europa.eu/environment/climat/pdf/ future_action/com_2009_475.pdf); Agrawala and Funkenhauser, *World Bank: Economic aspects of adaptation to climate change*, 2009 (available at: http://www.economicsclimatechange.com/2008/06/economic-aspects-of-adaptation-to.html); *Stern Review on the economics of climate change*, 2006 (available at: http://webarchive.nationalarchives.gov.uk; http:// www.hm-treasury.gov.uk/sternreview_index.htm); UNFCCC: *Investment and financial flows to address climate change*, 2008 (available at: http://unfccc.int/resource/docs/publications/financial_flows.pdf); Project Catalyst Brief: *Financing needs*, 2009 (available at: http://www.project-catalyst.info/images/2.%20Climate%20Finance/Publications/ 2.%20Briefing%20papers%20on%20climate%20finance/20091203%20Finance%20Needs%20Briefing.pdf); McKinsey & Co: *Pathways to a low carbon economy*, 2009 (available at: https://solutions.mckinsey.com/ClimateDesk/default.aspx); World Bank: *World development report 2010* (available at: http://siteresources.worldbank.org/INTWDR2010/Resources/5287678-1226014527953/Chapter-6.pdf).

14 See for example http://www.faststartfinance.org, a government initiative, where contributor countries self-report their fast start payments.

15 The EU Commission in a report for the Cancun meetings confirmed pledges of €2.2 billion for 2010 (available at http://register.consilium.europa.eu/pdf/en/10/st15/st15889.en10.pdf; accessed Jan. 31, 2011). For an overview of current fast start finance provided as new and additional funding, see the civil society monitoring efforts of the World Resources Institute (http://pdf.wri.org/climate_finance_pledges_2010-10-02.pdf) and Climate Funds Update (http://www.climatefundsupdate.org/fast-start-finance), a joint project by ODI and the Heinrich-Böll-Stiftung.

16 A joint Böll-ODI analysis from July 2010 looks at four possible categorizations for "new and additional": 1) climate finance classified as aid, but additional to (= over and above) the 0.7 percent of GNI target; 2) increase on 2009 ODA levels spent on climate action; 3) rising ODA levels, including action on climate change as fixed ODA percentage; and 4) increase in climate finance not connected to ODA (Brown et al. 2010).

17 In light of this current disconnect between pledged and actually available project funds, the question of absorptive capacity in recipient countries, which is often raised by contributor countries, seems more like a distraction unless funding levels go up significantly in a short period.

alized countries to 22 dedicated climate funds by December 2010, only $10.88 billion has been deposited, of which $8.43 billion has already been approved, but only $2.2 billion disbursed (see Figure 1), most of it reported as official development assistance (ODA).[18] Contrary to the Copenhagen promise of equal funding for mitigation and adaptation, there is still considerably less funding available for coping with climate change-caused vulnerabilities. Of the $8.43 billion approved so far through 22 dedicated climate funds, only $668.86 million, or 9.7 percent, was used for adaptation.[19]

The overall global climate finance expenditure looks somewhat better when one includes climate-relevant ODA delivered not just through dedicated and newly established climate funds but also through traditional bilateral and regional development finance institutions such as the German *Kreditanstalt für Wiederaufbau*, the *Agence Française de Développement,* the European Investment Bank or the Japan International Cooperation Agency. These four organizations alone reported a combined commitment of $12.89 billion for climate action in 2009.[20] From 2005 to 2007, the 19 member countries of the OECD Development Assistance Committee (OECD-DAC) claim to have spent almost $12 billion in climate change-related aid (OECD-DAC 2009), although a lack of detail on how to determine "climate-relevancy" of ODA persists.[21] The additionality challenge, however, remains the same for both sets of funding sources. And all current climate finance contributions are given at random, in an erratic and non-coordinated way, not based on principles such as responsibility for historic cumulative emissions or capability to pay for the mitigation and adaptation actions needed (see a more detailed discussion in a later section). As such, current climate finance commitments by industrialized countries lag substantially behind criteria-based contribution practices for multilateral development aid, for example in multi-year replenishment cycles for the International Development Association (IDA) at the World Bank.[22]

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18 Numbers taken from http://www.climatefundsupdate.org/graphs-statistics/pledged-deposited-disbursed; accessed on Jan. 31, 2011. These numbers contain some private sector loans through the Japanese Hatoyama Initiative.

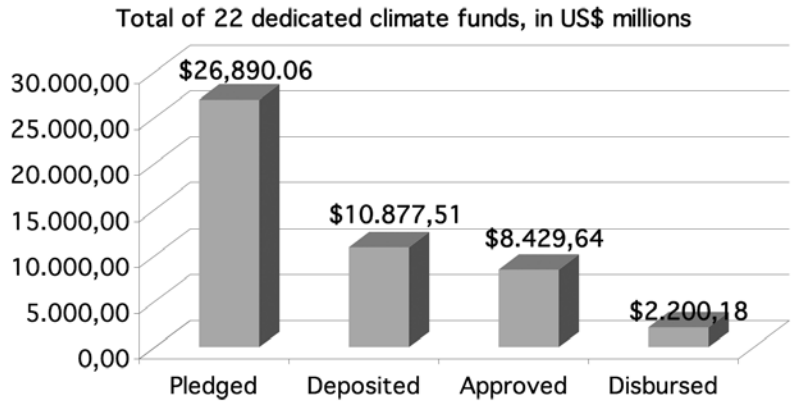
19 See http://www.climatefundsupdate.org/graphs-statistics/areas-of-focus; accessed on Jan. 31, 2011.

20 A study by the Stockholm Environment Institute looking at the climate-related spending of bilateral and regional finance institutions estimates that in KfW, JICA, EIB and AFD spent together $12.89 billion in 2009, most of it counting as ODA (Siebert et al. 2010, 10).

21 Available at: http://www.oecd.org/dataoecd/45/47/43574284.pdf.

22 IDA 16, the 16th replenishment cycle for IDA, is currently being negotiated among major contributor countries. For information on IDA contributions by contributor countries, see http://web.worldbank.org/WBSITE/EXTERNAL/EXTABOUTUS/ IDA/0,,contentMDK:21205385~pagePK:51236175~piPK:437394~theSitePK:73154,00.html.

Figure 1: Pledged vs. Deposited vs. Approved vs. Disbursed Climate Change Funding



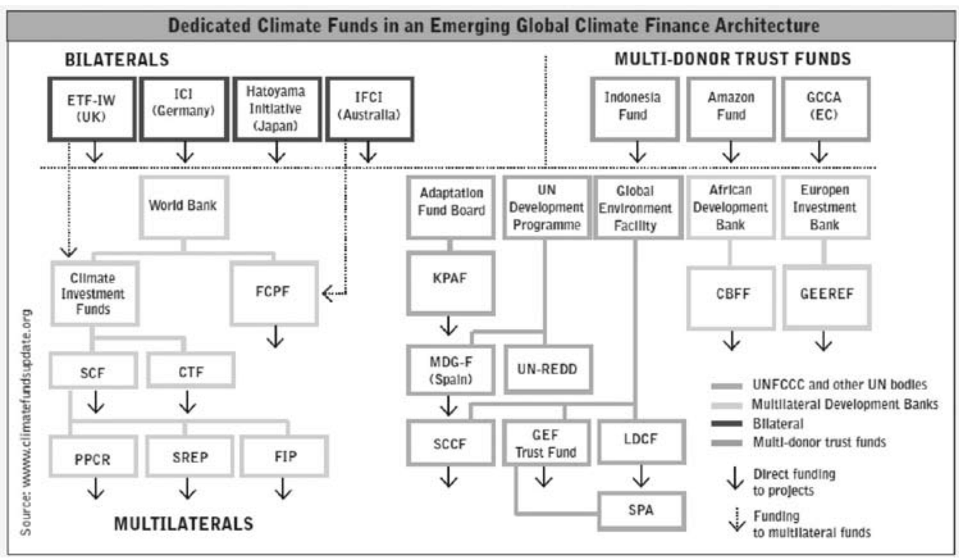
Source: http://www.climatefundsupdate.org; accessed on January 31, 2011.

Since 2007, there has been a proliferation of public climate-funding instruments, with the establishment of several dozen new dedicated climate funds and climate-financing instruments – bilateral, regional and multilateral – at the behest of a small group of industrialized countries (see Table 2 for an overview of the most important dedicated climate funds). Reflecting a dissatisfaction of these contributor countries with the record of the Global Environment Facility (GEF) in its function as a financial mechanism of the UNFCCC and with the effectiveness of existing climate funds administered by the GEF, the creation of new funds – especially a portfolio of Climate Investment Funds (CIFs) at the World Bank – signaled a power shift in climate financing from the UNFCCC to the World Bank and MDBs (Porter et al. 2008). Contrary to the assurances of a sunset clause for the CIFs by the end of the Kyoto Protocol commitment period in 2012, multilateral fast start finance commitments made in 2010 under the Copenhagen Accord are favoring CIFs over finance instruments under the authority of the UNFCCC. Thus, contrary to assurances that the existence and activities of the CIFs is not to "prejudice" any post-Kyoto outcome, the funding actions of the contributor countries solidify the role of the development banks in global climate change financing and guarantee their role "beyond sunset" post 2012 in direct competition with the UNFCCC and contrary to the expressed wishes of a majority of developing countries. Going into the Cancun Summit, the G77 and China (representing more than 130 developing countries) had indicated their preference for a new global finance mechanism that would "operate under the authority and guidance, and be fully accountable, to the COP."[23] They and many civil society organizations rejected an outright role of the World Bank in the future global climate finance architecture. While a new GCF, as decided in Cancun, is intended

23 G77 and China proposal tabled at the UNFCCC in fall 2008; available at: http://unfccc.int/files/kyoto_protocol/ application/pdf/g77_china_financing_1.pdf; accessed July 18, 2010.

to be accountable to and operate under the guidance of the COP, the World Bank was also given a significant role as – at minimum – an interim trustee with the GCF, whose mandate and global role is to be defined by the expert group of a Transitional Committee (TC) until the next COP. Their decision will determine if the current two-pillar system of multilateral climate finance instruments (see Figure 2) – which reflects the trust deficit that remains at the heart of stalled international climate talks – can be overcome by a GCF that is truly global in reach as well as by financial sourcing and oversight, including over existing multilateral funds such as the CIFs or any possible successors.

Figure 2: Dedicated Public Climate Change Funds in the Emerging Global Climate Finance Architecture



Source: http://www.climatefundsupdate.org.

Table 2: Major Bilateral and Multilateral Public Climate Funds and Funding Mechanisms and Their Deposits, Approved Spending and Disbursement as of end January 2011[24]

Fund	Type	Administered by	Areas of focus	Date operational	Deposited (in US$ mil)	Approved spend (in US$ mil)	Disbursed (in US$ mil)
Adaptation Fund (AF)	Multilateral	Adaptation Fund Board	Adaptation	2009	$202.11	$25.01	$9.46
Amazon Fund (Fundo Amazonia)	Multilateral	Brazilian Development Bank (BNDES)	Adaptation, Mitigation, REDD	2009	$50.93	$186.26	$93.52
Clean Technology Fund (CTF)	Multilateral	The World Bank	Mitigation	2008	$2,105.78	$907.10	$227.00
Congo Basin Forest Fund (CBFF)	Multilateral	African Development Bank	REDD	2008	$165.00	17.42	$11.42
Environmental Transformation Fund (ETF) – International Window	Bilateral	Government of the United Kingdom (channeled entirely through the World Bank, FCPF, and the CBFF)	Adaptation, Mitigation	2008	(£490.00)	(£490.00)	(£490.00)
Forest Carbon Partnership Facility (FCPF)	Multilateral	The World Bank	REDD	2008	$174.47	$11.52	$10.34
Forest Investment Program	Multilateral	The World Bank	REDD	2009	$101.85	$3.00	$3.00
GEF Trust Fund – Climate Change focal area (GEF 4th replenishment round)	Multilateral	The Global Environment Facility (GEF) – completed	Adaptation, Mitigation	2006	$1,032.92	$996.92	$996.89
GEF Trust Fund – Climate Change focal area (GEF 5th replenishment round)	Multilateral	The Global Environment Facility (GEF)	Adaptation, Mitigation	2010	$0.00	$0.00	$0.00
Global Climate Change Alliance (GCCA)	Multilateral	The European Commission	Adaptation, Mitigation, REDD	2008	$201.75	$25.80	$9.71
Global Energy Efficiency and Renewable Energy Fund (GEEREF)	Multilateral	The European Commission	Mitigation	2008	$55.11	$29.93	$0.00
Hatoyama Initiative -- private sources (former Cool Earth Initiative	Bilateral	Government of Japan	Adaptation, Mitigation	2008		$0.00	$0.00
Hatoyama Initiative – public sources	Bilateral	Government of Japan	Adaptation, Mitigation	2008		$0.00	$0.00
Indonesia Climate Change Trust Fund (ICCTF)	Bilateral	Government of Indonesia	REDD, Adaptation, Mitigation	2010		$5.48	$0.00

24 Data source: http://www.climatefundsupdate.org; data retrieved on Jan. 31, 2011.

Fund	Type	Administered by	Areas of focus	Date operational	Deposited (in US$ mil)	Approved spend (in US$ mil)	Disbursed (in US$ mil)
International Climate Initiative (ICI)	Bilateral	Government of Germany	Adaptation, Mitigation, REDD	2008		$385.76	$385.76
International Forest Carbon Initiative (IFCI)	Bilateral	Government of Australia	REDD	2007		$47.60	$47.60
Least Developed Countries Fund (LDCF)	Multilateral	Global Environment Facility (GEF)	Adaptation	2002		$141.96	$141.96
MDG Achievement Fund – Environment and Climate Change thematic window	Multilateral	UNDP	Adaptation, Mitigation	2007		$89.50	$61.87
Pilot Program on Climate Resilience (PPCR)	Multilateral	The World Bank	Adaptation	2008		$17.06	$7.72
Scaling-Up Renewable Energy Program for Low Income Countries (SREP)	Multilateral	The World Bank	Mitigation	2009		$0.00	$0.00
Special Climate Change Fund (SCCF)	Multilateral	GEF	Adaptation	2002		$97.17	$97.17
Strategic Climate Fund (SCF) – umbrella fund, including SREP, PPCR, FIP	Multilateral	The World Bank	Adaptation, Mitigation, REDD	2008		($20.06)	($10.72)
Strategic Priority on Adaptation	Multilateral	GEF; completed	Adaptation	2004		$48.91	$48.91
UN-REDD Programme	Multilateral	UNDP	REDD	2008		$73.35	$47.77

At present, the existing multitude of climate finance actors – bilateral and multilateral, via dedicated new funds and traditional development cooperation agencies and instruments – is confusing, cumbersome and costly.[25] The benefit of competition among largely independently acting funding sources, which proponents portray as a good thing to determine the best delivery mechanism, does not outweigh the deficits, such as a glaring lack of collaboration and coordi-

25 The administration costs of climate funds are not insignificant and reduce funding available for programs and projects on the ground. A South Centre analysis found that the administrative costs for the existing adaptations funds LDCF and SCCF are around 9 percent of total project costs, plus additional fees for the corporate budget of the GEF and the World Bank acting as Secretariat and Trustee for these two funds (South Centre 2008). Application and approval procedures as well as funding criteria vary significantly according to funding source, challenging the capacity of developing country governments as well as increasing the unpredictability and non-sustainability of funding.

nation and the diffusion of scarce public funding.[26] Added to this is a serious strain on the capacity of developing countries as recipients of a number of small funds with varying reporting and accountability criteria. In a global climate finance non-system in which a coherent, unifying and transparent framework is absent and where even basic information-sharing and funding transparency remain seemingly insurmountable challenges, a purposeful global "division of labor" among various climate-funding actors as well as a fair and needs-based allocation of financial resources among developing countries are impossible. Instead, the current system showers funds and attention on a few "darlings" (e.g., Indonesia or Mexico) while neglecting many "orphans" (among them most sub-Sahara African countries). The current random selection of beneficiary countries also aggravates existing inequalities of developing countries in dealing with climate change impacts and does not take into account most urgent needs or vulnerabilities of countries.

As the 40 international experts who will work throughout 2011 to develop the operational guidelines and define the mandate of the future GCF have not yet started their work, it is still unclear whether the new GCF can overcome the current lack of a single coherent framework and become the single overarching institutional global fund with a new Standing Committee acting as a permanent advisory finance board[27] supervising and coordinating all climate finance actors. It is likewise uncertain if the TC experts can come up with a unifying, binding set of rules and principles codifying explicit criteria and indicators on what constitute "good climate finance" and that are politically palatable to both contributor and recipient countries. For ODA, the Paris Declaration on Aid Effectiveness and the Accra Agenda of Action have attempted to do just that – defining country ownership and alignment with national systems, results-orientation, donor harmonization and mutual accountability between developing and developed countries as guiding principles for more effective aid delivery.[28] Analogous, for climate finance, a similar renewed effort under the leadership of the UNFCCC – thereby leading to a global "Understanding on Efficient, Effective and Equitable Climate Finance" and a concrete work program – could be useful. This would, of course, reiterate some of the principles that are already part of the Framework Convention and, as such, be binding on all signatories. It remains to be seen if the work of the TC – coupled with a renewed vigor in the UNFCCC negotiations

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26 By delivering limited public climate funds via a myriad of funding sources and funding programs, individual funding amounts often remain too small for a programmatic or sector-wide approach to climate mitigation or adaptation, which many observers agree is necessary for low-carbon and sustainable development pathways in poorer countries.

27 Text submissions for and the draft text of the UNFCCC's Ad hoc Working Group on Long-Term Cooperative Action (AWG-LCA) going into the COP 16 in Cancun reflected the efforts of the parties to come to a decision on the process of setting up a Global Climate Fund. See http://unfccc.int/resource/ docs/2010/awglca12/eng/misc06a01.pdf and http://unfccc.int/resource/docs/2010/awglca13/eng/inf01.pdf; accessed on Oct. 6, 2010.

28 Paris Declaration on Aid Effectiveness and the Accra Agenda for Action 2005/2008; available at: http://www.oecd.org/ dataoecd/30/63/43911948.pdf; accessed July 18, 2010.

and their willingness to talk about the sourcing for the GCF – can rise to the task. The remainder of this paper attempts to identify and list a minimum set of such climate finance rules and principles as well as some of the criteria and indicators needed that should form the joint understanding or common denominator and the normative framework of a global climate finance compact toward which progress should be made beyond Cancun.

Box 1: More Than a Side Note: The Role of Private Sector Climate Finance

While private sector sources of climate finance and the global carbon market are not the explicit focus of this paper, this is not a rejection of either the quantity or the importance of private sector sources of climate financing. Especially international auctioning of assigned emission amount units (AAUs) can generate scalable amounts of public finance for international climate change based on the "polluter pays principle" (PPP). With $144 billion in 2009, the contribution of the global carbon market to climate-relevant investments globally is significant (World Bank 2010, 1). Several estimates warn that the majority of needed climate finance investments (a 2007 UNFCCC study estimates up to 86 percent) will have to come from the private sector (UNFCCC 2007).[29] Nevertheless, a significant minimum of global public sector climate finance will be indispensable, given that there are funding needs that the private sector – with its focus on return on investment and profit-maximizing – will not fulfill, for example livelihood coping strategies of rural women farmers or investments in rural renewable energy systems outside of the formal market economy in the poorest developing countries.[30] Ultimately, it is states, not private sector entities, that are the signatories under legally binding international climate commitments such as the UNFCCC and the Kyoto Protocol. National governments, at least under a democratic system, have also an obligation to account for and to make transparent to their citizens as tax payers the use of public funding for climate change. Such information obligations, linking government accountability and environmental protection, are codified in the Aarhus Convention. Unlike private sector investments with a profit-seeking purpose, public spending on climate change should be guided by maximizing the benefit for the public, for example by safeguarding the climate as a global common. The requirements for public climate finance, therefore, must be more stringent in preventing harmful climate-funding decisions that could further impoverish, disempower or discriminate against marginalized people and

29 See also: http://www.ens-newswire.com/ens/jan2010/2010-01-14-01.html.
30 Oxfam International estimates that minimum of public sector climate finance to be at least $200 billion per year (Oxfam 2010).

communities in the South or North or inflict further negative environmental impacts. This is not to release the private sector, as corporate citizens, of its individual and collective responsibility to respect universal human rights in all its transactions.[31] Private sector investors should also feel that it is in their best interest to follow at least minimum voluntary standards for climate change investments, similar to existing social and environmental provisions for private financial institutions under the Equator Principles.[32] And a public accounting and reporting should be mandatory – irrespective of private sector claims for the need to safeguard proprietary information and their competitiveness – whenever private sector entities accept public climate-funding support, for example in the form of investment guarantees or in public-private partnerships.

31 Such an obligation has been formulated by the Special Representative of the UN Secretary-General on Business and Human Rights, Professor John Ruggie of Harvard University. In 2008, the UN Human Rights Council unanimously endorsed a policy framework for better managing business and human rights challenges. It rests on three pillars: the state duty to protect against human rights abuses by third parties, including business, through appropriate policies, regulation and adjudication; the corporate responsibility to respect human rights, which means to act with due diligence to avoid infringing on the rights of others; and greater access by victims to effective remedy. The UN Framework for Business and Human Rights is available at: http://198.170.85.29/Ruggie-protect-respect-remedy-framework.pdf; accessed on Nov. 6, 2010 (Ruggie 2010).

32 For information on the Equator Principles, see http://www.equator-principles.com/.

3. A Normative Framework for Public Climate Finance: Fundamental Qualitative Principles and Criteria

Climate finance decisions are not made within a normative vacuum. An impressive body of conventions, binding treaties, regulations and principles exists that codifies normative frameworks for both international environmental law and universal and unalienable basic human rights as obligations by which all bilateral and multilateral actors in global public climate change finance are already customarily bound. Individual countries have been signatories to the majority of these legal instruments and thus are bound in their own bilateral funding capacity. Multilateral organizations serving as channels for climate finance are likewise not exempt from those rules, as they apply to their membership, namely sovereign states. However, currently, industrialized countries as primary financiers of public climate finance commitments seem to see themselves, with respect to their climate-funding decisions and preferences, as being allowed to operate outside of these existing legally-binding or normative mandates. Developed countries pursue climate policy and the funding needed for climate actions as if comprehensive legal frameworks related to environmental protection and universal declarations of human rights, basic notions of justice and fairness and the core principles of a democratic state were not applicable. Yet, they are. Public climate finance is not a principles-free zone of international and national climate policies. Treating it as such leads to the political incoherence that plagues many of today's political actions for climate-aware development. Where actors in public climate financing continue to support fossil fuel-oriented energy concepts in developing countries or at home with more money than they are willing or able to commit to combating the climate change impacts these inconsistent policies contributed to (e.g., through the continued use of fossil fuel subsidies by industrialized countries), coherence is missing, human rights are violated, environmental obligations are shunned and injustices are committed.

