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Climate Fund workshop discusses issues on Fund governance

Bonn, 6 June (Meena Raman) - The first technical workshop of the Transitional Committee (TC) for the design of the Green Climate Fund (GCF) under the United Nations Framework Convention on Climate Change held in Bonn, Germany from May 30- 1 June witnessed a broad and wide-ranging discussion on several critical aspects relating to the GCF.

The workshop discussed the four "work-streams" that had been introduced by the transition committee's Co-Chairs at the committee's first meeting in April in Mexico City. The workstreams comprise (1) Scope, guiding principles and cross-cutting issues facilitated by Mr. Derek Gibbs (Barbados) and Ms. Alicia Montalvo (Spain) (2) Governance and institutional issues facilitated by Mr. Tosi Mpanu Mpanu (Democratic Republic of Congo) and Mr. Bruno Oberle (Switzerland); (3) Operational modalities facilitated by Mr. Farrukh Khan (Pakistan) and Mr. Ewen McDonald (Australia) and (4) Monitoring and evaluation facilitated by Mr. Aparup Chowdhury (Bangladesh) and Mr. Jan Cedergren (Sweden).

This first day of the workshop on May 30 mainly discussed work-streams 2 and 3, while the second day dealt with work-streams 4 and 1 and some aspects of work-stream 3. The workshop on 1 June saw an interactive discussion between observers (civil society and international organizations) and TC members.

This article reports on the discussion on work-stream 2 on governance/institutional issues. Among the issues were how to ensure that the GCF is accountable to the Conference of Parties; how to enable the GCF to have legal personality; how to enable direct access by all developing countries to the GCF; and how to avoid a conflict of interest as regards the trustee and its relationship to the GCF.

Mr. Farrukh Khan of Pakistan, in his opening remarks of the workshop on behalf of the Co-chairs of the TC said that the purpose of the workshop was to provide an opportunity to the TC members to discuss in-depth various matters related to the design of the GCF. He said that the inputs from the workshop would be captured in reports to be prepared under the responsibility of the respective co-facilitators. A deadline of 8 June was also set to receive written submissions from the TC members on the various issues raised.

When discussion began on Work-stream 2 on governance and institutional arrangements, the co-facilitators of the work-stream presented a draft work plan for consideration, which proposed the organization of work according to the following issues:

1. Legal and institutional arrangements – Fund's legal status; legal relation with partners; accountability relation between COP and GCF Board, secretariat, trustee;

2. Board issues – composition and election, role of NGOs, Chair election, term of service of members; Mandate and responsibilities of Board (extent of engagement in project approval); Rules of procedure and functioning, especially in decision-making;

3. Secretariat – Establishment of independent secretariat, legal status, composition, recruitment procedures; Mandate and functions (including role if any in project review and MRV; Relation with implementing institutions including project cycles and division of responsibility;

4. Trustee arrangements: role of trustee and investment strategy; from where it gets its instructions (Board, secretariat); Relation of trustee and implementing agencies; Review of interim and process to select permanent trustee and

5. Relation between GCF and the Standing Committee; GCF and other funding entities with national entities and GCF with Adaptation Fund

The Philippines said that the GCF was established as an operating entity of the financial mechanism of the UNFCCC and functions under the guidance of and is accountable to the Conference of Parties. It said that it is the COP that decides on the policies and programme priorities, and that the Board of the GCF follows its guidance and does not decide.

Egypt said that there was need to also address the legal arrangements between the Board and the implementing entities as members were talking about the legal personality and status of the CGF. As regards the Secretariat, Egypt said that there was need to address its relation to the trustee and it was not clear if this is a function of the Board or the TC.

In relation to the trustee, Egypt raised the issue of the auditing of accounts. He also raised the issue of legal arrangements between the Board and the Trustee and asked if it would be a Memorandum of Understanding or a binding legal agreement between the two entities.

Egypt also pointed out factual errors in a factsheet prepared as regards the Multilateral Fund (MF) under the Montreal Protocol which described the MF as not having any legal capacity when in fact it did have juridical personality.

Italy, while agreeing with the division of work as proposed by the work-plan, was not clear about the prioritization of work. It suggested that the issue of the legal status can be dealt with first and the role of the Board and Secretariat later and there were also some issues that can be left to the Board.

Nicaragua stressed the need for a clear picture of the division of labour between the different structures of the GCF in terms of tasks and that the new fund should not be "business-as-usual" but must address the shortcomings and difficulties of the existing funds. It stressed the need to respect the principle of universality and non-discrimination as regards developing countries' access to the resources of the GCF. It also stressed the need to address the issue of conflict of interest as regards the role of the trustee.

(The World Bank has been proposed as the interim trustee of the GCF under the Cancun decision. At the first meeting in Mexico City, Nicaragua said that since the World Bank has been invited to serve as the interim trustee for the GCF, staff connected to the World Bank could not be involved in also providing consultancy services related to the GCF).