3.1 International Environmental Law and Its Relevance for Public Climate Finance

Since pollution does not respect political boundaries, over the past 40 years the international community has proposed, argued, agreed upon and ultimately adopted a complex and interlocking body of international environmental law, consisting of legally binding international agreements such as treaties, conventions, protocols or statutes ("hard law"), as well as regulations, principles, codes of conduct, resolutions, declarations, action plans and common law ("soft law"). This body of work encompasses a wide variety of issue-areas, from terrestrial, marine and atmospheric pollution through to wildlife and biodiversity protection. Today, some 1,000 international law treaties exist. Some of the most important conferences to further the development of international environmental law have been the 1972 United Nations Conference on the Human Environment, the World Commission on Environment and Development in 1983 and, of course, coming up on its 20th anniversary in 2012, the 1992 United Nations Conference on Environment and Development ("Earth Summit"), with its follow-up conference in 2002, the World Summit on Sustainable Development. In 2012, Rio +20 – with a focus on "greening" economic activities and low-carbon development – is expected to not just confirm, but strengthen and update its key recommendation and principles and adjust them for the dramatic reality of worsening climate change over the past two decades.

The Earth Summit held in 1992 in Rio de Janeiro articulated a set of 27 legally non-binding principles in the Rio Declaration on Environment and Development[33] to guide international, national and local progress toward sustainable development, for which Agenda 21[34] laid out the ambitious global action plan as soft law. Rio resulted in the adoption of the three legally binding Rio Conventions – the Convention on Biological Diversity (CBD), the UN Framework Convention on Climate Change (UNFCCC) and the United Nations Convention to Combat Desertification (UNCCD). Each binding instrument represents a way of contributing to the sustainable development goals of Agenda 21. The three conventions – part of international environmental hard law – are intrinsically linked, operating in the same ecosystems and addressing interdependent issues. The more intense and far-reaching climate change is, the greater will be the loss of plant and animal species and the more dryland and semi-arid terrain around the world will lose vegetation and deteriorate.

Many of the organizing and guiding principles that international environmental law has stated and adopted and that are relevant for the discussion of a normative framework for the mobilization, governance and disbursement of public climate change finance globally are articulated in the Rio Declaration on

33 For the full text of the Rio Declaration, see http://www.un.org/documents/ga/conf151/aconf15126-1annex1.htm.

34 The full text of Agenda 21 is available at http://www.un.org/esa/dsd/agenda21/.

Environment and Development. Some of them have been implicitly or explicitly included in the UNFCCC. Although the Rio Declaration itself is non-binding, arguably their selective inclusion in the binding UNFCCC and other treaties has contributed to a "hardening" of what would otherwise be considered to be only soft law. Additionally, the acceptance and application of individual Rio Principles by states or groups of states can lead to the creation of customary law. The PPP (Rio Principle 16) can be regarded as a regional legal custom because of the strong support it has received in most Organisation for Economic Co-operation and Development (OECD) and European Community (EC) countries.[35] Likewise, the precautionary principle (Rio Principle 15) is a statutory requirement of EU law.[36] Other important Rio Principles of relevance to the UNFCCC context and a normative framework for public climate finance include: Rio Principle 1, which puts human beings at the center of a concern with sustainable development; the articulation of a right to development in accordance with intra- and intergenerational equity (Rio Principle 3); the notion of common but differentiated responsibilities (Rio Principle 7); a requirement for public information and participation of all concerned citizens in environmental matters (Rio Principle 10); as well as the recognition of their special role in environmental management and development of three distinct groups, namely women (Rio Principle 20), the youth (Rio Principle 21) and indigenous peoples and their communities and local communities (Rio Principle 22).

The rights to information, participation in decision-making and access to justice in the form of redress mechanisms to provide for restitution or guarantees of non-repetition are important procedural rights for a normative framework for climate finance. In the field of environmental law, procedural rights have been elaborated and established most concretely in the 1998 Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Areas (Aarhus Convention). This legally binding convention, although regional in scope,[37] is of global significance, especially with respect to climate change, as it is to date the most far-reaching elaboration on Principle 10

35 Neither the EU nor the United States implement the polluter pays principle fully in their laws, but refer to it as the yardstick to guide financing of environmental damages in their respective jurisdictions. The US Superfund law, e.g., is an application of the PPP. For the EU position on the PPP, see also: http://ec.europa.eu/regional_policy/sources/docoffic/working/poll_en.htm; accessed on Oct. 22, 2010.

36 For the EU position on the precautionary principle, see: http://europa.eu/legislation_summaries/consumers/ consumer_safety/l32042_en.htm, accessed on Oct. 22, 2010.

37 As a Convention of the UN Economic Commission for Europe, its signatories are at the moment largely European and some Central Asian states.

of the Rio Declaration.[38] For example, it obligates its currently 43 parties, which include the European Community,[39] (all of them UNFCCC parties) to inform their populations about international environmental negotiations, including on climate issues, and brief them on state responses. It is also unique in international environmental law for the inclusion of a compliance mechanism that allows members of the public to communicate concerns about a party's compliance directly to a committee of international legal experts empowered to examine the merits of the case. By doing so, the Aarhus Convention effectively bridges the fields of human and environmental rights for the "most ambitious venture in the area of environmental diplomacy so far undertaken under the auspices of the United Nations."[40] Public redress mechanisms are generally absent in international environmental treaties such as the UNFCCC. Although at the moment, the international climate change regime does not explicitly incorporate the Aarhus Convention as governance principle;[41] the Aarhus Convention's elaboration on public access to information and public participation in decision-making on environmental matters appears compatible with, and is implicitly taken up in, Article 6 of the UNFCCC.[42]

3.2 International Human Rights and Their Relevance for Climate Change and Public Climate Finance

It is human choices that influence both the pace of climate change and the policy responses to it – either in ensuring that they address human vulnerabilities by building resilience to climate effects, or, worst case, by deciding on mitigation and adaptation actions that might have negative human impacts of their own

38 Principle 10 of the Rio Declaration reads: "Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided." Available at http://www.unep.org/ Documents.Multilingual/ Default.asp?documentid=78&articleid=1163; accessed on July 22, 2010.

39 For the application of the Aarhus Convention in EC legal documents and directives, see http://ec.europa.eu/ environment/aarhus/, accessed Oct. 2, 2010.

40 Former UN Secretary-General Kofi Annan as quoted on the Aarhus Convention's website at http://www.unece.org/ env/pp/; accessed on July 22, 2010.

41 The UNFCCC Secretariat was in contact with the Working Group of the Parties of the Aarhus Convention in June 2010, which in a case study approach is looking at ways to apply the Convention principles more formally to international fora such as the UNFCCC. See on this "Aarhus Convention Focuses on Public Participation under the UNFCCC," available at: http:// climate-l.org/2010/07/09/aarhus-convention-focuses-on-public-participation-under-the-unfccc/; accessed July 22, 2010.

42 On this connection, see http://unfccc.int/files/cooperation_and_support/education_and_outreach/ application/ pdf/ap2009p13.pdf; accessed on Oct. 22, 2010.

and thus further contribute to already existing inequality and poverty. This is where a human rights approach to climate change sets the ethical and legally binding obligation to put people first – “without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status”[43] – both in the domestic realm, but also as a requirement for states to cooperate internationally (Heinrich-Böll-Stiftung 2009, 14). It reminds us that climate change is about human suffering and misery, not an abstract scientific-technological phenomenon.

Human rights are the basic rights and freedoms to which all humans are entitled. These rights are universal and fundamental, meaning states have a responsibility to prevent their violation as a matter of recognized international concern. Although traditionally, the universalism of these rights has only been applied to individuals within the territory or effective control of the state, more recent discourses have focused also on the obligation of states to guarantee their application extraterritorially (Skogly 2007). The primary source texts of international human rights are the 1966 International Covenant on Civil and Political Rights (ICCPR) and International Covenant on Economic, Social and Cultural Rights (ICESCR), both of which derive from the 1948 Universal Declaration on Human Rights. Civil and political rights include rights to life, liberty, property, freedom of expression and assembly, political participation, a fair trial, privacy and home life, and protection from torture. Economic, social and cultural rights include rights to work, education, social security, to “enjoyment of the highest attainable standard of physical and mental health,”[44] and the “right to a standard of living adequate for the health and well-being of himself and of his family, including food….”[45] Both covenants are legally binding on all states that have ratified them. These include the majority of the world’s countries, including almost all of the countries that are parties to the UNFCCC. Both human rights conventions are expanded upon by further binding treaties that protect the rights of children, migrant workers, and people with disabilities, and that prohibit torture as well as racial and gender discrimination. This hard human rights law is supplemented by case law as well as a body of soft law (especially non-binding resolutions and other texts by international bodies, for example the UN General Assembly).[46]

The human impact of climate change and its violation of basic human rights is also the starting point for the concept of climate justice,[47] which has found

43 Article 2(1) of the ICCPR. Available at: http://www2.ohchr.org/english/ law/pdf/ccpr.pdf; accessed on Nov. 5, 2010; almost identical wording is also found in Article 2(2) of the ICESCR; available at: http://www2.ohchr.org/english/law/ cescr.htm; accessed on Nov. 5, 2010.

44 ICESCR, Art. 12 (1).

45 Universal Declaration of Human Rights, Art. 25(1).

46 This section draws on International Council on Human Rights Policy (ICHRP 2008, 12).

47 For further elaboration on climate justice, see for example ICHRP (2008) or UN-NGLS (2010a).

widespread civil society support in UNFCCC advocacy work: It is built on the fact that those most vulnerable and exposed to the effects of climate change are those historically least responsible for causing it (all of Africa contributes less than 4 percent to global carbon emissions, yet suffers disproportionally greater from climate change impacts)[48] and those least likely to have benefited from carbon-intensive economic growth. This inequity and the uneven distribution of responsibility extend both across nations as well as within nations. Climate justice demands, based on historical responsibility, that industrialized countries take the lead in mitigating their GHG emissions and pay for all adaptation costs of developing countries according to the PPP. Two of the key principles built into the UNFCCC, namely equity and "common but differentiated responsibilities" and respective capabilities to address climate change[49] are an expression of these climate justice concerns. They promote the fair distribution of social and environmental benefits and burdens linked to the sustainable use of the world's atmosphere and its finite carbon resources according to states' responsibility for causing climate change and their capability (financial, technological, political, depending on their state of economic development) to take action.

These same principles speak also to existing obligations under accepted international human rights standards. The countries most vulnerable to climate change are the ones most vulnerable to the human rights impacts of climate change. And the principle of equity, although interpretations vary, can be understood in line with justice principles of international human rights law based on equality in dignity and rights (Article 1, Universal Declaration of Human Rights), on accountability for harmful behavior (corrective justice) and on the need for some degree of cooperation to the benefit of human welfare (distributive justice) (see Heinrich-Böll-Stiftung 2009, 58–59).

Almost all states worldwide have formally subscribed to both the UNFCCC and UN human rights treaties, and should therefore implement their legal obligations in a coherent manner. A lot of analytical work has already looked at how to apply international human rights principles to the programmatic, procedural and institutional responses to climate change (see Rathgeber 2009; Heinrich-Böll-Stiftung 2009; Robinson and Miller 2009; Loftus-Farren and McKiernan 2009; CIEL 2007; ICHRP 2008). But there is as yet no single blueprint or cohesive strategy or a single institution around which to mobilize cooperation among governments, international bodies, scientists and civil society on this connection (Loftus-Farren and McKiernan 2009). Expert legal analysis has confirmed the compatibility of the principles and objectives under the UNFCCC climate change framework – such as the prevention of dangerous interference, a common but differentiated responsibility of parties to address climate change, the principle of equity, the precautionary principle, the mandate to "do no harm" – with the

48 See for example the following charts: http://photos.mongabay.com/09/forecast_co2_share.jpg or http:// maps.grida.no/go/graphic/emissions_of_carbon_dioxide_in_africa_and_selected_oecd_countries; accessed on Nov. 5, 2010.

49 Article 3 of the UNFCCC.

human rights framework's principles and objectives[50] such as the ones elaborated under the ICESCR and ICCPR. Human rights and climate change policy can thus act mutually reinforcing: Human rights-aware climate change policies can protect human rights, and human rights can promote more effective and sustainable climate change policies.

Nevertheless, the human rights discourse so far has been largely absent from the climate change discussion.[51] In the work of the IPCC, it only garners scarce mention. Although the IPCC reports have included some discussions of the social impacts of climate change – in particular on food, water and health – their sphere of reference remains predominantly the physical sciences (IPCC 2007a, 44–47).[52] Likewise, human rights institutions have been slow to treat climate change as significant to their mission; only a handful of institutions even included it on their agenda prior to 2008 (Rathgeber 2009, 15ff). This makes it all the more important to focus international advocacy and lobby efforts on ways to bridge this disconnect.

It was the halting pace of international climate negotiations that propelled the Maldives in March 2008 – supported by other Pacific and Caribbean island nations threatened by rising sea levels – to launch Resolution A/HRC/7/23 within the UN Human Rights Council (UNHRC) (2008a). It formally requests the UN Office of the High Commissioner for Human Rights (OHCHR) to analyze in a detailed study the relationship between human rights and climate change. The resulting report (OHCHR 2009), unanimously approved by the UNHRC (2009), officially confirms the effects of climate change on the enjoyment of human rights in the areas of health,[53] the right to a dignified existence – specifically the rights to adequate food,[54] access to clean water[55] and housing[56] – as well as certain group rights of indigenous peoples or national minorities, and it also mentions climate

50 For a lengthy discussion of the compatibility of the two frameworks, see Heinrich Böll Stiftung (2009), especially chapter 2.

51 The UNFCCC has only the in last few years made some progress in identifying human impacts of climate change, particularly in the 2005 Nairobi Work Programme of Action of COP 11 and the Bali Action Plan of COP 13, which asked to consider the "economic and social consequences of response measures."

52 Because IPCC reports are essentially climate change scientific literature reviews, the scarcity of human rights references in the IPCC reports demonstrates their larger absence in climate change discourses.

53 See for example in the ICESCR, Art. 12 (1): The Right to the Highest Attainable Standard of Health.

54 Ibid., Art. 11 (1): The Right to Adequate Food.

55 In its recent 15th session in the fall of 2010, the UN Human Rights Council by consensus adopted a resolution affirming that water and sanitation are human rights. See UNHRC (2010). Prior to that, the UN General Assembly formally recognized the right to water and sanitation by supporting the Resolution initiated by Bolivia on July 28, 2010. The Resolution 64/292 acknowledges that clean drinking water and sanitation are integral to the realization of all human rights.

56 ICESCR, Art. 11(1): The Right to Adequate Housing.

change-related displacement and resettlement and the resulting conflicts as risks to national security (Rathgeber 2009, 17).

It is in providing what some human rights experts call "thresholds of minimum acceptability" that international human rights standards can be most effectively applied to climate change action and the funding necessities for these mitigation and adaptation efforts. Looking at states' possible extraterritorial obligations, it might not just be considered unacceptable, but even unlawful and in violation of states' obligations as signatories of binding human rights treaties if climate change effects are causing the living conditions of specific individuals to sink below these understood human rights thresholds. With respect to flows of public climate finance, this would mean that contributor countries would have to ensure that these funds contribute to the fulfillment of the human rights of individuals in recipient countries.[57] Mitigation and adaptation policies and their funding can thus be evaluated in terms of their likely human rights impact and have to be rejected or altered if the fulfillment of these rights is threatened. Such a framework would shift a discussion of vulnerability in the climate change context beyond states to the most affected populations, those who are on the margins of society and those whose voices often remain unheard as a result of poverty, powerlessness or systemic discrimination (ICHRP 2008, 6f).

An example for such a model for GHG mitigation based on enjoyment of human rights (to food, water, health and shelter) expressed in terms of a right to development – which has, however, engendered significant controversy as to its status under international law – is the Greenhouse Development Rights (GDR) approach.[58] It puts climate change policy and obligations of and within countries in the context of providing individuals with a minimum living standard and development opportunity and uses this non-negotiable human development threshold as the base to discuss countries' respective finance and mitigation obligations to combat climate change. This focus on the right to development provides a bridge between languages of development and human rights within the UN system. This is helpful because up to now the language of rights has only been fragmentarily integrated in the development discourse,[59] despite the fact that social and economic rights are clearly relevant to economic development in developing countries. The GDR approach as well as the UN campaign to reach the Millennium Development Goals (MDGs) by 2015, which seeks to

57 The German Institute for Human Rights (*Deutsches Institut für Menschenrechte*) in a recent analysis has looked at the extraterritorial obligations of industrialized countries as donors of official development assistance to ensure that their development aid contributes to the realization of human rights in recipient countries (Kämpf and Würth 2010, 6).

58 The "right to development" in the context of climate change with a GDR approach has been elaborated by Baer et al. (2007).

59 While a number of bilateral development agencies and NGOs have explored a variety of "human rights-based approaches" and UN agencies have "mainstreamed" human rights, in practice their adoption has been uneven and international financial institutions, multilateral development banks and private foreign investors have largely refused to adopt a human rights methodology.

advance poverty alleviation and development by focusing on the fulfillment of basic human rights obligations, are thus two additional sets of norms based on human rights that provide a reference on the effects of climate change on the development of countries and individuals (Rathgeber 2009, 11; Orellana 2010).

It is encouraging that in the recent Cancun Agreements, the outcome of the Ad Hoc Working Group on Long-Term Cooperative Action under the UNFCCC (AWG-LCA) acknowledged the applicability of a human rights framework for climate change deliberations in its preamble and emphasized in its shared vision the need for all parties to "in all climate change-related actions, fully respect human rights" (UNFCCC 2010b, par. 8). Such explicit references are so far still missing from most of the work areas of the climate framework convention.

Compliance Check: In order to make progress toward a human rights-based approach to climate change action and financing, we need to:

- ✔ Insist that parties to the UNFCCC as individual signatories to most UN human rights treaties implement their obligations under both existing human rights and climate regimes in a coherent manner by considering the human rights' impacts of adaptation and mitigation policies and their funding.
- ✔ Consistently integrate references to human rights obligations into all COP decisions and agreements not only in preambulatory texts, but also in concrete work areas and action plans.
- ✔ Establish formal exchanges between UN human rights processes and the UNFCCC by establishing mutual advisory and observer positions in the governing bodies of the respective regimes.
- ✔ Demand that the UNFCCC Secretariat monitors and regularly reports to the Conference of Parties on the compatibility of climate change decisions and actions with universal human rights.

3.2.1 The Right to Adequate Food

A closer look at the example of the right to adequate food[60] can illustrate how climate change impacts and climate change policies and finance expenditures in adaptation and mitigation can adversely affect basic human rights. Today, 75 percent of the world's poor live in rural areas; more than 2.5 billion people in developing countries still rely on agriculture for their livelihoods (IFPRI 2009). A billion people are suffering from severe hunger worldwide – a number that is to increase as climate change affects agricultural production and food security in developing countries the most, especially small farmers and rural workers.

60 The Right to Food is included in several human rights covenants and conventions, among them the ICESCR (Article 11.1), the Convention on the Rights of the Child (Article 24.c.), the UN Convention on the Rights of Persons with Disabilities (Articles 25.f and 28.1), as well as in provisions concerning standards of living in CEDAW (Article 14.2.h) and in those of the Committee on the Elimination of Racial Discrimination in Article 5.e.

Their needs have to be put first in adaptation and mitigation strategies promoted by industrialized countries in agriculture in order to prevent increasing food insecurity globally.[61] Sufficient additional annual investment in agriculture is needed to counteract the effects of climate change on nutrition.[62] With respect to mitigation, encouraging biofuel production in countries like China or Brazil may be intended to decrease GHG emissions – although the GHG balance of many biofuel crops is not favorable[63] – but with arable land a scarce global resource, it might reduce the land available for food cultivation, thus decreasing food production and increasing food prices for dietary staples (FAO 2008a and 2008b, especially chapter 6). Liquid biofuels production could thus exacerbate gender-based, socioeconomic inequalities and contribute further to the marginalization of women and female-headed households by threatening their livelihoods, particular with respect to their food security (Lambrou and Rossi 2008, 19). Food insecurity, in turn, has been identified as one of the major causes of forced migration scenarios. Likewise, adaptation policies focusing on agriculture may have unintended human rights consequences, especially for traditionally marginalized groups. For example, in the areas likely to experience the worst impacts of climate change in sub-Sahara Africa and South Asia, women remain the primary agricultural producers, providing up to 70–80 percent of the household food production. Because of gender-based distribution dynamics within households, in times of food insecurity women and girls are likely to receive less food during shortages, with severe impacts on their health during such periods (UN Women Watch 2009).[64] Adaptation policies and funding for adaptation projects therefore need to consider the gender dynamics of food procurement and distribution both within households and markets and, for example, target rural women specifically with capacity-building or the provision of technical assistance or agricultural extension services (Lambrou and Nelson 2010). Without a gendered lens, these instruments contribute further to the discrimination of women based on their sex and gender roles and threaten women's health in direct violation of

61 For a detailed discussion of the food security impacts of climate change, see Heinrich Böll Stiftung (2009, 26 35).

62 An IFPRI paper has estimated additional yearly investment cost in developing countries to be around $7 billion (in 2000 dollars) (see IFPRI 2009, 16).

63 According to the FAO, lifecycle analyses that measure emissions throughout the bioenergy production chain indicate a wide divergence in carbon balances according to technologies used, locations and production systems – with some even leading to greater emissions than fossil fuels.

64 See also web dossier on Gender and climate change in Southern Africa, Heinrich Böll Stiftung South Africa, available at: http://www.boell.org.za/web/107-496.html; accessed on Nov. 5, 2010.

international obligations, for example under the Convention on the Elimination on all Forms of Discrimination against Women (CEDAW).[65]

Compliance Check: For climate change policies and funding that respects the basic human right to adequate food, we need to:
- ✔ Prioritize adaptation and mitigation strategies in agriculture and land-use with a focus on increasing food security with sufficient public investment.
- ✔ Ensure that mitigation actions focusing on biofuel production do not exacerbate food insecurity or gender-based and socioeconomic inequalities.
- ✔ Make gender equality an important determinant of any funding of mitigation and adaption actions in agriculture and land-use.

3.2.2 The Right to Water and Sanitation[66]

Nearly a billion people today still lack access to proved water sources globally, with more than 2.5 billion lacking access both to safe drinking water and sanitation. Climate change will, and already does, impact people's rights to water and sanitation by causing floods and droughts, changes in precipitation and temperature extremes that result in water scarcity and water conflicts[67] as well as the spread of diseases and contamination of drinking waters. For example, worldwide, 20 percent of people living on river estuaries must confront flooding; in Asia and the Andes, hundreds of millions of people who depend on water provided by rapidly melting glaciers must confront future droughts. Access to – and the distribution of – water will change even more dramatically in the coming years, with competition for increasingly scarce freshwater resources growing between domestic, industrial and agricultural water-use demands. The 4th IPPC Report from 2007, for example, estimates that over the course of the 21st century, climate change could add around 1.8 billion people by 2080 to the population that is living in a water-scarce environment – defined in terms of a threshold of 1,000 cubic meters per capita per annum.

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65 Article 14 of CEDAW establishes the adaptation of appropriate measures to eliminate discrimination against rural women, so that they may enjoy adequate living conditions particularly in relation to water supply. It ensures their right to participate in preparing development plans at all levels (Art. 14.1); have access to agricultural credit and loans, adequate technology and equal treatment on matters of agrarian reform (Art. 14.2.a); and ensures that women in rural areas enjoy adequate living conditions in relation to housing, health, electricity and water supply (Art. 14.2.g).

66 This section draws heavily on a recent position paper of the OHCHR on climate change and the human right to water and sanitation (OHCHR 2010).

67 On water conflicts in Africa as a result of water scarcity aggravated by climate change, see http://e360.yale.edu/feature/when_the_water_ends_africas_climate_conflicts/2331/; accessed on Nov. 6, 2010.

Water and sanitation cannot be analyzed in isolation from other human rights. Both may be impacted by violations of other rights, and both are indispensible for the realization of the rights to life, health, housing and education, among other things. Although the right to water and sanitation is not explicitly mentioned in the ICESCR, it is generally considered to be covered by the Covenant's Articles 11 and 12 (on health) as well as by General Comment No. 15, which postulates the right to clean, sufficient and accessible water.[68] And in its 15th session recently, the UNHRC adopted a resolution affirming that water and sanitation are human rights (UNHRC 2010). The way water resources are managed will be critical for climate adaptation efforts in conformity with human rights obligations, as well as for mitigation activities, particularly with respect to hydro power, agriculture and forestry projects. For example, existing human rights instruments such as General Comment No. 15 stipulate that governments prioritize access to water for essential domestic purposes and for sanitation over other uses. Thus, a large hydro power mitigation project, while providing clean energy and reduced emissions, could violate basic human rights if it does not safeguard the domestic water needs and traditional water access rights and usage practices of local communities or indigenous groups. The same is true for water used in plantation forestry for palm oil or agricultural monocultures for biofuels, particularly if these plant-produced fuels are intended for exports and do not deal with local energy poverty.

In dealing with the climate change-related impacts on access to water and sanitation, adaptation and mitigation efforts and the instruments financing these must pay special attention to those groups that are normally most affected but often marginalized and therefore excluded from planning decisions at the national or local levels. As an example, women and girls in developing countries, as the people most often tasked with fetching water for household uses, are the ones most directly affected by increased water scarcity. They also face specific obstacles to the enjoyment of their rights to water and sanitation. A lack of sanitation at schools, for example, forces many adolescent girls to drop out of school for both sex-specific hygienic reasons as well as gender-related questions of modesty (OHCHR 2010, 24). If the gendered impacts of the lack of water and sanitation are not considered in adaptation measures or if no resources for a gender-aware response to water stress or flooding are set aside in project financing, climate change responses in the water and sanitation sector might actually worsen the situation of women and girls by discriminating against them as well as denying them their right to water and sanitation.

Compliance Check: For climate change policies and funding that respect and honor the basic human rights to water and sanitation, we need to:

68 *General Comment No. 15 – The Right to Water, 2002*, UN Doc E/C.12/2002/11; available at: http://www.unhchr.ch/tbs/doc.nsf/0/a5458d1d1bbd713fc1256cc400389e94?Opendocument.

- Focus climate change funding in the water sector on those adaptation and mitigation programs and projects that prioritize access to water for essential domestic purposes and for sanitation over other uses.
- Safeguard traditional water access rights and usage practices of local communities and indigenous groups, especially in connection with mitigation actions focusing on large hydro power or liquid biofuels.
- Ensure the inclusion of those marginalized groups, including women, usually most directly affected by climate change-aggravated water scarcity in decisions about adaptation measures and finances in the water sector and design those interventions in a gender-equitable way.

3.2.3 The Rights of Indigenous Peoples

The ways in which adverse climate change impacts on already vulnerable, marginalized groups might be amplified through climate change policies in adaptation and mitigation can also be illustrated with respect to indigenous peoples. The great majority of the world's estimated 400 million indigenous people live in areas particularly susceptible to climate change impacts, namely marginalized regions and fragile ecosystems ill-equipped to deal with further changes to the physical environment (Heinrich-Böll-Stiftung 2009, 31). The 2007 UN Declaration on the Right of Indigenous Peoples (UNDRIP), although not a binding treaty under international law, codifies their right to self-determination (Art. 3), the protection of traditional political decision-making, traditional knowledge, land and the resources located within indigenous territories (Arts. 25–31) and enshrines their right to free, prior and informed consent (Arts. 10, 11, 19, 28 and 29). However, UNDRIP echoes language in existing binding treaties relating to these rights.[69] Likewise, relevant for a look at how climate change policies and financing might negatively affect indigenous peoples is Convention 169 of the International Labour Organization, which is legally binding for its signatories and, in Article 6, prescribes a detailed consultation process that third parties dealing in indigenous territories have to follow.[70]

Many of the adverse effects of climate change such as droughts, flooding, health problems and food insecurity hit indigenous peoples as well as other marginalized and vulnerable population groups. However, there are climate

69 According to UN Special Rapporteur on the Rights of Indigenous Peoples, S. James Anaya, UNDRIP represents "an authoritative common understanding, at the global level, of the minimum content of the rights of indigenous peoples, upon a foundation of various sources of international human rights law […] The principles and rights affirmed in the Declaration constitute or add to the normative frameworks for the activities of United Nations human rights institutions, mechanisms and specialized agencies as they relate to indigenous peoples" (UNHRC 2008b, paras. 85 and 88).

70 Ibid., pp. 18f.

change-related impacts specific to indigenous peoples including: increased human rights violations, displacements and conflicts due to the expropriation of ancestral lands and forests for biofuel plantations; loss of indigenous peoples' traditional territories taken without their free, prior and informed consent due to mitigation measures such as carbon sinks and renewable energy projects (hydro power dams, geothermal plants); and the exclusion of indigenous peoples from the processes and mechanisms related to reducing emissions from deforestation and forest degradation (REDD) and emissions trading (UNPFII 2008). The international approach to the global destruction of tropical forests, which is thought to cause around 15–20 percent of global CO_2 emissions, in dealing with climate change mitigation is particularly relevant for indigenous peoples, many of which depend on forestry resources for their livelihoods and hold traditional ownership rights to the forest. Actions to reduce emissions from deforestation and forest degradation as well as efforts focusing on the role of conservation, sustainable management of forests and enhancing forest carbon stocks in developing countries (REDD+) and projects funded under a variety of international REDD financing instruments[71] should therefore address the needs and respect the traditional rights of local and indigenous communities foremost. However, the history of forest and indigenous rights is one of abuse by governments asserting claims over lands without formal title and also by large commercial logging enterprises that profit from forest resources at the expense of local and indigenous groups. Unfortunately, it seems likely that this abusive history will remain unbroken: Forest conservation and avoided deforestation efforts have so far insufficiently restrained commercial logging, while placing tightened restrictions on indigenous people for their use of forest resources or focusing unfairly on traditional subsistence agriculture as a major source of deforestation (Orenstein 2010). In order to ensure that local and indigenous groups receive the financial benefits for forest stewardship services they perform, which is the promise of REDD schemes, REDD financing instruments need to integrate solid human rights safeguards,[72] with explicit elaboration on indigenous peoples' rights (Castro Diaz 2008) as well as gender rights (see Horta 2009).[73] In this respect, Cancun delivered an important first step toward the recognition of the knowledge and rights of indigenous peoples and members of local communities in the ongoing climate negotiations.

71 Among them are the multilateral instruments such as the UN-REDD Programme, the World Bank's Forest Investment Program (FIP) and the Forest Carbon Partnership Facility (FCPF), the Amazon Fund, the Congo Basin Climate Fund and Oslo-Paris Process dealing with fast start REDD climate financing commitments, as well as the bilateral ones.

72 Orenstein gives the example of World Bank REDD programs, which so far insufficiently adhere to the World Bank's own safeguard policies, among them its Indigenous Peoples Policy, and international obligations, including under international human rights. With the exception of its Indigenous Peoples Policy, which at least references international human rights standards, the World Bank's environmental and social safeguards do not address them.

73 For a discussion of the gender aspects of REDD financing, see Schalatek (2009a) and GGCA/WOCAN/IUCN (2009).

UNDRIP is mentioned in the Cancun AWG-LCA decision focusing on safeguards for REDD+ (in Annex I) and in Section E on the economic and social consequences of response measures to climate change (UNFCCC 2010b).

Compliance Check: For climate change policies and funding that respect and honor the rights of indigenous peoples, we need to:

- ✔ Avoid the displacement of indigenous peoples and expropriation of their ancestral lands and forests as well as the loss of traditional territories due to mitigation measures focusing on biofuel plantations, hydro power dams or geothermal plants.
- ✔ Ensure the application of indigenous peoples' right to free, prior and informed consent in all mitigation and adaptation actions and their financing with possible human rights violations and impacts on indigenous peoples' traditional rights and practices.
- ✔ Integrate solid human rights safeguards and guarantee the participation of indigenous peoples in the processes and financing mechanisms related to REDD+ schemes; ensure that indigenous groups receive the financial benefits for forest stewardship services they perform.

3.2.4 Gender Equality and Women's Rights

Women, who form the majority of the world's 1.4 billion people living in abject poverty,[74] are often disproportionally affected by climate change impacts, largely because of gender norms and widespread gender discriminations that deny them income, legal rights or political participation while assigning them the primary care role for their families and their livelihoods, thus contributing to their marginalization in many societies. Suffering from gender-based vulnerabilities to climate change, women are more often victims of climate change than men; however, women also possess knowledge of and experiences in mitigative capacities as well as adaptive coping strategies, making them important "agents of change" in the fight against global warming.[75] The IPCC only sparingly mentions the role of gender as one of the reasons for vulnerability to climate change (IPPC 2007a, 730) and is completely silent – thus reflecting a worrisome scientific knowledge gap – on women's possible differentiated contributions toward combating climate change. Likewise, the UNFCCC – in contrast to other Rio Conventions such as the CBD – has so far largely ignored the gender dimension of climate change and does not contain a single article with reference to

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74 Living in abject poverty is defined by the World Bank as living on less than $1.25 per day (in 2005 US dollars). With the poverty rate in Africa around 50 percent, most of the poor people in Africa live on less than $ 0.70 per day. See http:// siteresources.worldbank.org/DEC/Resources/Poverty-Brief-in-English.pdf.

75 For a discussion on gender and climate change, see for example WEDO (2007), UNDP (2009), UNFPA and WEDO (2009), Lambrou and Pianna (2006), and Rodenberg (2009).

gender or women.[76] A human rights perspective would certainly help rectify this oversight, which currently also translates into gender blindness in adaption and mitigation policies and finance.[77] Some incremental progress has been made: In recent years, women and gender rights' advocacy groups have succeeded in including textual references to women as a group as well as gender-differentiated impacts of climate change into climate negotiation language. In the latest Cancun decision text describing a work plan for long-term cooperative actions, references to women and gender equality are included repeatedly (UNFCCC 2010b) if not yet consistently and convincingly to truly affect implementation of climate change actions.[78]

Women's rights are quintessential human rights: Women's rights and human rights are indivisible. The obligation of the international community and individual nations under international law to enforce and protect women's rights and prevent discrimination on the basis of sex and gender has been enshrined foremost in the Universal Declaration of Human Rights and in CEDAW as well as in the ICCPR (Articles 2.1, 3, 24.1 and 26), the ICESCR (Articles 2.2 and 3) and the Convention on the Rights of the Child (Article 2). Thus, a climate change regime that in its policy actions does not differentiate between women and men can effectively discriminate against women in violation of existing universal human rights. A look at some mitigation action experiences might illustrate this. From a human rights and development as well as an emissions-reduction perspective, the mass deployment of fuel-efficient cook stoves in developing countries to replace largely traditional biomass-dependent cooking options would benefit both women's rights and the environment. Women and girls foraging for wood and other biomass not only contribute to environmental destruction (due to a lack of alternatives), but they are exposed to the risk of violence, see their work and health burdens increased and are prevented from performing productive activities outside of basic family care-functions that would improve their social and economic status. Nevertheless, although effective, appropriate and inexpensive technologies for fuel-efficient cooking stoves are available and ready for wide

76 Of the so-called Rio Conventions – on climate change (UNFCCC), desertification (UNCCD) and biological diversity (CBD) – only the UNFCCC makes no explicit mention of gender and women's specific role in climate change. The CBD, which has also a formal Gender Action Plan, gives explicit recognition to the role of women in the Preamble; the UNCCD in its Prologue and in Articles 5 and 10 discusses gender-aware participation, decision-making and capacity-building under the Convention (Lambrou 2005; UNDP 2009).

77 For an elaboration of the negative impacts of ignoring gender in climate financing instruments and funding policies, see Schalatek 2009a and Rodenberg 2009.

78 Gender equality language is included in the AWG-LCA Cancun decision text in the preamble: the text articulating a shared vision (par. 7); in language asking for a gender-sensitive approach to adaptation (par.12); with respect to the development of REDD+ action plans (par. 72); and economic and social consequences of mitigation response measures (preamble Section E); with respect to capacity-building efforts in developing countries (par. 130); and with respect to the composition of the new Technology Executive Committee (Annex IV.)

replication and massive scaling up across the developing world, existing climate finance instruments for mitigation – such the Clean Development Mechanism (CDM) under the Kyoto Protocol, but also the Clean Technology Fund at the World Bank – are not supportive of such initiatives. This lack of support for existing mitigation financing instruments also holds true for mitigation projects with a focus on off-grid household and communal energy generation such as mini hydro, home solar panels, biomass or community-based afforestation. Current mitigation finance mechanisms, in contract, are biased in favor of large-scale, technology- and capital-intensive interventions (and even in favor of unproven technologies such as carbon capture and storage) and through their application and submission, verification and benefit schemes discourage the involvement of local communities and marginalized populations, including women.[79] In contrast, projects that consider women's specific contributions to dealing with climate change – in adaptation and mitigation – are too often relegated to a microfinance approach, instead of being considered as important parts of a comprehensive development-oriented, human rights-based framework on climate change action and financing.

Compliance Check: For climate change policies and funding that respect and honor gender equality and the rights of women, we need to:

- ✔ Ensure that the UNFCCC explicitly recognizes gender equality and the gender-differentiated impact of climate change as the basis for its policy decisions on mitigation and adaptation actions.
- ✔ Reform existing climate finance mechanisms for mitigation, such as the Kyoto Protocol CDM or the CTF, to allow for a better integration of inexpensive and appropriate technologies and approaches that benefit women's empowerment, development and the climate.

3.3 Do No Harm – The Importance of Policy Coherence in Public Climate Change Finance

Better known from its origin in medical ethics this principle – in many ways a precursor of more modern environmental elaborations in the form of the precautionary approach – questions critically whether interventions, with the stated purpose of improving a situation, might not make matters worse, often unintentionally. It points also to the overarching importance of policy coherence – or the current lack of it in many instances – in public climate change financing. If existing international human rights and environmental laws, which almost all of the 194 signatory states of the UNFCCC are legally bound to implement, were fully observed, then a number of current climate finance investment practices

79 For a discussion of gender implications of mitigation finance – and some best practice examples like the CDM project of Grameen Shakti or the work of the Green Belt Movement of Nobel peace laureate Wangari Maathai – see Schalatek (2009a, 11–15).

would have to cease immediately. Some of these – unfortunately, too many – have at best dubious benefits for the climate and will harm sustainable development objectives as well as violate human rights in the developing countries where they are made. Some of these projects are initiated by bilateral or multilateral climate-financing mechanisms at the request of developing country governments. Many are the result of narrowly conceived development and energy sector strategies and long-established development aid practices that fail to use scarce public funding for climate mitigation actions to transform a country's or region's growth and development path into a low-carbon one that places as much importance on human development and poverty alleviation as it does on emission reductions. Irrespective of which party demands and which party executes a specific climate finance investment, the obligation for policy coherence in integrating relevant international human rights and environmental laws into their climate-funding decisions and actions falls on all actors: industrialized countries providing financing (either bilaterally or via multilateral financing channels); the developing countries that receive climate investments; and the international organizations channeling climate funding either as part of their development work or via dedicated climate funds.

Using this yardstick, the current Janus-faced, incoherent policy actions of the trustees of some new climate-funding initiatives, most notably the World Bank and the MDBs, is of concern. These institutions' ongoing investment-lending role in sectors relevant for climate change mitigation (energy, transport, forestry and agriculture) and adaptation (such as water, health, agriculture) make it important that projects and programs are developed in a climate-aware way that also acknowledges and respects existing human rights standards and environmental laws . This is unfortunately not the case – the World Bank and the MDBs do not accept a human-rights framework for their operations[80] – with the most glaring incoherence in the energy sector. On the one side, the World Bank has been successful in presenting itself as the "climate bank" aiming to mainstream climate concerns in its development and poverty-reduction mandate. It has also assumed trusteeship for several climate investment funds to propel low-carbon development paths in emerging market economies and to help countries and vulnerable groups affected by climate change build up climate resiliency and to reduce emissions from deforestation and forest degradation (REDD). In the lead-up to COP 16, some developed countries had expressed their preference

80 The World Bank and other MDBs plan to revise their current approach to environmental and social safeguards to move toward a "country systems" approach to safeguards over the next two year. Country-based systems, however, should be based on international human rights standards. Thus, in order to achieve policy coherence in climate financing through the World Bank and MDBs, not only should existing safeguard policies where they exist be applicable to the CIFs, but as MDBs revise their safeguard policies and their climate financing practice needs to follow country-based systems based on international human rights standards.

for putting the World Bank in charge of a future global Green Climate Fund,[81] pointing to the Bank's expertise in handling large sums of money. On the other side, the World Bank and the MDBs continue to invest heavily in fossil fuel-based energy development and continue to invest in industrial logging. Civil society observers worry about an actual upswing of harmful energy investments, with the World Bank spending at least $4.4 billion in fiscal year 2009–10 alone for fossil fuel projects, including $3.4 billion for the building of controversial new coal-fired power plants, for example, in South Africa (Jowitt 2010).[82] As justification, the development banks usually propose a dichotomy between energy access for the poor versus preventing climate pollution, which many observers – in analyzing the actual beneficiaries of new large-scale energy investments – debunk as a false one (Mainhardt-Gibbs and Bast 2010). Entrusted with scarce public funding to pursue climate-friendly development and poverty alleviation solutions, a continued role of the World Bank and the MDBs in climate finance in a post-Kyoto global climate regime should be made conditional on a full and immediate halt to international financial institution (IFI) investments in oil, gas and mining. This is the more pressing because with the decisions of Cancun, the World Bank assumes – at least on an interim basis for a minimum of three years – the trusteeship for the GCF will likely second experts to the new Transitional Committee tasked with drafting the operational guidelines for the new global Fund, and will have its own portfolio of climate investment funds examined for best practices to be possibly taken up in the GCF's investment framework.

Currently, the investment guidelines for the World Bank's CTF for mitigation financing include some "bad practice," which should not be replicated at the GCF. While proclaiming an investment focus on transformational change, the CTF still allows for the funding of ultra-supercritical coal-power plants (Nakhooda 2010, 4f). A recent report of the World Bank's own Independent Evaluation Group has recommend instead to reorient the World Bank Groups scarce public finance resources toward helping client countries find domestically preferable alternatives to coal power, such as through increased energy efficiency, with coal support being but a "last resort used only when lower cost and concessionally financed alternatives have been exhausted and when there

81 At the June 2010 UNFCCC talks in Bonn, the United States submitted draft language to have the World Bank invited as trustee of the new Global Climate Fund. This option is still included in draft text for the 13th session of AWG-LCA at the COP 16 in Cancun the end of November 2010 (under D8, p. 42); see http://unfccc.int/resource/docs/2010/awglca13/eng/ inf01.pdf; accessed on Nov. 6, 2010.

82 In April 2010, the World Bank supported the building of a coal-fired power plant by the South African state utility Escom with a $3-billion loan, which drew heavy criticism from many civil society groups, including from the region, concerned with the loan locking in business-as-usual energy investments in the region instead of supporting the transformation to a low-carbon development. The Executive Directors of the United States and Britain, while not openly blocking the Board's decision, abstained from the vote. See also Rastello and Lourens (2010) and also http://www.washingtonpost.com/wp-dyn/content/article/2010/04/08/AR2010040805407.html; accessed on Nov. 6, 2010.

is a compelling case that WBG support would reduce poverty or emissions" (IEG 2010a, Executive Summary, ix). The current ongoing revision of the WBG's energy strategy, which could be ready for World Bank Board approval by fall 2011, is a good opportunity to clearly renounce fossil fuel-based energy investments in favor of an energy approach focusing on public sector finance coverage of incremental costs for clean energy investments in developing countries.[83] In addition, the World Bank and the MDBs need to change staff capacity and staff incentives – many geared toward traditional large-scale energy investments – in order to truly mainstream climate change into their energy portfolios (Nakhooda 2008). To ensure compliance, the future GCF as a possible "fund of funds" should provide oversight over any climate-relevant investments made by the World Bank and the MDBs through the CIFs or any successor funds at the multilateral development banks. Industrialized countries should likewise critically review the investment practices and portfolios of national export credit agencies, domestic development banks and their implementing agencies for overall funding coherence. To effect the transformational investment change needed for low-carbon development paths, publicly funded private sector guarantees should only be given for climate-friendly, socially and environmentally responsible projects, excluding large dams or coal-fired power plants. "First, do no harm" should also be a guiding principle for the lending operations of development banks of the new contributor countries among emerging market economies, most notably those of Brazil and China, which have been very active in the past years in extractive industries. Their energy-lending practices should not be exempt from scrutiny, particularly where they assume trusteeship for existing and possible future regional climate funds, as the Brazilian Development Bank currently does for the Amazon Fund.

In the absence of universal, enforceable investment restrictions for public climate funds (overseen, for example, by a Finance Board or Global Climate Fund under the authority of the UNFCCC), voluntary investment guidelines, the "Do's and Don'ts," for public climate funding should be agreed and adhered to by all bilateral and multilateral climate funds and financing mechanisms analogous to the Equator Principle benchmark agreement for private investment banks.[84] They should include the following statutes as some of the most important investment "Don'ts" for climate change financing:

Do not invest in largely business-as-usual fossil fuel projects in oil, gas and mining: Scarce public financing for climate change action should not be used

83 Originally started in 2009, the WBG energy strategy, currently in the public consultation stage, is said to be refocusing after the Cancun meeting on eliminating or phasing out coal funding from IBRD and IDA energy investments, but not from IFC cooperation with the private sector, while oil and gas investment strategies by the WBG would be unchanged. See http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTENERGY2/EXTESC/0,,contentMDK:22628542~menuPK:6426577~pagePK:64168427~piPK:64168435~theSitePK:6297515,00.html; accessed on Jan. 31, 2011.