China shared the views of Philippines and said that the GCF is accountable to the COP and is under its guidance. It was therefore important to finalise the method of accountability as regards the Board to the GCF. On the issue of the representation of countries on the Board, it said that the Cancun decision was clear on the need for regional representation according to the UN regional groupings and it was not the mandate of the TC to decide on the distribution of Board.

Singapore said it was wary about discussing the coherence issue as regards the relationship of the GCF and the Standing Committee (SC) as the role of the SC was still under negotiations and a discussion in TC presupposes that the TC knows what this role is.

(Under the Cancun decision, Parties decided to establish the SC to assist the Conference of Parties in exercising its functions in relation to the financial mechanism in terms of improving coherence and coordination in the delivery of climate change financing etc.)

Canada said that since the SC is to assist the COP, it has no relation to the GCF and it was not for the TC to decide.

Australia said on the issue of legal and institutional arrangements, as a first step, the experience of other funds such as the Adaptation Fund, the Multilateral Fund under the Montreal Protocol and the Global Fund on HIV-AIDs could help. On the issue of the GCF being accountable to the COP under Article 11 of the Convention, TC members could also draw from the experience of the Global Environment Facility (GEF), which is also an operating entity of financial mechanism and is accountable to the COP.

Denmark on the issue of coherence of the GCF with other entities, said that this will depend on the Board and how the GCF positions itself in the international financial architecture and asked if the GCF is a fund of funds and called for more reflection on this.

Spain said that while it was important to learn from the past as regards other funds, there was need to consider fresh approaches and for the GCF to be creative, while respecting the elements of the Cancun decision which prescribes the boundaries in terms of the formalities.

India stressed the need to address the legal status of the GCF upfront as the degree to which the GCF is a success depends on the contributions it receives. It said that when the Cancun decision tasked the TC to design the GCF, it was about the form and not how it functions which is for the Ad-hoc Working Group on Long-term Cooperative Action to decide. It said that it was premature to go into the functions debate. The TC is supposed to address the institutional arrangements.

On the issue of the implementing entities, India said that everything depended on access to funds and the principles adopted for contributions and disbursements. It could be that no implementing agency at all may be needed. If the principle was one of direct access, then the funds could pass through directly through national entities.

India also stressed the need to avoid any conflict of interest as regards the trustee and there was need for an appropriate relationship between the GCF and the trustee in this regard. On the issue of conditionalities, India said that members were discussing issues that did not belong to the TC as this was the domain of the negotiations. (It was referring to issues such as MRV of mitigation actions).

United States agreed with China that the Cancun decision has made clear how the Board composition is to be decided and it was for the developing and developed countries to decide. As regards the legal issues, there was need for sequence as to what the fund should do and then address the legal personality. It was also of the view that it was premature to discuss the link to the Standing Committee when the COP was still deciding this.

Pakistan said that the work-plan was only a guiding tool and not cast in stone and additional issues might arise. As regards what is missing such as the issues of MRV and SC which are being dealt with the AWGLCA, these still have to be reflected as this was a back and forth process and keeping the issues in the TC is reasonable and to maintain the communication with the two processes. It stressed the need to focus and sequence the issues. The nature of the legal personality was important and is crucial for direct access if this principle is to be operationalised, either by way of a country incorporating it by domestic law or by Parliamentary ratification. Pakistan said that the best way is to incorporate it under domestic law like the Adaptation Fund. There was also need for description of fiduciary standards.

On the issue of the Secretariat, Pakistan said that there is need to define its mandate and this is linked to the scale of the Fund. If we channel a large scale, then there was need for a bigger Secretariat. On the role of the trustee and its fiduciary management, it is important to establish the relationship with the GCF by a Memorandum of Understanding or by other ways.

France said that on legal arrangements it was important to draw on the experience of the GEF, which is under the guidance of the COP. While there were criticisms of the GEF, it said that learning from its lessons was important. It also did not want the TC to prejudge discussions on the SC and that this could be postponed until its role is clarified.

Samoa said that it was important that there be no conditionalities as exists under existing Funds. When we talk of the GCF, it has to be different from all existing funds and avoid the pitfalls.

Barbados said that the GCF should have legal capacity to enable direct access and enter into contractual agreements. The Board should be elected by the COP to ensure accountability and transparency and its membership should be for a period of 2 years. The composition should be consistent with the Cancun decision. Decision-making should be by one member one vote. Functions of the Board should be to address the strategic priorities and policies and recommend them for adoption by the COP. It should also decide on the operational policies and provide guidance for administration and financial management. It should also decide on projects including allocation of funds in accordance with the guidance of the COP.

The independent Secretariat should be tasked with executive policies, resource mobilization, providing financial, legal and administrative support and overseeing monitoring and evaluation. On the trustee, it said that there should be open bidding to determine the permanent trustee.

(Further updates will follow in relation to the workshop's discussion on other work-streams).