84 See http://www.equator-principles.com/documents/Equator_Principles.pdf; accessed Nov. 6, 2010.

to lock in continued GHG emissions of business-as-usual energy investments or only marginally less polluting fossil fuel power sources (such as "cleaner" coal power plants[85]). Instead, public climate finance for mitigation should be used to pay for the incremental costs/cost differential between an energy investment under business-as-usual and the desired low-carbon solution (see Wheeler 2008). Likewise, public climate funding should prioritize such low-carbon energy projects a) for which private sources of investment funding are unavailable; and b) that guarantee energy-poor people direct access to energy and electricity.

Do not invest in nuclear power generation: The argument that nuclear power plants, which in operation produce basically no GHG emissions, are a safe and "clean" alternative energy option to fossil fuels, has been debunked by many experts as a myth (see for example Heinrich-Böll-Stiftung 2010 and Squassoni 2009). Adding enough nuclear power to make a meaningful reduction in GHG emissions would cost trillions of dollars, create tens of thousands of tons of toxic high-level radioactive waste (using non-renewable materials) and contribute to further proliferation of nuclear weapons materials. Perhaps most significantly, financing nuclear power with public climate funding would squander the scarce public resources necessary to implement meaningful climate change mitigation policies by focusing on truly clean and renewable energies such as solar, wind, geothermal or small hydro power.[86]

Do not invest in export production of agrofuels and oil plants: Not only are the lifecycle emissions of a variety of plants used to produce agrofuels not significantly lower than fossil fuels, the export-focused production of agrofuel crops increases the food insecurity of many people already suffering from climate change impacts in Africa, Asia and Latin America through the competition for scarce arable land. It also encourages the practice of land-grabbing by foreign private investors, often aided by MDBs, at the expense of local community ownership rights. The experience with palm oil can be instructive, as various human rights abuses have been reported, particularly with respect to converting

85 For an overview of World Bank funding for business-as-usual energy projects, see for example http://www.bicusa.org/ en/Document.102049.aspx. In 2008, the private sector financing arm of the World Bank, the International Finance Corporation announced its support for the Tata Ultra Mega Project in India, a supercritical coal-fired power plant. The IFC justified its loan to Tata with the plant's use of "cleaner" coal technology. See the IFC's website on the project at http://www.ifc.org/ifcext/southasia.nsf/Content/TataMundra_FAQ; accessed on Nov. 6, 2010.

86 Nuclear power is currently not included in the CDM to receive GHG credits, a decision made at the November 2000 UNFCCC COP at The Hague. As part of the discussion of a follow-up agreement to the Kyoto Protocol, the role of nuclear energy in emission reduction efforts has received renewed attention.

virgin forests into palm oil plantations. A moratorium on new palm oil investments supported by public climate finance should be maintained.[87]

Do not invest in a "new green revolution" based on genetically modified organisms: Food insecurity and scarcity in many parts of the world is not a production problem, but primarily a distribution and poverty problem related to structural inequalities. The solution to adapting agriculture globally to the challenges of climate change can thus not be found in scientific fixes. For example, while the development of new drought-resistant genetically modified organism (GMO) seeds has been touted as a way to ensure sufficient food production in times of increased weather variability and resulting water scarcity, GMO seeds – tightly controlled by an oligopoly of a few transnational corporations such as Monsanto – actually increase the costs of agricultural inputs in developing countries while showing disappointing yields. Thus, they fail to benefit those marginalized small farmers, often women, who need farming support the most, but have the least access to capital inputs, for example, agricultural extension services. Instead, a rediscovery of native but underappreciated plant varieties better suited to variability in temperatures and rainfall is needed – a traditional knowledge that local famers, many of them women and indigenous peoples, possess as guardians of native seed varieties. Also, organic systems focusing on animal manure, increased irrigation opportunities, cover crops, compost and integrated pest-management systems use up to a third fewer energy inputs, retain soil carbon and soil nitrogen better, and offer a higher profitability over conventional or GMO systems. Particularly, many poor marginalized smallholder farmers in regions such as Africa can profit from organic agriculture practices that – with minimal external inputs and utilizing locally available plant varieties and materials – reduce GHG emissions with fewer energy inputs and withstand climate change stresses like drought with greater efficacy (UNCTAD and UNEP 2008; Scialabba and Müller-Lindenlauf 2010).

Do not invest in the building of large hydro dams: Large hydro dams, while from a purely technical point of view providing emissions-free electricity, come at high additional social and environmental cost, often destroying local ecosystems and livelihoods. They lead to the forced resettlements of affected communities, which are often insufficiently compensated for their loss of property, heritage, culture and traditional way of life, and alternative relocation sites frequently lack a secured alternative livelihood. Best practice standards, particularly those elaborated by the World Commission on Dams in 2000, are only partially incorporated in existing social and environmental safeguards on the books of MDBs, and even those are often applied and observed only in a lackluster way (Imhof and Lanza 2010). Even worse, for climate funding disbursed through the CIFs by

87 The World Bank Group in November 2009 put in place a – temporary – moratorium on palm oil funding but has in the meantime come out with a new palm oil engagement approach, which it claims is consistent with its obligations and mandates. For further information, see: http://www.rainforest-rescue.org/mailalert/623/no-world-bank-money-for-palm-oil and http://www.ifc.org/ifcext/agriconsultation.nsf/Content/Home.

the World Bank and the MDBs, the institutions' existing safeguard mechanisms and standards do not apply.

Do not support monoculture **reforestation efforts under REDD financing schemes**: Existing REDD financing schemes – due to a definition loophole in the way the UNFCCC classifies forests – currently provide the wrong incentives by allowing monoculture plantations after logging as acceptable reforestation measures to be compensated. Supporting such efforts harms biodiversity and local and indigenous communities.[88]

> **Compliance Check:** In order to make sure that institutions currently administering and managing public climate funding do not cause additional harm, we need to:
>
> - ✔ Ensure funding coherence between the traditional lending/funding portfolio and the dedicated climate-funding portion of an institution, for example, at the World Bank, MDBs or national development institutions.
> - ✔ Demand that all public investment lending in sectors relevant for climate change mitigation (energy, transport, forestry and agriculture) and adaptation (such as water, health, agriculture) be done in a climate-aware way.
> - ✔ Give the UNFCCC the power to "certify" that public investment institutions fulfill "climate-aware funding coherence."
> - ✔ Make the continued roles of the World Bank and the MDBs in post-Kyoto climate finance dependent on their full and immediate cessation of harmful IFI investments, particularly in extractive industries, in export-oriented monoculture oil plant and biofuel plantations, and with respect to large hydro dams.
> - ✔ Change funding institutions' staff capacities and staff incentive structures in order to mainstream climate awareness into project and program planning and management.
> - ✔ Replicate and scale up successful pilot or microfinance projects with a focus on community-based mitigation and adaptation projects using appropriate, often low-technology approaches (e.g., fuel-efficient cooking stoves, home solar panel systems or small hydro or biomass projects).
> - ✔ Prioritize renewable energy projects that focus on providing direct energy access to the poor as an intended main goal of the investment, not as a possible future "trickle-down effect" of a more general, industry-led economic development strategy; improve efforts to realize the potential for pro-poor energy provision of localized off-grid projects.

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88 See http://tropicalbio.org/images/stories/files/Resolution/ATBC-resolution15-UN-forest-definitionx.pdf; accessed on Nov. 6, 2011.

- ✔ Make strengthening local and national food security by supporting production of food for in-country use the guidepost for publicly supported investments of climate funds in the agriculture sector, taking into account the gender-differentiated contributions of farmers to food production in the provision of capacity-building, technologies and agricultural extension services. Preference should be given to organic agriculture solutions for poor and marginalized smallholder farmers in regions under climate-stress over capital and conventional input-intensive or GMO approaches to agriculture.

3.4 The Importance of Democratic Core Principles and Procedural Rights – Transparency and Accountability in Public Climate Change Finance

The rights to information, participation in decision-making and access to justice in the form of redress mechanisms to provide for restitution or guarantees of non-repetition are important procedural rights. Transparency and accountability are also at the core of the interaction between citizens and governments in democratic societies. These rights and standards are well-established under both human rights law and international environmental law and policy. With respect to political human rights, Article 19 of the legally binding ICCPR includes the right of access to information, while Article 25 of the same document prescribes the unalienable right of affected persons to be consulted and to participate in opinion-forming and decision-making processes – for example in terms of resettlement of people out of areas prone to flood or drought risks. In human rights law, other binding conventions as well as non-binding international declarations confirm these rights.[89] In international environmental law, the 1998 Aarhus Convention, although regional in scope,[90] is to date the most far-reaching elaboration on Principle 10 of the Rio Declaration focusing on procedural rights.[91] These rights standards have relevance for the way climate change negotiations are conducted internationally and how negotiation decisions, including on climate financing, are implemented in concrete mitigation and adaptation actions. In

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89 See also Article 19 of the Declaration on the Rights of Indigenous Peoples and Article 12 of the Convention on the Rights of the Child.

90 As a Convention of the UN Economic Commission for Europe, its signatories are at the moment largely confined to Europe and some Central Asian states.

91 Principle 10 of the Rio Declaration reads: "Environmental issues are best handled with participation of all concerned citizens, at the relevant level. At the national level, each individual shall have appropriate access to information concerning the environment that is held by public authorities, including information on hazardous materials and activities in their communities, and the opportunity to participate in decision-making processes. States shall facilitate and encourage public awareness and participation by making information widely available. Effective access to judicial and administrative proceedings, including redress and remedy, shall be provided." Available at http://www.unep.org/Documents.Multilingual/ Default.asp?documentid=78&articleid=1163; accessed on July 22, 2010.

the context of climate change, these procedural duties imply that individuals be informed of potential effects of climate change on situations concerning food, housing, health, livelihood or gender; that they have the possibility to participate in a broader discourse on how to avoid CO_2 emissions or adapt to climate change threats; that local, indigenous or gender-differentiated knowledge be taken into account; and that they are informed and participate in decisions on how public financing appropriated for these purposes internationally and nationally is utilized (Heinrich Böll Stiftung 2009, 45f). Article 6 of the UNFCCC recognizes some of these standards, even though it does not allow for a complaint mechanism or grievance procedure. Many individual countries – both on the donor side as well as the recipient country side – still fall short in fulfilling basic democratic core principles and honoring their citizens' procedural rights with respect to climate-financing decisions and actions. This is also true for many of the multilateral climate-financing mechanisms, for example those channeled through the World Bank and the MDBs, despite the fact that their member countries individually have signed on to binding international human rights and environmental laws guaranteeing access to information and justice as well as guaranteeing the inclusion of citizens in decision-making. The shortcomings in fulfilling these procedural rights are evident throughout the climate finance cycle. The next sections provide a closer look at climate finance resource mobilization, administration and governance, and disbursement, respectively.

3.4.1 In Mobilizing Public Climate Change Finance

With respect to the mobilization of public climate change funding, the need for more transparency and accountability in the discussion is often summarized with the acronym MRV, which stands for "measurable, reportable and verifiable," referring to the measurement of the amount of climate finance flows from developed to developing countries, the reporting of these finance flows to the global public and the verification of the completeness and accuracy of the reported data. UNFCCC parties agreed in the Bali Action Plan in 2008 to include financial resources among a set of MRV responsibilities of developed countries to be detailed in national communications and inventories. Industrialized countries are supposed to provide detailed information on how they are assisting developing countries on meeting the costs for nationally appropriate mitigation actions (NAMAs). The Copenhagen Accord likewise textually refers to the MRV of finance linked to the registration of fulfilled mitigation actions (paragraphs 4 and 5). This is confirmed and reinforced in the Cancun AWG-LCA text with the decision to set up a registry for developing countries' NAMAs in order to match these actions seeking international support with financing provided by developed countries. They, in turn, are obligated by the Cancun Agreements to improve their reporting on the funding they provide, including through better methodologies for finance and by working toward common reporting formats to allow for "complete, comparable, transparent and accurate" information (UNFCCC 2010b, pp. 7, 9). In the way it is currently utilized in the climate discourse, however, the concept of MRV – at least so far – is not yet comparably applied to the costs of adaptation actions; nor does it foresee the inclusion of compliance or redress mechanisms for unfulfilled financing commitments by Annex I parties (Moncel et al. 2009). Both omissions would have to be rectified to allow for a truly transparent and accountable mobilization of public climate funding as a way to build trust between developing and developed countries (and as the required first step in an envisioned quid-pro-quo for non-Annex I countries to commit to unilateral mitigation actions), with the potential to raise the level of funding ambition among contributing countries.

As of now, funding flows are reported via various reporting systems (including UNFCCC National Communications, the OECD-DAC or reporting by MDBs), although none of them is comprehensive and some of them rely on voluntary reporting, which is not subject to independent third-party verification (as in the case of the OECD-DAC). An international agreement on a common reporting format (CRF), which was not part of the Cancun Agreements and therefore remains elusive, would not only allow for aggregation and assurance of comparability between national reports and the climate finance data reported by multilateral and bilateral climate-funding initiatives and mechanisms, but would also allow for independent verification, for example, by civil society monitoring efforts. Some observers have suggested the use of existing formats such as the OECD-DAC "Rio Markers" as a starting point to build a CRF. However, the discussion about how to guarantee the additionality of climate finance to existing development aid commitments (see separate section) would indicate a need for separate reporting formats for both climate finance and development aid as well as different institutions' responsibility for their respective use and oversight.

Both the political agreement on such a reporting framework as well as its comprehensive development will take time (a decision on an institution and platform for a CRF was not made in Cancun and can be hoped for at COP 17 in 2011 in South Africa at the earliest) and unfortunately will therefore not become relevant for the monitoring of the fulfillment of fast start finance commitments until 2012 under the Copenhagen Accord. On fast start finance, voluntary action by some industrialized countries to self-report via a new website[92] is of varying levels of detail without answering questions consistently about the quality of the financing promised (e.g., with respect to additionality or the funding modalities used).[93] The most detailed independent monitoring and reporting on climate

92 See http://www.faststartfinance.org.

93 As of January 2011, 20 industrialized countries and the EU were voluntarily submitting information of varying details and quality to the website, which was initiated by the Dutch government. This came after attempts to set up a more formal fast start finance tracking exercise under the UNFCCC failed due to the objections of some major industrialized countries. The reporting countries decide for themselves what kind of and how much information they want to disclose.

change financing, both long-term and short-term from pledge to project, is currently still provided by several independent civil society efforts.[94]

> **Compliance Check:** In order to move toward full transparency and accountability in public climate change financing, we need to:
>
> - ✔ Agree internationally on a comprehensive CRF for public climate finance flows with the goal of clearly separating them from existing developing aid commitments.
> - ✔ Designate an agency or entity under the authority and guidance of the UNFCCC to act as a global climate finance registry.[95]
> - ✔ Institute mandatory reporting by OEDC-DAC member countries of public contributions considered to be climate-relevant under existing, but significantly improved official development reporting systems.
> - ✔ Publicly disclose detailed information of an industrialized country's pledges (including sources, distribution channels and type of project support) via a country's own official government information channels (such as websites and databases), including new official cooperative multilateral initiatives, such as http://www.faststartfinance.org.

3.4.2 In Administering and Governing Public Climate Funds

An indisputable tenet of democracy is citizens' fundamental right to know how their government uses taxpayers' money. Where public funding for climate change action is used, national governments and global funding entities (receiving contributions from developed countries) are therefore obligated to administer public climate funds in a way that is both transparent and accountable. A transparent administration of public climate funding requires: publicly available, accurate and timely information on a mechanism's funding structure; its financial data; the structure of its board and contact information for its board members; a description of its decision-making process; as well as information about the actual funding decisions made. Only when this information is publicly available in a timely and complete manner – via: a website; information brochures; information sessions and outreach efforts by the respective

94 Most prominent are the efforts of the World Resources Institute (http://www.wri.org/publication/summary-of-developed-country-fast-start-climate-finance-pledges) and of Climate Funds Update, the joint project of the Heinrich-Böll-Stiftung and the ODI (http://www.climatefundsupdate.org/fast-start-finance).

95 Probably the most advanced civil society proposal for a climate finance registry is the Climate Registry Model (Reed et al. 2009). There are differing views on whether such a registry should be a separate entity outside of the financial mechanism of the UNFCCC (but reporting to the UNFCCC) or be an integral part of the UNFCCC's financial mechanism (Müller 2009a).

fund; accessible and responsive staff members who understand that it is their obligation to answer public questions; management and evaluation reports – do citizens have the means to hold their governments and the climate finance mechanisms they support accountable for their actions.

While most new and existing bilateral and multilateral climate-financing mechanisms have a dedicated website or information materials available and efforts are made by international organizations such as the World Bank, the UNDP, GEF and the UNFCCC to provide overview information over funding initiatives (see Annex 1 with a list of funds and finance mechanisms' websites and new reporting initiatives), the quality and extent of information given varies widely. For example, some climate funds will release the results of their board decisions and the documents that guided their decision-making (mostly after the fact), but not the minutes of board deliberations so that interested citizen observers can understand the line of reasoning or the power dynamics underlying funding decisions. Several funds will release, upon direct public inquiry, the total amount given for climate-funding initiatives, but not the breakdown of funds according to projects and priorities[96] or how that funding amount was derived at. Project documents might be put on the website, but only in incomplete form and after a considerable time-delay, mostly post-decision, thus preventing timely intervention and participation from the concerned public already in the early planning stages of a project in order to influence the decision-making process. These concerns and deficits are not new to climate change funding, of course. Global civil society has long complained about the lack of disclosure, transparency and accountability in the way bilateral funding agencies and multilateral financial institutions handle international development finance. The Extractive Industries Transparency Initiative (EITI) might be the most prominent example of global efforts to improve disclosure and accountability.[97] Civil society groups and networks such as the Global Transparency Initiative, Transparency International, Publish-What-You-Fund campaign or the International Aid Transparency Initiative, in which bilateral donor agencies and the World Bank participate, aim to establish a Global Aid Transparency Standard. Their experiences should be instructive for similar efforts to move toward an International Climate Finance Transparency Standard. The availability of timely, comparable and comprehensive climate finance information would help governments identify how much they are spending or receiving and where the funds are going. In addition, disclo-

96 This was the experience of the finance monitoring and tracking team at Climate Funds Update, where the managers of several bilateral climate financing initiatives after an information request by civil society declared that they would not be in a position to release a project-by-project breakdown of their respective fund's overall funding amount.

97 The initiative is an international coalition of governments, companies and civil society organizations and has been working since 2002 toward an international standard requiring extractive industry companies to disclose payments made to host-governments of resource-rich countries. For more information, see: http://www.eiti.org.

sure in a common standard would allow donors to coordinate their efforts and align available resources with the climate finance of recipient countries.

None of the dedicated climate-funding mechanisms currently includes an explicit redress mechanism that would ensure a country's or affected citizens' procedural rights to challenge or question a climate-funding decision or climate finance project implementation. This is in contrast to multilateral development organizations, which over the past decade have established internal monitoring procedures and review mechanisms with some of them – like the World Bank's Inspection Panel – seeking to address the grievances of individuals and communities affected by a specific program or project. No such recourse exists with respect to dedicated climate finance resources, not even in cases where climate funding flows through organizations with established complaint procedures. In the case of the World Bank's CIFs, the World Bank's Inspection Panel for example has seemingly no jurisdiction. Likewise, it is unclear if the respective redress mechanisms of MDBs apply to the portion of CIF project funding implemented by the regional development banks in their own regions. With both climate-funding redress mechanisms and an international transparency standard for climate finance missing, parliamentary inquiries and oversight efforts on the national level in some contributor countries, for example in Germany, have attempted to fill at least part of this void.[98] While parliamentary involvement and oversight is crucial and should be expanded and strengthened, it is clearly not enough. Ideally, in contributor countries, governments should establish a formalized information disclosure and complaints process, where stakeholder groups or even individual citizens could seek redress through the court system. Information disclosure laws in some countries, for example the Freedom of Information Act in the United States,[99] are part of such a larger procedural transparency and accountability framework at the national level.

Compliance Check: In order to achieve better transparency of and accountability for public climate change financing, we need to:

- ✔ Introduce, as a matter of international agreement and commitment, an "obligation to disclose" for all climate change-related finance flows by contributing countries and work toward establishing an International Climate Finance Transparency Standard.

98 In Germany, in the past years, several parliamentary information requests have been submitted by the Green Parliamentary Group for more information from the German government on its support of new climate finance instruments, including on the additionality of its contributions; see http://dipbt.bundestag.de/dip21/btd/16/113/1611301.pdf from December 2008 and http://dip21.bundestag.de/dip21/btd/17/009/1700961.pdf from March 2010.

99 Under the FOIA, US federal agencies are required to accept public information requests and display their results on dedicated agency websites. For a list of US federal agencies' FOIA websites, see http://www.justice.gov/oip/other_age.htm; accessed on Nov. 6, 2010.

- ✔ Improve existing information disclosure standards at international organizations (such as the MDBs and the World Bank) to include minutes of Board and Fund Committee meetings.
- ✔ Establish complaints and redress mechanisms for climate-funding decisions at existing multilateral and bilateral funding mechanisms, for example by allowing affected countries or citizens the use of those currently available at MDBs, such as the World Bank Inspection Panel.
- ✔ Strengthen the capacity of parliamentary oversight systems in contributing countries to raise the possibility for parliamentary requests and hearings challenging funding contributions and spending-decisions of these countries in bilateral and multilateral climate finance mechanisms.

3.4.3 In Disbursing Public Climate Change Funding

As has been the history in development finance, the management and disbursement of the majority of climate funds are currently still characterized by a distrust on the part of contributor countries and their agencies in the capabilities and capacities of developing country governments to manage and disburse funding allocations in a fair and transparent way that is fully open to oversight and scrutiny. Many bilateral donors and multilateral agencies thus retain management over climate-funding sources, relying on their own transparency, accountability, information disclosure and monitoring and evaluation standards to account for climate finance spending and disbursement decisions and project implementation. Ironically, many of these standards (see section on fund management) are insufficient themselves, especially with respect to complaint and redress procedures. For example, in the case of the World Bank, expert observers admit a lack of clarity about the extent to which existing social and environmental guidelines – on the books, although often abided by unevenly – apply to project funding under the CIFs or in cases where CIF-funding is comingled with traditional development funds. Likewise, it is unclear if the MDBs – as implementing agencies of CIF projects and programs in their respective regions – are intending to apply their own social and environmental standards to CIF-funded projects. The immediate future does not bode well. With a projected revision of the World Bank's existing safeguard policy approach to a more country-based approach over the next two years (which in effect would allow the World Bank and the MDBs to "absolve" themselves of any direct responsibility for ensuring the application of basic social and environmental safeguards for their climate-relevant investments), client countries would have to guarantee and monitor public climate investments' compatibility with basic human rights and accepted international environmental standards.

The Paris Declaration on Aid Effectiveness and the Accra Action Program obligated contributor countries to respect national ownership (see separate section) by increasingly shifting development finance to direct budget support, based on an agreement between donor and recipient countries on explicit criteria and indicators for the monitoring of development progress and results in aid effectiveness as well as for improvement in the way aid is delivered to developing countries. A set of 12 progress indicators, for example, lists on the contributor country side obligations for the alignment of aid flows with national priorities, for aid predictability, for the use of recipient country delivery systems, or for donor coordination; on the developing country side, the existence of frameworks for the monitoring of results and management of public finance are required.[100] This experience should be instructive for efforts to encourage disbursing climate funding directly to recipient country institutions, as the principles of subsidiarity and national ownership would demand. It indicates that certain preconditions will need to be in place in-country to ensure that climate funding disbursed nationally and locally by and in developing countries fulfills both the needs and potential for transformative change. These prerequisites include the existence of sound financial management rules and procedures as well as a country's prior elaboration of clear policy objectives, priorities, and functioning and transparent accountability and reporting mechanisms (Bird and Cabral 2007).

Some climate justice proponents and Southern countries themselves have expressed reservations with applying the concept of MRV to the disbursement of climate finance flows from developed to recipient countries they see as compensatory finance. They view MRV responsibilities mandated by the international community or contributor countries as conditionalities impeding national ownership. However, it is precisely national ownership – a populace's ownership over climate-funding decisions and amounts disbursed in their country – that will be strengthened by applying robust monitoring, reporting and evaluation standards domestically. While the right of recipient countries to use climate funding according to nationally owned and developed priorities is unquestioned, so must the right of a recipient country's citizens to find out how the climate funds that a developing country has received are disbursed, and specifically if and how its own people and affected local communities will benefit from it (or where they can seek redress, if they do not). The MRV of climate-funding disbursement on the national level should thus be seen as a national political obligation first and an international requirement second (although reporting to the international community will enable cross-checks between what developed countries claim they disbursed to countries and what developing countries report as received). Establishing some country-wide public monitoring and reporting system on nationally disbursed climate funds is not only a prerequisite for country-wide ownership and participation in climate action, it will also provide the urgently needed data to allow for the monitoring and evaluation of ongoing "learning-by-doing" efforts. As such, it will contribute to building in-country capacity and

100 See http://www.oecd.org/document/12/0,3343,en_21571361_39494699_39503692_1_1_1_1,00.html; accessed on Nov. 6, 2010.

institutions capable of acting as an intermediary between international and local climate change actions. Both administrative capacity and capable institutions will be much needed to deal with future scaled-up funding for climate change action under a long-term vision as well as possible new delivery options and mechanisms. A national funding board or funding hub (see the following section on national ownership) might be the right institution domestically for such a registry of a developing country's climate-funding expenditure and, thus, the tracking of its effectiveness. It would be there that certification of results in emission reductions, meeting adaptation needs and REDD targets would be achieved (Gomez-Echeverri 2010a). National governments' MRV action will be strengthened if in-country civil society can independently monitor and verify government disclosures on climate finance spending and hold their own governments accountable, for example, via a redress mechanism established at a national funding board or funding hub. In many developing countries, a robust network of nongovernmental organizations with experience in budget monitoring and tracking exists, which should ally with climate change and developing organizations as well as with parliamentarians providing budget oversight to hold their own governments accountable. Where such civil society monitoring and evaluation capacity does not exist, it should be a priority to create some. A proportion of international climate funding flowing to developing countries should be used for this purpose. Developed country civil society and international NGO networks should help with capacity-building and training in-country.

Compliance Check: In order to make progress toward more accountability and transparency in climate-funding disbursements, we need to:

- ✔ Demand the application and enforcement of existing social and environmental guidelines at the World Bank and the MDBs to all projects and programs funded by these institutions' climate funds or climate-funding mechanisms like the CIFs.
- ✔ Establish recipient country ownership over MRV for funding disbursed in the respective country via some country-wide public monitoring and reporting system, ideally coordinated and shared with other developing countries' efforts. Such a system should be understood as a "duty to disclose" to a recipient country's own citizenry first and foremost, and second as an international requirement.
- ✔ Strengthen the capacity of civil society in the recipient country to independently monitor and verify government disclosures on climate finance spending, for example by building on the experiences and organizational structures of existing national budget-tracking initiatives.
- ✔ Strengthen the role of parliaments in recipient countries to provide oversight and guidance over national spending decisions as well as their cooperation internationally, for example via existing interparlia-

mentary networks and by encouraging interparliamentary exchanges and cooperation on climate change action.

- Demand that developed country civil society and international NGO networks working on climate finance issues assist civil society groups in recipient countries with capacity-building, training and resources to the extent possible.

3.5 Relevant Principles for the Mobilization of Public Climate Change Finance

In Article 4.3 of the UN Framework Convention on Climate Change, developed countries committed to provide funding for the "agreed full incremental costs" of climate change in developing countries, meaning the additional cost of transforming a business-as-usual development path into a low-emission climate-resilient development path. Estimates for these costs vary, not least due to the category of climate action (adaptation, mitigation or REDD), but they accumulate to multiple hundreds of billions, with many studies listing the total incremental cost of climate action in the range of $150–200 billion annually by 2020.[101] The Copenhagen political pledge of $100 billion annually by 2020, which was confirmed by a COP decision in Cancun, has to be seen in this light, and with it the proportion of that pledge that should come from public funding, particularly if one applies the lens of climate justice and human rights. While some of this investment will come from private sources, significantly up-scaled public finance will be needed, most urgently for adaptation finance and other areas where private investment will not play a decisive role. The convention, the Kyoto Protocol and follow-up ministerial agreements have laid out some of the key principles relevant to the financial interaction between developed and developing countries; most importantly the principle that all actions, including on finance, need to be taken on "the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities" (UNFCCC, Art. 3.1), which, for the mobilization of climate change funding, more concretely requires "adequacy and predictability in the flow of funds and the importance of appropriate burden sharing among the developed country Parties" (UNFCCC, Art. 4.3).

The Bali Action Plan from 2008 likewise stipulates that funding must be adequate, predictable and sustainable as well as new and additional.[102] The Copenhagen Accord, though not a formal decision under the UNFCCC, echoes these funding demands in Paragraphs 3 and 8, and introduces a specific short- and long-term financial commitment (UNFCCC 2010a, 6–7), which was made

101 The International Energy Agency in its *World energy outlook 2009* estimated that $26 trillion in capital investment – or more than $1 trillion per year – will be needed to meet global energy demand through 2030, indicating that the costs for shifting business-as-usual investments into low-carbon and climate resilient technologies will require hundreds of billions of dollars of additional investment annually (IEA 2009, 5).

102 Bali Action Plan, Article 1(e)(i) (UNFCCC 2008).

binding for all UNFCCC parties by the Cancun decision to stipulate that these funds should be provided as "scaled up, new, additional, adequate and predictable financial resources" (UNFCCC 2010b, 2). Unfortunately, the precise meaning of these principles remains contested; yet a normative framework of climate justice and human rights can add definitional precision to the discourse, and with it the direction international agreements and decisions on climate finance should take to concretize and formalize parties' obligations in order to fulfill the UNFCCC mandate.

3.5.1 The "Polluter Pays Principle"

Principle 16 of the Rio Declaration of 1992 reiterates: "National authorities should endeavor to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution." Although the UNCCC text does not explicitly mention the polluter pays principle (PPP), its preamble recalls the responsibility of developed countries for the largest share of historical emissions and demands countries take immediate action "in accordance with their common but differentiated responsibilities." The PPP is applied in the Kyoto Protocol, as it demands of Annex I parties that have obligations to reduce their GHG emissions to bear the costs of prevention and control of such polluting emissions.

Internationally, calls are growing – particularly also from developing countries – that this principle should apply as a matter of global distributive justice to calculate national contributions toward the global costs of climate change action. They are met by the reluctance of industrialized countries to admit to historic cumulative emission responsibilities as the base for calculating obligatory financial contributions by Annex I parties to provide new and additional financial resources to developing countries. Especially the United States, which has not ratified the Kyoto Protocol, is adamant in rejecting PPP. While there is an intuitive understanding of the economic development benefits that industrialized countries have reaped from carbon-rich development paths over the past 200 years, historic data on GHG emissions is limited and thus unreliable to calculate historic obligations without challenges. As the timescale matters in determining national contributions, for practicability's sake, eventually a political consensus will have to emerge on a historical base year for the determination of assessed financial obligations. For global GHG emissions, the Kyoto Protocol set 1990 as the historical base year. Yet such a determination will be useless without strengthening the authority of the UNFCCC to impose and enforce such mandatory payments. Eventually, as their own emissions grow, emerging market economies would likewise be tasked with contributing to raising the necessary global public climate finance (see section on respective capability), while industrialized countries nevertheless will have to acknowledge the moral impetus of an obligation considerably larger than any historical base year will allow one to calculate.

Applying the PPP to climate funding, lastly, has important implications for the quality of climate funding. Once politically accepted as compensatory finance and a legal obligation under the UNFCCC and not as aid, it is self-evident that a large share of such finance will have to be provided by parties from public funds – and in the form of non-repayable transfer payments directly to recipient countries – to be used at their discretion, not as loans with imposed conditionalities. Southern governments and globally active climate justice activists have invoked the notion of the North's climate debt to the South to describe those mandatory payment obligations that are seen as completely separate from development aid delivery and thus should not be grouped with ODA delivery vehicles and modi operandi. As an immediate first step, a recognition of this principle – with its full implementation in the UNFCCC framework remaining for the foreseeable future politically elusive – would demand the full and unconditional payment of all adaptation costs in developing countries by the North.

Compliance Check: In order to make progress toward applying the polluter pays principle in public climate change financing, we need to:

- ✔ Through a COP decision, establish the PPP formally as part of a formula to determine mandatory payment obligations in global climate finance (together with respective capability).
- ✔ Set a base year for the determination of assessed national contributions.
- ✔ Strengthen the authority of the UNFCCC to impose and enforce mandatory payments under the PPP.
- ✔ As an immediate first step and in the spirit of this principle, even before its formal application in the UNFCCC context, industrialized countries will have to provide unconditional payment for the full cost of adaptation in developing countries.

3.5.2 Respective Capability

The UNFCCC Preamble strongly correlates "common but differentiated responsibilities and respective capabilities." This is an indication that countries' respective climate finance payment responsibilities for taking urgent immediate and long-term climate action (as their responsibilities to reduce and prevent GHG emissions) are dependent on their ability to fulfill these obligations. In line with climate justice and human rights considerations, this would mean that countries have to ensure that any financial contribution does not contribute to further impoverishing or disempowering their country's most vulnerable people and communities and does not jeopardize people's individual right to a secure livelihood. To assess a country's respective capability to contribute financially to combat global climate change, criteria and indicators should take into account some more equitable measure of national wealth (e.g., focusing on household income and consumption rather than on GDP, as the Stiglitz Commission recommends)[103] and the status and trend of national economic and social development (e.g., percentage of a nation's populace below the poverty line, paying particular attention to differences of gender, age, class or race).

One innovative concept to propose equitable contributions in international climate change negotiations based on "respective capability" – including as a base for calculating countries' financial obligations to pay for climate damage (Pendleton and Retallack 2009) – is the Greenhouse Development Rights Framework (GDRs), which has received wide international consideration both by global civil society and developing country governments since first proposed in November 2007 (Baer et al. 2007).[104] Focusing on an emergency climate stabilization program, it does nevertheless preserve people's individual "right to development." A country's respective capability is determined accordingly. This capability to pay would be smaller the greater the percentage of individuals within that country falls below an individual "development threshold" (as defined by an amount of purchasing power parity to be set by international agreement but significantly above accepted international poverty levels). Rather than focusing on a North-South juxtaposition (as is more dominant in the notion of climate or carbon debt), it obligates thus the consuming and affluent societal groups globally – both in developed as well as in developing countries – to bear the burden and costs of the climate transition.

Correlating a country's obligation to pay for climate action not only with historic cumulative emissions, but also with the respect for a country's right to a guaranteed minimum development standard for each of its citizens before payment obligations would set in, is an effective and equitable interpretation of the principles of responsibility and capability. In order to allow for a fair international comparison of countries' respective contribution capabilities by starting from an agreed upon reference year, a periodic (5 or 10 year) mandatory reevaluation of a country's capacity to help pay for global climate change action will be unavoidable. In parallel to the international oversight and registry of emission reductions under the Kyoto Protocol,[105] compliance with and the adequate use of this principle should be monitored by the UNFCCC, guided by the mandate and review of its parties.

103 The "Stiglitz Commission" report from September 2009 underscored the need to shift the measure of progress in development from economic production growth measured primarily in GDP to well-being by taking into account the distribution of household income, consumption and wealth (Stiglitz et al. 2009).

104 For more information on the GDR, see http://gdrights.org/.

105 Currently, the UNFCCC does not lay out specific guidelines for the review of the mitigation support by industrialized countries reported in national communications; the elaboration of such guidelines for review and verification would be crucial (see on this point Corfee-Morlot et al. 2009, 8).

Compliance Check: In order to make progress toward applying the principle of respective capability to public climate change financing, we need to:

- Give the UNFCCC, through a COP decision, the power to apply respective capability and differentiated responsibilities as the guiding framework for mandatory assessed financial contributions.
- Develop an internationally agreed set of criteria to define a country's respective contribution capability based on national wealth and the status and trend of national economic and individual social development. Such criteria should focus on a wider understanding of well-being, rather than on narrowly defined economic growth indicators.
- Set an initial reference year for countries' respective contribution capabilities, followed by mandatory periodic reviews to allow for a reevaluation of a country's capability to pay for climate change actions in the light of its progress or failure toward sustainable development.
- Establish a format and a registry for national communications and other existing UNFCCC reports for meeting assessed financial contributions under the UNFCCC.

3.5.3 New and Additional

Public climate change contributions should be additional to existing ODA obligations and other preexisting flows and pledges industrialized countries have publicly committed to, since the financing needs to deal with climate change go beyond development financing needs under a "business-as-usual" assumption (= without the inclusion of mitigation and adaption costs). And the additional funds to deal with those additional tasks required by climate change should be raised from new funding sources and delivered via new funding channels. Today, few Annex I countries have reached the ODA target of 0.7 percent of gross national income (GNI) set by a UN Resolution in 1970.[106] OECD countries have since reiterated the 0.7 percent obligation in the context of the 2000 UN Millennium Summit and the campaign to reach the MDGs by 2015 by detailing growth trajectories for increasing their ODA by 2015. As an OECD average, it reached only 0.34 percent of GNI in 2010.[107]

106 Among the OECD-DAC member countries, only Belgium, Denmark, Luxembourg, the Netherlands and Norway were expected that goal in 2010; see http://www.oecd.org/dataoecd/54/10/45073043.pdf.

107 Ibid.

Table 3: Various Definitions of "Additionality" Applied by Industrialized Countries in the Context of Fast Start Finance

	Definition	Technical considerations	Political considerations
1	Aid that is additional to (over and above) the 0.7% ODA target	Easy to track given that it is measuring an increase at disbursement level and technically feasible but raises same questions around the validity of the ODA tracking system and what gets counted as climate finance.	Most countries have difficulty reaching the 0.7% target in the first place, so politically challenging to raise the target. Supported by international development community.
2	Increase in climate finance on 2009 ODA levels directed at climate change activities	Easy to track given that it is measuring an increase at disbursement level and technically feasible but current issues with ODA tracking. There will be no diversion from development objectives for donors who have already met their 0.7%, but may not be the case for those who have not.	Some issues with setting 2009 as financial baseline – implies different things depending on if donor has met the 0.7% target or not. Those donors who have not given to ODA-related climate finance before 2009 will have a lower baseline compared to those who have, implying equity issues.
3	Rising ODA, which includes climate change finance but limited (e.g., to X%)	Aid diverted to climate finance causes changing the composition of finance if overall levels of ODA are not raised sufficiently. Issues around how to know what percentage is the right level – and should ideally only apply to governments who have already met their 0.7% so that the percentage of ODA spending going to climate change is above the 0.7% for development-related efforts. Still need to secure additional channels of funding over and above a percentage of ODA, especially if limited to only 10% as is the case with UK proposal.	Countries that have already met their 0.7% target will not want those who have not met this target to sacrifice this original goal for climate change objectives. It signifies a diversion in priorities. Setting the percentage in relation to ODA spending means funding is based on a country's current contributions, even if they are insufficient. Contributions are therefore not based on ability to pay, unlike one set on percentage of GNI.
4	Complete separation between ODA and climate change financing	Emphasis on separation of funds at source. Need to ensure that new sources of finance are mainstreamed with existing ODA flows – technically challenging.	Would allow concerns regarding diversion of ODA funds away from development goals to be allayed. Politically challenging to agree what a new financial mechanism would look like, who should be in charge of the tracking, and how it will be tracked.

Source: Brown et al. (2010).

Unfortunately, there is no explicit definition of “new and additional”[108] in the UNFCCC framework. A baseline or base year with established sources beyond which funds could be counted as “new” is missing as is a clear reference indicator for what constitutes additionality. This gives industrialized countries – in the absence of binding uniform accounting guidelines – politically free rein to use various interpretations of how additionality could be measured, for example to report current contributions toward fulfilling the Copenhagen Fast Start Finance pledge (see Table 3) (Brown et al. 2010a). It also leaves it up to the country to publicly disclose its contributions. As an immediate first step, funding countries reporting their fast start contributions should operate under a “presumption of disclosure” as elaborated by the Global Transparency Initiative for international financial institutions and at least disclose their working definition of additionality. Countries could also more clearly indicate the proportion of funding pledged already before and after Copenhagen[109] to help determine if indeed “additional” money via new funding sources and channels is entering the international climate finance pipeline. An important development would be an effort by the European Commission to have all EU member states formally declare their working definitions of “new and additional” finance before Durban, with the goal of having a common and unified definition by 2013. Such an EU-wide standard could de facto become the OECD-DAC standard and capture a large part of current public climate finance contributions (Brown et al. 2010a).

Many have argued that it is very difficult, if not impossible, to define the incremental cost of climate action, especially for adaptation, on top of the costs of development needs unrelated to climate change. They have therefore maintained that the overall growth of ODA should serve as a sufficient indicator with respect to the fulfillment of climate finance obligations by industrialized countries. Currently, the designation of most climate-financing contributions by industrialized countries as ODA reflects both this conviction as well as a bias of contributor countries toward development aid delivery systems, with the OECD-DAC, which is in charge of reporting on all ODA flows, relying on donor

108 Many climate finance experts relate “new” climate finance to sources and channels for funding, while “additional” climate funds are understood as those exceeding existing targets or flows.

109 Several countries, among them Germany, have complained that utilizing the Copenhagen Summit in 2009 as the base year for additionality of fast start finance commitments would effectively penalize those industrialized countries (such as Germany via its ICI), which had already scaled up their climate finance contributions before Copenhagen.

governments to report on "Rio Markers" for climate change.[110] However, the Rio Markers provide an approximate quantification *at best*, and a misleading figure *at worst* of the amount of aid for climate change, because of severe tracking limitations and methodological shortfalls. Among them are that until recently, the application of Rio Markers by donors reporting to the DAC was not mandatory and focused solely on funds for mitigation actions. Only bilateral flows are included (multilateral agencies do not use the "Rio Markers" when they report their flows to the DAC) and only sectoral or project funding can be tracked, but not general budget support. Since DAC member countries self-report according to their own definition and understanding of "climate-related" aid, comparability across countries remains limited. An internationally agreed methodology for tracking the exact share of aid spending that contributes to climate change mitigation or adaptation is missing.[111]

In order to measure and verify climate finance obligations resulting under the PPP, it will be necessary to clearly separate both financing streams – while not necessarily with respect to the delivery channels or the destination of funding – in order to account for, in a transparent and honest manner, the fulfillment toward future mandatory funding obligations.

Thus, efforts to measure and keep track of additionality in climate-related fund mobilization should be two-fold. 1) Improve the Rio Marker classification for climate-related ODA. However, such ODA-classified contributions would be counted as part of existing ODA commitments, not as new and additional finance, as long as a country has not yet fulfilled its annual ODA obligation of 0.7 percent of GNI. ODA contributions above that threshold – as long as they are climate-related and classified under methodologically improved guidelines as such – can be counted as additional. 2) Improve the labeling of national contributions for climate finance as non-ODA, for example through the registration with the new Standing Committee (to be established through a decision made in Cancun) or separate global climate finance registry under UNFCCC guidance and mandate. Such a registration mechanism would be clearly separate from the OECD-DAC ODA database. This would necessitate the elaboration of clear mandatory

110 When developed countries signed the three Rio Conventions in 1992, they agreed to support developing countries in the implementation of these Conventions. Since 1998, the DAC has monitored aid targeting the objectives of the Rio Conventions through its Creditor Reporting System and its Rio Markers, including the "climate change-related" objective. According to the Rio Marker definition on climate change-related funding, an activity should be classified as climate change-related if it contributes "to the objective of stabilisation of greenhouse gas (GHG) concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system by promoting efforts to reduce or limit GHG emissions or to enhance GHG sequestration" (Article 2 of the UNFCCC). Activities are then marked depending on whether climate change is a "principal" objective (marked a "1"), or "significant" objective (marked a "2") (Brown et al. 2010).

111 For further elaboration on these various points, see also Huhtala et al. (2010), Tirpak et al. (2010), Stadelmann et al. (2010). Brown et al. (2010), and OECD-DAC (2009).

definitions and standards, including guidelines for grant/loan equivalence, in order to evaluate what amount of loans and risk guarantees could be counted as additional. Such guidelines should also disallow money from offset carbon markets to be counted as additional, as carbon offsets are explicitly dedicated to meeting the emissions targets of industrialized countries in a commercial transaction – "double counting" of such offsets, both against domestic mitigation and international financing targets, needs to be avoided.[112] Only public auction revenues from carbon markets could be counted (Bernstein 2010). All financial flows registered and verified regularly under a global climate finance oversight mechanism such as a registry, aided by nongovernmental global civil society tracking and monitoring, could then with confidence be counted as truly additional.

Compliance Check: In order to make progress toward truly "new and additional" public climate finance, we need to:

- ✔ In global public climate finance accounting, clearly separate climate-relevant ODA and non-ODA commitments.
- ✔ Agree on an internationally binding methodology for tracking the exact share of aid spending on climate change.
- ✔ Improve the methodology of the Rio Marker reporting system for climate-related ODA at the OECD-DAC substantially, for example by expanding it to include direct budget support contributions and by making reporting mandatory for all members.
- ✔ Improve the labeling of national contributions for climate finance as non-ODA, for example through the registration with the new Standing Committee to be established by a Cancun decision or global climate finance registry under UNFCCC guidance and mandate.
- ✔ Count only public money provided on top of annually 0.7 % percent of a country's GNI (= after the fulfillment of a country's existing ODA obligation) as well as public auction revenues from carbon markets as additional climate funding.
- ✔ Exclude all money from carbon offsets in order to avoid "double-counting."
- ✔ Include only the grant equivalent of climate finance loans under improved grant equivalency guidelines.

112 Only if acquired Certified Emission Reduction units are not used for offsetting, but instead certified as retired, should they be counted toward financial obligations under the UNFCCC (Müller 2009c).

3.5.4 Adequacy and Precaution

The UNFCCC text in Article 3.3 articulates the obligation of parties to "take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects." Clearly related to the precautionary principle as expressed in the UNFCCC framework, the adequate level of climate financing for mitigation action will be determined by the amount needed to keep a global temperature increase as low as possible and the funding needed to help countries already suffering from climate change-related impacts to improve climate resiliency and eliminate any vulnerabilities of their people to climate change. Most current estimates of global climate-funding needs (see Table 1) are tied to the 2-degrees-Centigrade temperature increase (although under the current level of commitments of industrialized country parties to reduce emissions, this goal is clearly no longer attainable). However, uncertainty over what constitutes adequate funding levels remains, showing often discrepancies between global and national estimates and priorities, as well as a North-South difference on funding priorities for mitigation and adaptation respectively.

Observers have suggested that progress in reaching adequate financing may be dependent on moving away from a global, centralized, top-down approach (mostly dominated by industrialized countries) in determining amounts to a devolutionary approach, in which funding estimates based on national needs are derived from national climate change strategies for adaptation and mitigation, such as national adaptation programs of action (NAPAs) or nationally appropriate mitigation actions (NAMAs) (Müller 2010; Bird 2010). For example, 44 of the 48 least developed countries (LDCs), which are parties to the UNFCCC, have already developed and submitted their NAPAs for registration with the UNFCCC, in which they identify their respective country's adaptation funding priorities for together more than 400 concrete projects and programs totaling up to $1.5 billion (Schalatek 2009b). This corresponds inadequately with the $142 million in voluntary contributions the UNFCCC's Least Developed Countries Fund (LDCF) has disbursed since its inception in 2002. The LDCF, which is housed at the Global Environment Facility, a financial mechanism of the UNFCCC, is expressly tasked to help LDCs develop and implement nationally owned NAPAs.

National funding needs should be reported regularly via existing national communication commitments and reporting opportunities for NAPAs and NAMAs under the UNFCCC. The Cancun meeting made some strides toward the improvement of communication of national funding needs by developing countries by deciding to set up a NAMA registry and encouraging developing countries to submit to the UNFCCC Secretariat information about the implementation costs of these NAMAs. Improved national adaptation plans based on NAPAs and an assessment of their financing needs are also part of a work program for the new Cancun Adaptation Framework. These documents under the UNFCCC framework should be considered the primary standard for assessing national funding needs, as they are country-owned and country-developed. Such self-reported developing country funding needs should then be aggregated and registered on a global and regional level. In understanding developing country communications and adaptation and mitigation plans as ongoing monitoring processes rather than final documents (as many of the existing NAPAs seem to be unhelpfully perceived), periodic reviews of a country's spending priority in adaptation and mitigation would be necessary. These periodic reviews would also allow improvement with respect to the participatory and inclusive domestic consultation and discussion processes. NAPAs and NAMAs need to be truly country-owned, and they would reflect a country's changing social and economic conditions more accurately in order to match climate-funding supply and demand more accurately. A prerequisite for making progress toward reaching adequacy requirements of global climate change funding is to irrevocably transform mostly voluntary payments (only the Adaptation Fund allows for an automatic funding stream) into mandatory, assessed contribution obligations and to give a registering entity, for example under the UNFCCC, enforcement authority for dealing with an assessed country's non-compliance.

Compliance Check: In order to make progress toward adequacy and precaution in public climate change financing, we need to:

- ✔ Move from a global top-down (supply-side) approach in determining amounts to a devolutionary approach with funding estimates based on national needs (demand-side) as expressed in national communications, NAPAs and NAMAs or other country-owned development and poverty-reduction strategies.
- ✔ Report national funding needs regularly and register them on a global and regional level, for example via the new NAMA registry or the new Standing Committee, both to be established under the guidance and authority of the UNFCCC under the Cancun Agreements.
- ✔ Establish a system for the collection of mandatory assessed contributions, with enforcement options by a registering entity under the UNFCCC for a country's non-compliance.

3.5.5 Predictability

As of now, climate finance funding flows are characterized by their unpredictability. Developing countries never know how much of the money industrialized countries pledged at international donor meetings or in international climate negotiations ultimately translates into funding disbursed to a country, often via financial intermediaries such as the UNDP or the World Bank. The track record so far is discouraging: By late 2010, of the $26.97 billion in cumulative funding pledges for 22 dedicated multilateral and bilateral climate-funding mechanisms, only $10.88 billion has been deposited with $8.43 billion approved, but just $2.2 billion disbursed.[113] A sustained and sustainable flow of climate finance, however, is necessary to allow for adequate investment program planning of climate change actions in recipient countries, in order to scale up or maintain existing efforts and to "fast start" a country's national adaptation and mitigation priorities with just small initial tranches to know that future payments are secured. With the inherent unpredictability and whimsicality of private investment flows, an assured flow of public climate funds to developing countries becomes even more important, especially for poor countries' actions in areas such as adaptation efforts for the most vulnerable people or regions. Such actions often demand long-term interventions, yet do not provide a business-friendly, guaranteed return-on-investment profit margin.

Under a climate justice and human rights-guided policy framework for climate financing, payment obligations of industrialized countries would be in the form of mandatory, assessed contribution to be adjusted periodically to changing individual country circumstances according to PPP, respective capabilities and additionality principles for public climate finance. Thus, global total funding amounts to be paid by developed countries to most developing countries as a matter of legal obligation will be known and their delivery guaranteed over longer-term multi-year funding cycles (of more than five years). This longer time-horizon for funding commitments is necessary to effectively transform climate change funding from a project-by-project approach, as currently overwhelmingly practiced, to programmatic and sector-wide approaches in which results-orientation does not focus on immediate but cumulative and synergetic results more in line with a recipient nation's own sustainable development goals.

An immediate indicator for an increase in predictable funding under existing climate finance mechanisms could be an upward trend in the number of individual country pledges for larger amounts to be delivered according to a verifiable timetable over successively longer time periods. In contrast, partially in response to voluntary, unpredictable funding flows (see Table 2 and Figure 1), the majority of current climate finance activities remains project-oriented. Related investment plans guarantee funding only for a few years, often delivered via several small, administratively burdensome and costly tranches.

> **Compliance Check:** In order to make progress toward applying the principle of predictability to public climate change financing, we need to:
>
> - ✔ As an immediate step, increase the amount of contributing country pledges to be delivered according to a verifiable and enforceable timetable for successively longer-term funding cycles.

113 See http://www.climatefundsupdate.org/graphs-statistics/pledged-deposited-disbursed; accessed on Jan. 31, 2011.

- ✔ Ultimately, establish a system for the collection of mandatory assessed contributions, with enforcement options by the registering entity or the UNFCCC for a country's non-compliance.

3.6 Relevant Principles for the Administration and Governance of Climate Funds

3.6.1 Under the Authority and Guidance of the UNFCCC

The global financial architecture for climate finance is still evolving and far from set, although outlines and trends have become clearer over time. The last few years have seen the emergence of a two-pillar system of multilateral climate finance instruments with climate funds administered by the World Bank and implemented by the MDBs assuming an ever increasing share of global public finance for climate change. This leaves climate funds under the guidance of the UNFCCC COP such as the GEF-administered LDCF and SCCF or the Kyoto Protocol Adaptation Fund (AF) at a funding disadvantage.

In Cancun at COP 16, the political decision of the Copenhagen Accord to establish a global Green Climate Fund was confirmed after lengthy deliberations and disagreement among developing and developed country parties on the question of which entity should have authority of and administer such a global climate fund. A G77 proposal (representing more than 130 countries) and many climate justice advocacy groups had suggested that the principles of equity and environmental integrity demanded that any newly established global climate fund or financial board tasked with overseeing existing climate finance mechanisms be "under the authority and guidance, and be fully accountable to the COP" (Orenstein 2010). This goes further than the current guidance by and accountability to the COP as employed with respect to the GEF, and instead follows the Bali decision to set up the AF (Müller 2009b).[114] In the run-up to Cancun, the group of LDCs as well as the countries of the European Union with separate paper submissions supported this view.[115] This ran counter to a proposal by the

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114 The stronger mandate of the COP over the AF was an expression of frustration with the non-observance of COP guidance in administering the GEF-based climate funds.

115 The EU submitted a proposal for a COP decision on the Copenhagen Green Climate Fund to "function under the guidance of, and be accountable to, the Conference of the Parties." For the LDCs, Malawi submitted a paper proposing the establishment of a Global Climate Fund "under the authority and guidance of and accountable to the COP" (see http://unfccc.int/resource/docs/2010/awglca12/eng/misc06a01.pdf, pp. 5 and 7 respectively; accessed on Nov. 6, 2010).

United States,[116] which had preferred to put such a future fund under the administration of the World Bank.

As the financing question is really inseparable from the realization of global mitigation obligations, for which the UNFCCC's Kyoto Protocol is the accepted regime, so should the global oversight over the needed multilateral funding for global climate action be entrusted to the guidance and authority of the parties of the UNFCCC. In terms of equity, each of the parties enjoys an equal vote ("one country, one vote") in the COP decision-making, irrespective of a country's role as either financial beneficiary of or financial contributor to public climate finance. A UNFCCC primacy in global climate-financing matters is inextricably linked to an understanding of public climate finance transfers as a legal obligation corresponding to countries' differing responsibilities and respective capabilities – as the UNFCCC's text clarifies – not a matter of choice.

The Cancun decision on the GCF does not go this far, however, designating the GCF as "an operating entity of the financial mechanism of the Convention," which will be "accountable to and functions under the guidance of the Conference of the Parties" (UNFCCC 2010b, par. 102). The decision invites the World Bank – initially for three years, subject to review – to serve as the interim trustee of the GCF. This is essentially the GEF model of interaction with both the COP and the World Bank. It does not give the COP the mandate ("the authority") to question or overrule decisions made by the new GCF Board regarding the general rules and guidelines of the new fund. The Board itself is also "untouchable" (meaning, it cannot be dissolved or fired); it could thus theoretically choose to ignore (or implement only haphazardly as has been alleged in the case of the GEF) guidance by the COP (Müller 2009b). While this decision undoubtedly constituted the outer limit of what was politically feasible in Cancun, it could be also optimistically read as a reflection of sufficient levels of trust and agreement among parties with the proposed design of the GCF Board calling for equal representation between developed and developing countries (Bird et al. 2011).

Compliance Check: We need to:

- ✔ Establish the Green Climate Fund as the global climate fund under the guidance of and fully accountable to the parties of the UNFCCC with oversight and authority over all existing multilateral climate

116 At the June 2010 UNFCCC talks in Bonn, the United States submitted draft language to have the World Bank invited as trustee of a new global climate fund. This option was still included in draft text for the 13th session of AWG-LCA at the COP 16 in Cancun at the end of November 2010 (under D8, p.42). See http://unfccc.int/resource/docs/2010/awglca13/eng/ inf01.pdf; accessed on Nov. 6, 2010. Discussions in Cancun then centered around the question – after the United States made it clear it would not accept a decision to establish the GCF without a role for the World Bank – how narrow or broad the role of the World Bank as trustee should be. At the insistence of developing countries, the World Bank's role under the LCA decision seems to be mainly one of financial administration (Bird et al. 2011; UNFCCC 2010b, par. 104-107).

funds and funding initiatives, including the ones established by the World Bank and implemented by the MDBs.

- ✔ Demand that the COP and the Standing Committee tasked in assisting the COP in exercising its functions with respect to the financial mechanism of the Convention provide close guidance and demand full accountability of the GCF and its Board. For this, it is necessary to improve and update the COP's current practice of giving guidance to entities, such as the GEF, which are operating under the financial mechanism of the UNFCCC.

3.6.2 Equitable Representation

Viewed through a climate justice and human rights lens, climate finance flows, especially for adaptation, are understood as compensation owed by wealthy countries for historical cumulative emissions and the climate change impacts they have caused. Thus, it is obligatory for governing bodies that make funding decisions over compensatory climate finance flows to depart from established development cooperation thinking and practices. In existing development finance institutions, an unequal donor-recipient relationship is manifested in the greater power of contributor countries in bilateral development agencies or multilateral development banks over spending decision affecting the recipient countries, whose development the funding is supposed to aid. The governance structure in IFIs – despite some minuscule changes with respect to voice and votes in recent years – still essentially represents the "one dollar-one vote" premise on their Boards, where developed countries hold the majority of chairs. The Southern critique of the establishment of the World Bank's Climate Investment Funds in early 2008 has to be seen in this light.[117] As a consequence, the World Bank was forced to significantly redesign CIF governance structure in the starting phase of the funds in early 2008 by creating a separate new Trust Fund Committee for each of its two main funds (the Clean Technology Fund, and the Strategic Climate Fund[118]) with equal representation of developing and developed countries. Obviously, as the funds' trustee and administrator, the World Bank retains an important role imbued with influence and power way beyond its single seat on the CIF Trust Fund Committee. It can be argued, however, that while this more balanced representation seems more equal, it is far from being equitable given the greater number of climate change-affected developing countries that are to benefit from the CIFs and the differentiated responsibilities that underpin the need for climate financing. The Kyoto Protocol's AF, in contrast, provides for a slight majority of developing countries' representatives on its Board, with a dedicated board seat on the 16 member Board for each of the

117 See for example the description of this criticism in Tan (2008).

118 The SCF is an umbrella fund for several programs, namely PPCR, FIP and SREP, each of which is governed by its separate Sub-Committee. For more information, see http://www.climateinvestmentfunds.org/cif/ Trust_Fund_Committees%20; accessed on Nov. 6, 2010.

two most affected groups of countries: the LDCs and the Small Island Developing States (SIDS).[119] With the recent Cancun decision to establish a GCF, the CIF model of equal representation of developing countries and developed countries will now be effectively applied to the new 24-member GCF board. Unlike the CIF Trust Fund Committee structure, the new GCF Board will guarantee designated seats for representatives from SIDS and LDCs as well as regional diversity among the 12 developing country representatives. The new GCF is to be designed by a 40-member Transitional Committee of experts (TC), in which countries are going to be equitably represented by giving developing countries with 25 seats a majority and by ensuring that two seats each go to LDC and SIDS country groups on top of a regional distribution (UNFCCC 2010b, par. 109-110).

However, the true meaning of equity in representation goes beyond a focus on nation states, requiring a broad representation of stakeholders, including from civil society and climate change-affected groups and communities in recipient countries, thus bringing local experiences from the "bottom up" to Boards and Trust Fund Committees that are making the funding decisions (see also the following section on public participation in decision-making). For the new GCF, the Transitional Committee will recommend that COP 17 in Durban adopt the operational guidelines for the global fund, which – according to the terms of reference for the GCF design – are to include "Mechanisms to ensure stakeholder input and participation" (UNFCCC 2010b, Annex III, 1(j)). Crucially important will be whether the members of the TC choose to define the term stakeholder in narrow or broad terms and if they allow for active participation of outside observers, particularly from civil society. Such GCF mechanisms should improve on current practices for an "active observership" such as those utilized by the CIFs (see also the next section).

Compliance Check: In order to make progress toward more equitable representation in public climate funds and finance mechanisms, we need to:

- ✔ In multilaterally administrated climate finance, give developing country representatives a majority of seats on the Trust Fund Committees and Boards of existing climate finance mechanisms, including at the World Bank CIFs.
- ✔ In following the example of the Kyoto Protocol Adaptation Fund, reserve permanent seats for representatives of especially vulnerable country groups, such as LDCs and SIDS, in the Trust Fund Committees and Boards of all existing public climate finance mechanisms.
- ✔ Assure broad participation from multi-stakeholder groups beyond nation-states in decision-making bodies, especially of affected groups and local communities in recipient countries.

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119 For information on the composition and structure of the AF Board, see http://www.adaptation-fund.org/theboard; accessed on Nov. 6, 2010.

- ✔ Work with the Transitional Committee designing the GCF to ensure that committee members agree on a broad definition of the term stakeholder and outline forward-looking mechanisms for stakeholder input and participation that set new best practice.

3.6.3 Public Participation in Decision-Making

Public participation in the administration of and decision-making on climate funding, where it is even envisioned, is still insufficient in most public climate finance instruments. This is a clear violation of the commitments under the Aarhus Convention, which most industrialized countries in Europe have signed and ratified. Only the Amazon Fund, the Congo Basin Forest Fund and the UN-REDD Programme have statutes that allow for representatives of relevant stakeholder groups to be voting members of the body making funding decisions. More generally, public participation, where given a place, is relegated to often purely perfunctory consultation processes.[120] In some cases, civil society and stakeholder representatives can assume non-decision-making roles as advisors or observers in climate fund governing structures, for example as "active observers" in the CIFs' Trust Fund Committees, although usually with little real opportunity and power to intervene or shape the directions of funding decisions. Even worse, few of the bilateral climate-financing initiatives provide for formalized interaction with civil society and all respective stakeholders or include the wider public in their decision-making.

Although some public consultations were held regarding the mandate and focus of some new climate finance instruments, for example the CIFs of the World Bank, many directly-affected public groups – such as indigenous communities with respect to forestation programs under REDD in the Amazon region – complained that they were either not included in the deliberation or that their input was largely ignored or insufficiently taken into account in final outcome documents operationalizing the new funds. Generally lacking was an understanding and a commitment of prospective fund administrators and trustees for a comprehensive and systematic targeted outreach effort to a variety of vulnerable groups in recipient countries (women, indigenous people, rural communities, landless, farmers) with the goal to create the most equitable, efficient and effective funding mechanism possible. While many project proposal documents make some reference to consultation with stakeholders, few do so in detail (beyond including a list of meeting participants). Most operating guidelines of

120 In order for civil society consultations to be useful, they need to be "free" (free of external manipulation, interference or coercion, and intimidation), "prior" (timely disclosure of information) and "informed" (relevant, understandable and accessible information), and apply to the entire process and not just to the early design stages of a fund or project. The climate funding agency also must tailor its consultation process to the language preferences of the affected communities, their decision-making processes, and the needs of disadvantaged or vulnerable groups.

existing funds – including those of the Adaptation Fund, which is seen by many as a model for future climate funds – need to articulate stronger requirements for comprehensive civil society and relevant stakeholder consultations in recipient countries in project planning, project implementation and project review processes.[121] In order for public participation of civil society and stakeholder observers on a fund's Board or Advisory Council to be more than mere window-dressing, representatives of civil society organizations and grassroots groups need to be full-fledged participants in actual funding deliberations and decisions. As such, the reliance on some high publicity partnership forum or staged meeting event needs to be replaced by a process-oriented, more continuous interaction of climate-funding mechanisms with civil society, particularly grassroots groups in developing countries. The secretariats of these funding instruments on their part need to confront the lack of resources hindering civil society groups to be able to play their role in a more "bottom-up" engagement by providing more direct financial support and understand this support as an integral part of their mandate (Sharma 2010).

These experiences, practices and recommendations described above should be informing the work of the new TC, which – as part of the terms of reference to design the new GCF – will propose mechanisms to ensure stakeholder input and participation at the GCF. Ideally, the TC members will define the term stakeholder very broadly to allow for the consistent inclusion of civil society participants in GCF deliberations and decisions. A first test will be to see how open the TC itself will be to input by outside observers, including from international civil society, and if observers have an opportunity to actively participate in TC meetings, for example by submitting proposals and making interventions, suggesting agenda items, recommending experts or offering own expertise. Here the Cancun decision is unfortunately very vague (UNFCCC 2010b, par. 110). To set the precedents for the involvement of civil society in the GCF, the TC should therefore allow for the active involvement of international civil society from its very first meeting. Civil society representatives to the TC could be chosen in a self-selection process with regional and gender balance. Those representatives would then also have to take into account the interests of special groups such as indigenous peoples or women, for example by giving such groups a dedicated civil society slot for engagement with the TC.

Compliance Check: In order to allow for better public participation in decision-making on climate finance, we need to:

- ✔ Improve public participation in public climate finance beyond mere sporadic, perfunctory consultation by treating it instead as a process-oriented, continuous interaction obligation. The secretariats of existing climate funds and funding mechanisms should grant

121 This point was made even in reference to the Adaptation Fund, which many observers see as a model for future climate funds in many other ways (Kaloga and Harmeling 2010).

stable financial support to such interaction processes with relevant stakeholders and civil society throughout the lifespan of the funding instrument in order to guarantee truly representative involvement, especially of grassroots groups and affected communities in the recipient countries.

- Give elected civil society representatives, currently serving as advisors or "active observers" to climate fund committees, the right and opportunity for active participation in all funding deliberations.
- Work toward allowing an elected representative of communities and groups directly affected by climate-funding decisions for a specific project in a specific country to be present and, ideally, vote at the Fund Committee or Board making such a decision.
- Ensure that the TC tasked with designing the GCF not only allows for a consistent inclusion of civil society participants in GCF deliberations and decisions by recommending innovative participatory mechanisms, but that the TC and its proceedings are likewise open to active participation and input by international civil society from the first TC meeting onward.

3.7 Relevant Principles for the Disbursement and Delivery of Climate Change Funding

With a preoccupation of the ongoing discourse on global climate finance with the slow progress of mobilizing climate finance and how it will be governed globally, up to now less attention has been given to the principles for disbursing climate finance. These are, however, crucial, as they will determine the effectiveness and efficiency of the funds used. The experience of development finance and its bilateral and multilateral development mechanisms over the past decades – both its successes and shortcomings – must be instructive. Climate change financing cannot be seen in isolation from development aid delivery, nor should it be understood or handled as just a component of ODA. Development considerations must inform climate finance delivery to the same extent that ODA expenditures need to be climate-proofed and climate-aware. Climate change financing demands additional resources for additional tasks that should be informed by guidelines and principles that many development aid delivery mechanisms are – at least currently or without a major reform – not equipped for.

3.7.1 Subsidiarity, Devolution and National/Local Ownership

In order to guarantee that the disbursement of funding for climate change action meets actual spending needs in the developing world, funding priorities should not be imposed upon a country or a community from the outside. Rather, funding decisions – in keeping with the concept of subsidiarity as expressed in both the Paris Declaration on Aid Effectiveness and the Rio Declaration on Environment and Development Principle 10 – should be made at the lowest possible and appropriate level. Some analysts have used the term "devolution" to describe the shift of responsibility and decision-making on funding from the fragmented, mostly donor-dominated level (with some of the micro-management it engenders) to developing countries (Müller 2010; Gomez-Echeverri 2010a). For such devolution to work in developing countries, the creation of new institutional mechanisms – namely national funds or national funding entities – is needed in order to absorb and govern an orderly allocation of climate funding nationally and locally in alignment with national priorities as expressed in NAPAs, NAMAs, national development plans (including Poverty Reduction Strategy Papers) or national communications. Many developing countries will have to overcome weak institutional capacity, but some encouraging first examples for the possible functioning of such national climate-funding hubs exist – with, for example, the new Bangladesh Climate Change Resilience Fund[122] or the Indonesia Climate Change Trust Fund[123] – thereby providing opportunities for "best practice"-oriented, globally shared learning. Such a shift in funding disbursement responsibility will constitute not only proof of much needed trust-building in global climate finance matters, but gives developing countries an important opportunity for building a critical interagency institution for a programmatic and sector-wide approach to climate-friendly national development. A national fund or national funding entity in which developing countries would also contribute domestically-generated resources (as in the case of Indonesia and Bangladesh) would also be better able to tackle the problems of donor fragmentation and lack of donor harmonization for the recipient countries by collecting all incoming climate funds from various sources. Additionally, a national fund can better coordinate and manage a country's use of climate funding than disjoint non-country funding entities, thus enhancing cross-sectoral synergies as well as those between mitigation, adaptation and REDD measures. This would increase a country's absorptive capacity for climate finance in line with the global scale-up of available long-term climate funding (Gomez-Echeverri 2010b) as confirmed by the Cancun Agreements at COP 16.

> **Compliance Check:** In order to make progress toward subsidiarity, devolution and national ownership in climate change funding, we need

122 The Bangladesh Climate Change Resilience Fund was originally conceived by contributor countries as a multi-donor trust fund for pooling resources to be managed by the World Bank. Strong criticism by the Bangladesh government and civil society has led to a fundamental redesign of the trust fund, which was made operational in May 2010. At the BCCRF, funding will be disbursed by the Bangladesh government (see http://bdnews24.com/details.php?id=173482&cid=2 and http://www.thedailystar.net/newDesign/news-details.php?nid=140614; accessed on Nov. 6, 2010.)

123 See the website at http://www.icctf.org; accessed on Nov. 6, 2010. Funding decisions at the ICCTF will be made by a steering committee, which will however include donor representation.

to demand that contributor countries and international funding institutions:

- Support existing funds as well as the creation of future national climate trust funds and funding entities in developing countries.
- Help countries to built capacity and help national institutions to take full national ownership of climate finance contributions delivered by the international community.
- Fulfill obligations and commitments under the Paris Declaration on Aid Effectiveness and the Ghana Action Plan by steadily increasing the amount of climate-related ODA given in form of direct budget support.
- Accept communications and plans such as NAPAs, NAMAs, development priority or poverty reduction strategies, which should be nationally owned and developed with participatory processes involving all stakeholders, as the expression of national funding priorities for climate change action.

3.7.2 Precaution and Timeliness

While there is not complete scientific certainty about the necessary adaptation and mitigation action, the moving scientific signposts should not be used as a reason to postpone or delay possible action now, as the Climate Convention text emphasizes in Article 3.3.[124] A precautionary approach (Rio Principle 15) dictates that climate funding is made available in adequate amounts (meaning tens of billions of dollars) immediately. These principles are consistent with a climate justice and human rights framework. In the current global climate finance system, which is based on voluntary pledges by industrialized countries, by not binding assessed contributions as desirable under a compensatory climate-financing regime, there are no mandatory, predictable and, thus, enforceable payment flows. Therefore, performance indicators need to be introduced in the international discourse on climate finance to ensure that voluntary pledges of funding move as swiftly as possible from a political declaration to directly support nationally-owned and defined climate actions. The amount of disbursed funds within a relatively short period and the narrowing of the current wide gap[125] between pledged and disbursed funds during that same period could be a possible indicator. Increased transparency and a public “naming-and-shaming” of unfulfilled pledges, which civil society groups are attempting with respect to

124 It states: “The Parties should take precautionary measures to anticipate, prevent or minimize the causes of climate change and mitigate its adverse effects. Where there are threats of serious or irreversible damage, lack of full scientific certainty should not be used as a reason for postponing such measures (…).”

125 Climate Funds Update website, available at: http://www.climatefundsupdate.org/graphs-statistics/pledged-deposited-disbursed; accessed on Nov. 6, 2010.

the fast start finance promises,[126] might help in speeding up finance flows to climate funds.

Additionally, bilateral and multilateral climate finance mechanisms must do more to streamline their funding and project cycles (often taking years, as has been the complaint in the case of the GEF, from submission of project proposals to actual funding disbursement to national entities) to allow for the rapid delivery of funds. While this should not come at the expense of oversight and due diligence, a clear and succinct elaboration of only the minimum set of necessary criteria for the allocation of resources would be helpful. Currently, many provisions in financing mechanisms are not only deemed overly burdensome by developing countries applying for climate funds, they are also not harmonized among funding institutions. This increases the administrative burden on the recipient country and delays unnecessarily the timely disbursement of public climate change funding.

> **Compliance Check:** In order to allow for public climate funding to be disbursed in a timely and precautionary manner to developing countries, we need to:
> - ✔ Vastly increase the amount of public funding disbursed in a relatively short period by narrowing the current time gap between the pledging, depositing and then disbursement of funding.
> - ✔ Strengthen efforts to publicly "name and shame" contributing countries and institutions laggard in fulfilling funding pledges, for example via civil society tracking and monitoring initiatives.
> - ✔ Streamline the funding and project cycles at existing climate-funding mechanisms and dedicated climate funds by providing a clear and succinct elaboration of only the minimum set of necessary criteria for the disbursement of resources.
> - ✔ Harmonize disbursement requirements for climate funding among contributor countries and funding institutions in order to reduce the administrative and time burden on recipient countries.

3.7.3 Appropriateness

Climate funding should not place extra development burden on the recipient country. Depending on which finance modality is used to disburse funds to developing countries – grants, loans (even long-term concessional ones), investment guarantees for private-public partnerships – recipient countries might be placed in a situation where climate action could come at the expense of national development priorities, national decision-making power and a country's fulfill-

126 For an overview of current fast start finance resources, see the civil society monitoring efforts of the World Resources Institute (http://pdf.wri.org/climate_finance_pledges_2010-10-02.pdf) and Climate Funds Update (http://www.climatefundsupdate.org/fast-start-finance), a joint project by ODI and the Heinrich Böll Stiftung.

ment of its international human rights' obligations. Most importantly, repayable loans, no matter how favorable their conditions, have no role in adaptation financing, which is to be understood fundamentally as compensation, not aid. It is contrary to globally accepted fairness principles to ask the poorest developing countries that have contributed the least to global climate change – but are already suffering the most from its effects – to (re)pay to the polluting nations the funds used for protecting vulnerable people and their livelihoods. Many LDCs also remain highly indebted,[127] a situation worsened by the global financial crises and ongoing high food commodity and oil prices. Even favorable loans for low-carbon development investments, since they must be repaid, will often come at the expense of cuts in social sector programs, thus hurting vulnerable population groups the most, especially women, who traditionally take over many of the social caring functions no longer provided by debt-stricken governments (Rooke 2009). Therefore, climate justice-focused civil society organizations are demanding strict limits and safeguards for mitigation lending (e.g., to a maximum of one-third of totally needed mitigation finance) and denounce policy conditionality on such mitigation loans or the tying of funding to purchases of technology or services in the creditor country as both illegitimate as well as undermining national decision-making and planning priorities (Oxfam 2010).

These recommendations should inform the work of the TC, which will design the financial instruments, funding windows and access and disbursement modalities under which the new GCF is to manage its resources. While it is still unclear how much of the $100 billion annually by 2020 in long-term climate financing might flow through the GCF, the Cancun decisions commits "a significant share of new multilateral funding for adaptation" to the GCF (UNFCCC 2010b, par. 100). Funding for adaptation programs and projects under the GCF, as well as mitigation funding for the LDCs and SIDS, should be exclusively in the form of grants.

Compliance Check: For public climate finance to be appropriate for dealing with climate change challenges, it needs to:

- ✔ Be disbursed to all developing countries exclusively in the form of grants for adaptation projects and programs.
- ✔ Not contribute to further indebtedness of the two country groups most vulnerable to climate change, namely LDCs and SIDS; all climate funding going to LDCs and SIDS, including for mitigation, should be in form of grants.
- ✔ Have strict limits and safeguards for all mitigation lending in developing countries to ensure that the amount of funding for mitigation actions delivered as loans is as small as possible.

127 A UN Fact sheet on efforts to halve poverty by 2015 as part of the MDG review process reports that in 2010 some 22 LDCs are already in severe debt distress or are in danger of severe debt distress (see http://content.undp.org/go/cms-service/stream/asset/?asset_id=2773343; accessed on Nov. 6, 2010.

- ✔ Avoid tying funding to purchases of technology or services in the contributing country or impose other conditionalities.

3.7.4 Direct Access and Vulnerability Focus

Access to and the benefits of climate financing should be distributed equitably, thus corresponding to the differing needs and capabilities of countries and regions to deal with the challenges of climate changes as well as the social and economic realities of recipient countries and the people living in these countries. Supporting vulnerable groups within these recipient countries should be prioritized by making capacity-building, technology and financing available especially for them. Among nation states, special funding provisions for public climate finance should be made for LDCs and SIDS, which, in contrast to emerging market economies, often have difficulties attracting private sector investment for climate mitigation or adaption efforts. A look at the statistics for CDM investments, with its heavy concentration of CDM projects in just a few middle-income countries (China, India, Brazil, Mexico, South Korea, South Africa) illustrates the need for such favored treatment.[128] Unfortunately, even the Kyoto Protocol Adaptation Fund, currently the most innovative multilateral climate finance mechanism in terms of providing a country's access, fails to prioritize funding directed at these two most vulnerable country groups, making instead a project-by-project assessment. Its Board, in which developing countries hold the majority of votes and reserve a seat for an LDC and SIDS representative each, does however make the level of vulnerability a critical criteria for the allocation of AF resources. AF funding guidelines demand that eligible parties pay special attention to the particular needs of the most vulnerable communities and societal groups in developing projects and program proposals submitted for AF funding support (Chandani et al. 2009)

In contrast to other multilateral funds administered by the WB or the GEF, the AF allows eligible countries direct access to AF funding via accredited national implementing entities (NIEs) without having to involve a multilateral organization (such as the UNEP, the UNDP or the World Bank) as an implementing agency. (The GEF relies on 10 multilateral implementing agencies to disburse adaptation funding). Direct access increases both ownership by and the responsibility of recipient countries to make sure that funding disbursed to them serves the intended purpose and reaches the most vulnerable groups within a country. It is thus at the recipient country level that the observance of basic human rights and international environmental law standards has to be guaranteed, when countries access climate funding directly. However, where they continue to use implementing agencies – and evidence of the Adaptation Fund suggests that many

128 See the CDM statistics webpage of the UNFCCC. Available at: http://cdm.unfccc.int/Statistics/Registration/ NumOfRegisteredProjByHostPartiesPieChart.html; accessed on Oct. 29, 2010.

countries for the foreseeable future might, due to a lack of own capacity (Brown et al. 2010b) – implementing agencies need to be bound by their own existing social and environmental safeguard policies, or elaborate at least minimum safeguard policies to guide their funding, irrespective of whether direct access modalities are provided.[129] The short track record of direct access in the AF's case does not detract from the utility of this access modality to multilateral climate financing. Instead it points to the need for strengthened capacity-building and outreach efforts to increase recipient countries' familiarity with and confidence in accessing funds directly. Likewise, contributor countries need to encourage direct access: If they want to increase recipient countries' capacities to disburse and monitor climate funding, support for building national implementing entities needs to be a part of the funded climate actions in bilateral and multilateral climate financing initiatives. The Cancun decision to establish the GCF tasks the TC to look at possible access modalities for the new global fund, "including direct access" as well as to suggest mechanisms to "ensure the application of environmental and social safeguards" (UNFCCC 2010b, Annex III, 1 (c) and (h)). The principle of direct access needs to be applied more frequently and consistently by other bilateral and multilateral funding agencies as well. In addition, it should be expanded to include non-state beneficiaries.

Currently, of the multilateral funds, only the Amazon Fund and the MDG Achievement Environmental Window allow some access to funding for non-country actors such as NGOs. At the Adaptation Fund, subnational entities, such as NGOs or government agencies, can be so-called Executing Entities for AF projects and programs. Some bilateral climate-funding instruments such as Germany's International Climate Initiative accept funding proposals directly from non-state actors, including civil society groups, and disburse funding directly to them. It is not yet clear if the new GCF will follow best-practice in allowing non-state actors, including civil society groups, in addition to developing countries direct access to its financial resources.

In order to strengthen access to funding with a focus on the most vulnerable groups of societies, all current bilateral and multilateral climate-financing instruments should allow direct access for recipient countries as a matter of supporting country ownership and increasing country responsibility. This would also increase the cost effectiveness of disbursed funding by eliminating fees and administrative costs for multilateral implementing agencies, which can be quite substantial. Direct access should also be extended to subnational

129 While the World Bank and the MDBs, which implement CIF-funded projects, have social and environmental safeguards on the book, there is no clarity among observers on the extent to which they are applied to their climate-financing operations. In contrast, the AF lacks an explicit elaboration of minimum social and environmental safeguard policies that would apply to its funding decisions. Additionally, the World Bank is about to start a process of revision of its safeguard policies to a "country approach," thereby shifting the responsibility for the application of minimum social and environmental standards on to its client countries.

and nongovernmental actors, particularly the non-profit sector, which has a track-record of prioritizing the most vulnerable and marginalized communities and societal groups (such as indigenous peoples or women) in climate change action (Mitchell et al. 2008). This could be accomplished via the establishment of a dedicated funding window in existing funding mechanisms for non-state, non-profit-implementing actors working on behalf of and with vulnerable groups.

Likewise, at the level of recipient countries, national climate trust funds or national funding entities should be established that 1) prize vulnerability as a central criteria for the allocation of resources; 2) apply social and environmental safeguards in accordance with their obligations under international human rights and environmental law; and 3) allow for the equitable direct access of civil society organizations and local communities to national climate change funding, either via separate windows or quotas or in direct competition with government entities for the best programs and projects. Relevant stakeholders and individual citizens should be able to seek redress via a complaint procedure or mechanism, if these criteria are not fulfilled. Such a mechanism should either be established directly at a national funding entity, or, alternatively, the jurisdiction of existing national legal complaints procedures should be extended over funding decisions of a national climate trust fund.

Direct access for any recipient of public climate funding (country or subnational actor) would be dependent on the recipient's ability to meet a set of fiduciary standards set by the climate-funding mechanism, standards which would include issues such as management capabilities, proof of financial integrity and procedures for monitoring and evaluation (Mitchell et al. 2008; Chandani et al. 2009).

Compliance Check: In order to move toward more direct access in climate change funding with a focus on vulnerable groups, we need to:

- ✔ Prioritize funding for especially vulnerable country groups such as LDCs and SIDs by making special funding provisions or creating a special set of funding guidelines for LDCs and SIDs within existing funds and mechanisms.
- ✔ Allow direct access for countries in all existing multilateral and future climate funds and financing mechanisms, thus obliterating the requirement for countries – unless so desired – to involve a multilateral organization as an implementing agency.
- ✔ Extend direct access to climate funding in all bilateral and multilateral climate funds and funding mechanisms to non-state agencies, including civil society organizations, local communities and grassroots groups, for example via the creation of special community or civil society funding windows.
- ✔ Ensure that national trust funds in developing countries include a vulnerability focus and direct access for all relevant stakeholders in

their guidelines as well as include basic social and environmental safeguards, for example by establishing vulnerability as a central criteria for the allocation of resources or by creating separate funding windows or quotas for civil society or community-based programs and projects.

3.7.5 Gender Equity

Gender equity in climate-funding disbursements is a principle that is often erroneously assumed to be more or less covered by a generic reference to "vulnerable groups" with respect to access to funds. It is therefore usually not given the explicit focus it deserves in climate finance discussions. That women and men have differing vulnerabilities and capabilities to mitigate emissions, to adapt to and cope with climate change impacts due largely to their gender roles and respective rights (or the lack thereof) and responsibilities has received more attention in the global climate change discourse, including in the context of UNFCCC negotiations in the past years (Schalatek 2010; WEDO 2007; UNFPA and WEDO 2009; UNDP 2009; Röhr 2009). Gender-differentiated capabilities and vulnerabilities in the context of climate change demand gender-aware and gender-equitable climate-financing instruments and climate-funding disbursement. So far, public climate change funding is largely gender-blind; genuine gender criteria for the disbursement of funding are nonexistent; there are no gender audits of disbursed funding nor gender-aware budgets for climate change projects and programs financed by these instruments. This holds true for mitigation, REDD and adaptation financing instruments, but is probably most shortsighted with respect to adaptation projects that focus on reducing the vulnerabilities of affected groups to climate change impacts – vulnerabilities increased by gender-differentiated roles and rights. This ignorance not only negates the interests and rights of a most relevant stakeholder group in climate finance (women disproportionately affected by climate change), it also might lead to sub-optimal program and project results in climate change actions (Schalatek 2009a).

The experience of bilateral and multilateral development programs – where gender-awareness in project design and implementation has a track record of improving development outcomes and the effectiveness and efficiency of development finance according to many international aid organizations (such as the UNDP and the World Bank) – can be instructive.[130] Likewise, the MDG Summit process, in focusing on gender equality as one of eight MDGs, emphasizes that investing in women and girls has a multiplier effect on productivity, efficiency and sustained economic growth (UN-NGLS 2010b). Unfortunately, many gender-aware or women-focused development projects or programs in the past

130 The Independent Evaluation Group of the World Bank, in evaluating the World Bank Group's progress in its gender mainstreaming effort over the past decade, declared that ensuring gender-responsive project design "is a matter of relevance, efficiency, and efficacy, and thus a matter of development effectiveness" (IEG 2010b, vii).

were relegated to a microfinance or pilot project level. Even where successful, few have been replicated and up-scaled sufficiently.

Repeating this approach and mentality with respect to climate financing would be tantamount to securing the underperformance of public climate funding and to ensuring continued gender inequity. Rather, the dual processes of gender mainstreaming and women's empowerment need to be integrated in procedures for funding decisions and funding disbursement. For this, each individual funding agency or climate finance mechanism in their respective operating guidelines will have to formally accept and articulate gender equity as a basis for climate change financing decisions. This can be accomplished via the development of a multi-year gender action plan or gender guidelines for the fund's operation as well as the inclusion of concrete gender criteria and indicators in the decision framework for funding allocations with gender-responsive budgeting[131] for individual programs and projects. Both the UNFCCC itself but also the GEF as a financing mechanism under the UNFCCC should develop such a gender plan of action; the CBD, which is – like the UNFCCC – one of the Rio Conventions, has such a plan. Also, gender audits of funding disbursement and project implementation have to be an integral part of general monitoring and evaluation requirements. Many women advocates argue that it would likewise not be inconsistent with a gender mainstreaming approach to climate finance to allow for the creation of a "gender window" in existing climate funds or even a separate Women's Climate Change Fund, particularly as a way to showcase the benefits of gender-aware climate change funding.

As direct access to climate funds increases and more climate funding is delivered as climate budget support, it also becomes more pertinent to increase the gender awareness on the demand side for climate financing. To date, the majority of submitted program and project proposals by recipient countries, civil society and grassroots groups do not yet take gender-differentiated climate change impacts into consideration. While a minority of NAPAs submitted to the UNFCCC integrates some gender analysis, most do not. NAMAs, national communications and even national poverty reduction strategies are often gender-unaware. However, as processes rather than finished documents, these national planning and reporting formats allow for a periodic review and upgrade, including with respect to their level of gender sensitivity. Gender and women's advocacy groups having worked for years in the development context on sector policies relevant to mitigation and adaption efforts (such as energy, agriculture, water, health) likewise need to make stronger efforts to engage with climate advocates on the national and international level by bringing their experiences to discussions about climate funding.

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131 Gender-responsive budgeting has been advocated and utilized in the development context in the past primarily by UN agencies, with the UN Development Fund for Women having taken the lead by establishing gender-responsive budgeting initiatives in more than 20 countries. A UNIFEM-sponsored website with resources on gender-responsive budgeting is available at http://www.gender-budgets.org; accessed on Nov. 6, 2010.

The outcome document of the AWG-LCA in Cancun did include some relevant references to gender and women most notably in demanding that: parties follow a gender-sensitive approach of enhanced action on adaptation in a new Cancun Adaptation Framework; developing countries include gender considerations in national REDD action plans; parties consider the economic and social consequences of climate response measures on vulnerable groups, in particular women and children (UNFCCC 2010b). However, gender awareness is lacking in the negotiated finance section of the text. There is no reference to women as an important stakeholder group to be considered under the new GCF, nor is there the call for a gender balance in either the TC or a new Standing Committee to guide the COP on climate finance issues.[132] It will be crucial for the TC to include explicit gender guidelines and policies for the operation of the GCF in suggesting mechanisms for the application of environmental and social safeguards as well for stakeholder input and participation in the new global fund.

Compliance Check: In order to make progress toward gender equity in public climate finance, we need to:

- ✔ Recognize gender equity as an explicit goal and requirement in public climate finance instruments and mechanisms instead of treating women as just another "vulnerable group."
- ✔ Integrate gender equality in all thematic sections for a global post-Kyoto climate change agreement, including in the finance text, and as an integral part of any elaboration for a joint vision on long-term cooperative action under the UNFCCC.
- ✔ Integrate the dual processes of gender mainstreaming and women's empowerment in public climate finance by establishing gender criteria for funding disbursement; gender indicators and gender budgets for projects and programs funded; and gender audits as part of the monitoring and evaluation of project and program implementation.
- ✔ Develop a gender action plan or gender guidelines for each existing multilateral and bilateral climate fund or funding mechanism, as well as for the UNFCCC itself and at the GEF and the new GCF as operating entities of the financing mechanism of the Convention.
- ✔ Develop a "Women's Climate Change Fund" (as a sub-fund under existing instruments or a new fund) or dedicated gender funding windows at already existing climate finance mechanisms and under the new GCF.

132 In contrast, the terms of reference for the composition and mandate of a new Technology Executive Committee to be established by a decision in Cancun encourages parties to "achieve gender balance" when nominating senior experts to the committee. Such wording is missing with respect to the composition of the TC (UNFCCC 2010b, Annex IV, 3).

In conclusion: Although these important principles for the mobilization, administration and governance and disbursement of public climate funding have been discussed separately in this paper, they are of course mutually supporting and interdependent. Thus, improvements even in one area will likely yield benefits far beyond individual issue areas, countries or approaches. An elaboration of principles and compliance criteria, such as the one attempted in this section, is of course far from complete. However, a consideration and the application of these key principles and criteria will go a long way toward avoiding harmful and unintended consequences of climate investments on recipient countries and affected communities and societal groups by providing them with the financial resources they need to deal with the challenges already posed by climate change. Heeding these key principles and criteria (summarized in Table 4 below) will also ensure that channeling public funds into mitigation and adaptation actions is coherent with legally binding obligations of the 194 UNFCCC parties under existing bodies of international human rights laws and environmental laws. Where these key principles and criteria are applied as best as possible by local, national and international actors in public climate finance, significant progress will be made toward combating climate change in an efficient, effective and equitable manner.

Table 4: Suggested Key Principles, Criteria and Possible Indicators for Global Public Climate Finance

DELIVERY PHASE	PRINCIPLE	CRITERIA	POSSIBLE TYPES OF INDICATOR
Fund Mobilization	Transparency and Accountability	Financial contributions by individual countries and international organizations and agencies and their composition and sources are publicly disclosed	Official websites; independently verified global climate registry
	The Polluter Pays	Financial contributions are relative to the quantity of (historic) emissions produced	Level of emissions since agreed (historical) date; assessed amounts
	Respective Capability	Financial contributions are correlated with (existing) national wealth and (future) development needs	GNI or GDP or PPP since agreed (historical) date; establishment of a recognized development threshold; assessed amounts
	Additionality	Funds provided are more than existing national ODA commitments and are not counted toward fulfillment of existing national ODA commitments	National yearly contribution on top of the UN target of 0.7% of contributor country's GNI
	Adequacy and Precaution	Amount of funding is sufficient to deal with the task of maintaining global temperature rise below 2 degrees Centigrade	International (UNFCCC, WB, UNDP) and national (NAPAs, NAMAs) estimates of needs
	Predictability	Funding is known and secure over a multi-year, medium-term funding cycle	Source and time-scale of funding multi-year
Fund Administration and Governance	Transparency and Accountability	Accurate and timely information on a mechanism's funding structure, its financial data, the structure of its board and contact information for its board members, a description of its decision-making process and the actual funding decisions made as well as the existence of a redress mechanism or process	Funding mechanism website information, including a project database; existence of an independent inspection group or panel
	Equitable Representation	Board representation of stakeholders on the Board of a fund or funding mechanism	Actual membership of fund decision-making group by country group, region, societal group, including gender, and sector
	Public Participation in Decision-Making	Inclusion of the larger public beyond mere consultations in climate-funding decision-making in climate funds and funding mechanisms	Role of civil society in Board agenda setting, Board deliberations and decision-making
	Under Authority and Guidance of the UNFCCC	Clear international climate-funding hierarchy with established authority of the UNFCCC over a global climate change fund, finance board or climate registry to which all existing climate finance mechanisms (including bilateral ones) should account and report to	Acknowledged authority (including reporting requirement) in description of a fund's constitution

DELIVERY PHASE	PRINCIPLE	CRITERIA	POSSIBLE TYPES OF INDICATOR
Fund Disbursement and Delivery	Transparency and Accountability	Disclosure of funding decisions according to publicly disclosed funding criteria and guidelines; duty to monitor and evaluate implementation of funding; existence of a redress mechanism or process	Funding mechanism website information, including a project database, from planning to implementation and evaluation; existence of an independent inspection group or panel
	Subsidiarity, Devolution and National/Local Ownership	Funding decisions to be made at the lowest possible and appropriate political and institutional level	Existence of national funding boards or funding hubs and their participatory processes; conditionality on funding disbursed to national funding boards/hubs
	Precaution and Timeliness	Absence of scientific certainty should not delay swift and immediate disbursement of funding when required	Amount of funding disbursed in specified short-time period
	Appropriateness	The funding modality should not impose an additional burden or injustice on the recipient country	Type of funding provided (e.g., loans versus grants)
	Direct Access and Vulnerability Focus	Financing, technology and capacity-building to be made available to the most vulnerable countries internationally and population groups within countries as directly as possible (eliminating intermediary agencies where not needed)	Extension of direct access beyond countries to include subnational entities and nongovernmental organizations (e.g., via the establishment of a dedicated funding window in existing mechanisms)
	Gender Equality	Funding decisions and disbursement take into account the gender-differentiated capacities and needs of men and women through a dual gender-mainstreaming and women's empowerment focus	Existence of gender guidelines or a gender plan of action for the funding mechanism; establishment of gender criteria for funding decisions and a gender budget for programs and projects funded as well as gender audits of funding disbursement and project implementation
	Do No Harm – Policy Coherence	Climate finance investment decisions of international organizations and bilateral agencies with roles in international climate finance (e.g., as trustees of climate funds) should not imperil long-term sustainable development objectives of a country or violate basic human rights	Acceptance of an HR policy framework to guide investment decisions; existing energy investment and lending portfolio of an institution involved in climate finance with respect to oil, gas and mining activities

Source: Bird 2010; author.

4. The Normative Framework Applied – How the Status Quo of Public Climate Change Financing Measures Up

A cursory look at 22 of the most prominent multilateral and bilateral dedicated public climate-funding initiatives (Table 2 provides a short overview), whose funding activities have been tracked by civil society efforts over the past years, reveals a huge performance gap by most of these public climate funds with respect to the principles and criteria elaborated in great detail above. Clearly, more detailed analysis is necessary and encouraged. However, even a preliminary analysis underscores some existing trends that are preventing a truly equitable, effective and efficient global public climate finance system based on human rights and justice. The most fundamental principles on which the international climate change regime is built and that have been accepted by its parties via their participation in the UNFCCC – such as those focusing on the polluter pays principle; precaution and timeless; respective capabilities and equity – continue to be widely ignored in most existing public climate-funding mechanisms. The deficits are glaring throughout the entire climate-funding cycle. Although currently, with many dedicated funds just in the beginning stages of project funding and in the absence of a record of sustained project implementation, this is most apparent with respect to fund mobilization and administration.

Clearly, the majority of climate-funding initiatives (the Adaptation Fund and a few other would receive honorable mention as exceptions from the rule) have not yet managed to overcome a traditional donor-recipient development aid framework of operation. This is reflected in the continued widespread use of loans and private sector loan guarantees as climate finance delivery tools, as well as the fact that an overly large portion of current public climate funds is channeled through existing development aid institutions, effectively becoming part of traditional ODA streams (e.g., via the MDBs). This comes at the expense of more innovative funding approaches that seek to redefine the power dynamics and relationship between industrialized countries and developing countries. There have been – in contrast with traditional ODA delivery mechanisms – some governance improvements, for example, in the way the trust fund committees of the CIFs at the World Bank are set up, which allow for more equal participation and decision-making by developing countries in those bodies. Nevertheless, the funding approach remains "top-down," ignoring the need for subsidiarity and strengthened national and local ownership. In fact, even some small governance improvements in a few multilateral climate funds that put recipient countries on a more equal footing with contributor countries usually do not extend beyond nation-state participation. All current climate finance mechanisms lack procedural rules and mechanisms that would guarantee a more effective involvement of relevant stakeholder groups and a better and active public participation in decision-making. None of them have mechanisms on the books to give affected societal groups and communities a means to seek redress or to review spending decisions, thus violating basic procedural human rights obligations all UNFCCC parties have signed on to under other international conventions and regimes.

While most multilateral funding instruments have some formulized interaction procedures with the public, for bilateral climate-funding instruments the picture is more diffuse. Several of them do not offer concerned citizens (of both the funding and the recipient countries) or affected communities a formal consultation procedure, thus exercising "funders' prerogative" in deciding how much information to release and to whom it should be available. Overall, full transparency, accountability and with it public oversight are still lacking at most funding mechanisms to varying degrees, although public information efforts (mostly in the form of websites and brochures) are made. Where information is publicly disclosed, it often reflects an incomplete picture of funding sources and purposes and usually does not disclose the deliberations leading to a particular decision, for example by releasing the minutes of trust committee meetings. At the CIFs, investment plans for CIF-supported projects are only released after a decision is made, but that is too late for stakeholder groups to actively participate in the deliberations by offering comments and suggestions.

It will be very interesting to follow the work and process of the TC during 2011 to see if the new GCF will provide a more principled stance in administering and allocating funding for adaptation, REDD+ and mitigation and improve on existing best practices for access and participation – for example, such as the ones currently in operation at the AF (allowing for direct access) or at some of the bilateral initiatives (which are granting selected non-governmental actors access to finance or allowing them to be part of funding decision-making). Where the GCF – and the TC designing its operational procedures and institutional arrangements – can leap-frog over existing climate finance instruments from the very start, is with respect to conducting business in a very transparent and accountable way. An early commitment to establishing mechanisms for a wide range of stakeholders to participate actively in the work of the GCF and full disclosure of documents and funding information are crucial in this respect. Otherwise, even with a new global climate fund, international climate financing will continue some of the disclosure, accountability and participation deficits that civil society has long criticized for development aid delivery. Most analyzed climate-funding mechanisms fall short even of the basic requirements for good ODA, as defined and widely accepted – but not yet sufficiently implemented[133] – by the international community in the Paris Declaration on Aid Effectiveness and the Accra Action Agenda, thereby repeating the weaknesses and failings of development assistance instead of learning from and overcoming them. The delivery of a large portion of existing public climate funding through traditional development aid delivery agencies is a big reason for this. Opportunities for new and innovative funding initiatives, such as the Adaptation Fund, or developing country-led instruments, such as Ecuador's Yasuni ITT Trust Fund,[134] are either only haphazardly supported by contributor countries or outright ignored or blocked. Thus, most public climate funds continue to disburse funding on a slow-moving, administratively burdensome project-by-project basis, ignoring obligations (articulated for development aid and certainly applicable to climate finance) to shift more aid money to a budgetary support.

Of course, the experience with budget support in the development context is far from perfect. And in the case of climate funding delivered as direct budget support to developing countries, the question of how to monitor and verify (and report to whom) how these monies are disbursed within a developing country needs to be addressed more forthrightly. Undoubtedly, as the industrialized countries have an obligation to deliver sufficient climate finance to deal with the actual challenge, so do the developing countries receiving those funds have an obligation to ensure that the funding – once it is deposited in a country's coffers – is disbursed within the country in the most equitable and effective way. In the case of development aid, donor and recipient countries in the past were able to agree on explicit criteria and indicators for the impartial monitoring of progress through an international discourse on aid effectiveness. A similar common understanding on climate finance effectiveness might be needed, however it should be one in which reporting and verification requirements of developing countries are not directed toward industrialized countries, but toward their own citizens and the international community at large. Direct budget support deposited in national climate trust funds or funding hubs would be the first step toward such a possible international understanding on climate finance transparency and effectiveness. It would address the trust-deficit in the interactions of industrialized and developing countries – obvious in the way public climate finance up to now has been managed and disbursed – head on by being mindful of and respecting the ownership of developing countries over the use of climate finance transfers from the main polluting countries to the ones most affected by climate change as a matter of justice and principles. Ultimately, the generation and delivery of international climate finance has to be released from being held hostage to an

133 The 2008 OECD Survey on Monitoring the Paris Declaration found that OECD countries were not on track to meet the 2010 targets for improving the quality of aid. For example, less than 45 percent of aid was delivered via developing countries' own financial management systems, whereas the target to be reached by 2010 was 80 percent (OECD 2008).

134 For further details on the trust fund, see http://mdtf.undp.org/yasuni; accessed on Nov. 6, 2010.

emissions-reductions quid-pro-quo by industrialized countries that see the MRV of voluntary reduction commitments by the large emerging market economies (Brazil, Russia, India, China, South Africa) as a prerequisite for following through on the MRV of their own funding commitments and pledges to all developing countries, including the poorest, which are a not only a legal obligation under the UNFCCC, but a moral one. This was not yet possible in Cancun.

5. How to Ensure Universal Application and Acceptance? The Way Forward – Some Recommendations

How can the international community ensure that principles for an equitable, effective and efficient global climate finance system based on the normative framework of justice and fairness set by international human rights, environmental laws, core democratic principles and policy coherence become widely accepted and are broadly applied for the mobilization, management and administration and disbursement of public climate funding? An important starting point is the integration of a human rights approach in the UNFCCC – including the right to development and gender equality – in the discussions and the text of a formal COP decision for a joint vision and long-term cooperative action and in the final language of a post-Kyoto climate agreement. Only when the COP officially recognizes the adverse impact of climate change on the enjoyment of human rights and ensures that the UNFCCC's future strategies and action plans integrate human rights principles can policy coherence and sustainable outcomes be ensured. Some first steps in this direction were made by the Cancun Agreements with the inclusion of a reference to the UNHRC resolution on human rights and climate change in the preamble of the AWG-LCA outcome text as well as the demand in the shared vision segment of the same document that "Parties should, in all climate change-related actions, fully respect human rights" (UNFCCC 2010b, par. 8). Some further steps may be made in this direction at the COP 17 in Durban, South Africa, where an "African COP" might galvanize attention to human rights, including the right to low-carbon, climate-resilient development. For this to happen, it will be vitally important to establish a clear hierarchy with respect to global climate finance governance. It is not clear yet if the new GCF, which was decided in Cancun, will have the authority over or act as "fund of funds" for other existing climate-financing instruments outside of the UN system (such as the CIFs). Ideally, they would have to be subordinate to such a global fund guided by UNFCCC decisions and accountable to the COP (although, unfortunately, not subject to the clear authority of the UNFCCC, as many had hoped) in order to ensure the applicability and enforceability of one overarching normative framework with universal principles, guidelines and criteria for all public climate finance instruments. One of the first entry points to integrate such a human rights-based approach within the UNFCCC would be the national reporting structure for national communications, NAMAs and particularly NAPAs, which should not only address the roles of individual states in guaranteeing adequate mitigation and adaptation action in accordance with their obligations under the framework convention, but should also spell out how existing human rights obligations by parties are safeguarded in a coherent way by doing so. As living, country-led processes rather than static documents, national reporting formats under the UNFCCC provide an ongoing opportunity for the parties to improve policy coherence in their responses to climate challenges at home and abroad and in formulating and implementing their own public investment priorities in adaptation and mitigation.

In entrusting the World Bank with the role of interim trustee for the new GCF, the UNFCCC parties at the COP 16 cemented an important role for the World Bank and multilateral development banks as implementing agencies and fund operators in the global climate finance architecture beyond earlier expectations for the "sunset" of their involvement by 2012.[135] Therefore, the protection of human rights in these development finance institutions needs to become the yardstick for all their climate-relevant investment decisions – be they through traditional development finance instruments or via dedicated climate funds for which the IFIs assume a role as trustee or implementing agency. This does not demand less – and will need no less – than a redefinition of progress within these institutions from a narrow focus on growth projections to a focus on low-carbon development and individual well-being, the latter recently suggested for example in the Stiglitz Commission Report. Such a reorientation of the development mandate to benefit first and foremost vulnerable individuals in recipient countries will also force some important adjustments in industrialized countries' ODA policies – either implemented by multilateral agencies or via bilateral aid organizations. A truly human rights-led climate-aware development policy can then no longer be perceived as an extension of a nation's foreign economic and trade policy and thus self-serving. Instead, it will have to be a policy of national responsibility to follow through on a state's commitments to the international community and to be accountable to the world's citizens.

Ultimately, in order to make certain that states do the right thing for the right reasons in funding human rights-based, development-focused mitigation and adaptation actions with sufficient, predictable, appropriate and timely public finance, more formal accountability and compliance mechanisms have to be established – on the international, national and local levels – and existing ones have to be strengthened. Within the UNFCCC, a clarification and expansion of the mandate of Article 6 focusing on public participation in the UNFCCC process should be sought, with a goal of establishing a formal grievance process

135 Technically, only the PPCR of the existing CIFs is sunsetting in 2012; the other CIFs and related activities by the MDB are supposed to be finalized once a post-Kyoto agreement in the UNFCCC is reached.

within the framework convention. Multilateral development banks and bilateral climate-funding instruments likewise need to extend and strengthen existing recourse and public oversight mechanisms to cover all public climate finance decisions. It is also recommended that the TC tasked with designing the new GCF includes strong accountability and redress mechanisms in the operational make-up of the new fund. Parliamentarians and other elected government representatives on the subnational level in industrialized and developing countries have to be taken to task for asking their governments the right questions and demanding the right answers. Ultimately, elected representatives have to be willing to wield the power of the purse in the pursuit of an effective, equitable and efficient way to publicly finance climate actions. Lastly, the obligation of states to do the right thing with respect to public climate change financing comes full circle with the responsibility of all of us who care and have a voice and a vote to ensure that they do.

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ACRONYMS

AF	Adaptation Fund (Kyoto Protocol)
AGF	United Nations High Level Advisory Group on Climate Change Financing
AWG-LCA	Ad-hoc Working Group on Long-Term Cooperation Action (under the UNFCCC)
CBD	Convention on Biological Diversity
CBFF	Congo Basin Forest Fund (African Development Bank)
CDM	Clean Development Mechanism (Kyoto Protocol)
CEDAW	Convention on the Elimination of all Forms of Discrimination against Women
CIFs	Climate Investment Funds (World Bank)
COP	Conference of Parties
CRF	Common reporting format (at the OECD-DAC)
CTF	Clean Technology Fund (World Bank)
EC	European Community
EITI	Extractive Industries Transparency Initiative
ETF-IW	Environmental Transformation Fund – International Window (UK)
FAO	Food and Agriculture Organization of the United Nations
FCPF	Forest Carbon Partnership Facility (World Bank)
FIP	Forest Investment Program (World Bank)
GCCA	Global Climate Change Alliance (European Commission)
GCF	Green Climate Fund
GDR	Greenhouse Development Rights
GEEREF	Global Energy Efficiency and Renewable Energy Fund (European Investment Bank)
GEF	Global Environment Facility
GGCA	Global Gender and Climate Alliance
GHG	Greenhouse gas
GNI	Gross national income
GMO	Genetically modified organism
ICI	International Climate Initiative (Germany)
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICHRP	International Council on Human Rights Policy
IDA	International Development Association (World Bank Group)
IEA	International Energy Agency
IEG	Independent Evaluation Group

IFCI	International Forest Carbon Initiative (Australia)
IFI	International financial institution
IFPRI	International Food and Policy Research Institute
IMF	International Monetary Fund
IPCC	Intergovernmental Panel on Climate Change
IUCN	International Union for Conservation of Nature
LDC	Least developed country
LDCF	Least Developed Countries Fund (GEF)
MDBs	Multilateral development banks
MDGs	Millennium Development Goals
MRV	Measurable, reportable, verifiable
NAMA	Nationally appropriate mitigation action
NAPA	National adaptation program of action
NIE	National implementing entity (AF)
ODA	Official development assistance
ODI	Overseas Development Institute
OECD	Organisation for Economic Co-operation and Development
OECD-DAC	Organisation for Economic Co-operation and Development – Development Assistance Committee
OHCHR	Office of the High Commissioner for Human Rights
PPCR	Pilot Program on Climate Resilience (World Bank)
PPP	Polluter pays principle
REDD	Reducing Emissions from Deforestation and Forest Degradation
SCF	Strategic Climate Fund (World Bank)
SCCF	Special Climate Change Fund (GEF)
SIDS	Small island developing states
SPA	Strategic Priority on Adaptation (GEF)
SREP	Scaling-Up Renewable Energy Program in Low-Income Countries (World Bank)
TC	Transitional Committee (for the Green Climate Fund)
UNCCD	United Nations Convention to Combat Desertification
UNCTAD	UN Conference on Trade and Development
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNFCCC	United Nations Framework Convention on Climate Change
UNFPA	UN Population Fund
UNHRC	United Nations Human Rights Council
UN-NGLS	UN Non-Governmental Liaison Service
UNPFII	UN Permanent Forum on Indigenous Issues
UN-REDD	United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries
WEDO	Women's Environment and Development Organization
WHO	World Health Organization

ANNEX 1

Websites of Dedicated Multilateral and Bilateral Public Climate Funds and Funding Mechanisms

FUND	WEBSITE
Kyoto Protocol Adaptation Fund (AF)	http://www.adaptation-fund.org/
Amazon Fund (Fundo Amazônia, FA)	http://www.amazonfund.gov.br/FundoAmazonia/fam/site_en
Clean Technology Fund (CTF)	http://www.climateinvestmentfunds.org/cif/node/2
Congo Basin Forest Fund (CBFF)	http://www.cbf-fund.org/
Environmental Transformation Fund – International Window (ETF)	http://webarchive.nationalarchives.gov.uk/+/http://www.dfid.gov.uk/news/files/climate-etf.asp (archived content; no up-to-date website)
Forest Carbon Partnership Facility (FCPF)	http://www.forestcarbonpartnership.org/fcp/
Forest Investment Program (FIP)	http://www.climateinvestmentfunds.org/cif/node/5
GEF Trust Fund – Climate Change focal area (GEF 4)	http://www.thegef.org/gef/node/1797
GEF Trust Fund – Climate Change focal area (GEF 5)	http://www.thegef.org/gef/GEF5_ClimateChange_Strategy
Global Climate Change Alliance (GCCA)	http://www.gcca.eu/pages/1_2-Home.html
Global Energy Efficiency and Renewable Energy Fund (GEEREF)	http://geeref.com/
Hatoyama Initiative (HI)	No dedicated website
International Climate Initiative (ICI)	http://www.bmu-klimaschutzinitiative.de/en/home_i
International Forest Carbon Initiative (IFCI)	http://www.climatechange.gov.au/government/initiatives/international-forest-carbon-initiative.aspx
Least Developed Countries Fund (LDCF)	http://www.thegef.org/gef/LDCF
MDG Achievement Fund – Environment and Climate Change Window	http://www.mdgfund.org/content/environmentandclimatechange
Pilot Program for Climate Resilience (PPCR)	http://www.climateinvestmentfunds.org/cif/ppcr

FUND	WEBSITE
Scaling Up Renewable Energy Program for Low-Income Countries (SREP)	http://www.climateinvestmentfunds.org/cif/srep
Special Climate Change Fund (SCCF)	http://www.thegef.org/gef/SCCF
Strategic Climate Fund (SCF)	http://www.climateinvestmentfunds.org/cif/node/3
Strategic Priority on Adaptation (SPA)	http://www.thegef.org/gef/sites/thegef.org/files/documents/C.34.8%20Report%20on%20the%20Completion%20of%20the%20SPA.pdf (program ended; final online report)
UN-REDD Programme	http://www.un-redd.org/
UNFCCC – GEF reporting initiative	In preparation (according to UNFCCC Secretariat officials)
World Bank – UNDP Joint Climate Finance Web Portal	http://www.climatefinanceoptions.org/cfo/index.php

The anthropogenic origin of global climate change causing greenhouse gas emissions today should no longer be disputed. Climate change's adverse effect on people can also no longer be ignored. While the last few years have seen the emergence of new financing structures and mechanisms for adaptation and mitigation, a comprehensive global climate finance architecture that collects, allocates and disburses financial resources in an equitable, effective and efficient manner is still elusive. This publication gives a look at the status quo of public climate change finance. Then it proposes the use of existing core principles and tools of international environmental law and human rights as the fundamental conceptual guide and compass for charting policy responses to climate change that are rooted in the concept of justice and fairness. The paper will discuss those rules, norms and principles in greater detail that apply more specifically to the mobilization, administration and governance as well as allocation and disbursement of public climate change funds within a climate justice framework.

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