

Institutions Architecture

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Introduction

In this briefing note we examine the extent to which the provisions in the LCA draft text of 17 May 2010 (the **LCA Text**) which establish or refer to institutions, overlap or conflict with or complement other institutions in the LCA Text. Where the function of two (or more) institutions overlap, we seek to identify any confusion as to which institution should take precedence.

We also make recommendations to address any conflicts between proposed institutions and in instances where there are 'gaps' between related institutions.

Finally, we examine whether a decision in Cancun on a Copenhagen Green Climate Fund with it's own board, an overall Finance Board, and a Registry Mechanism would restrict in any way later decisions on the remaining institutions.

The Institutions

We set out our analysis of, and recommendations for, the interaction between the various institutions referred to in the LCA Text as follows:

(i) Copenhagen Green Climate Fund

The LCA Text stipulates at Annex I, paragraph 38 that the Board of the CGCF may establish "[s]pecialised funding windows" with the approval of the Conference of the Parties. Given the Finance Board's oversight function pursuant to Annex I, paragraph 35(a), we would query whether the Board of the CGCF should also obtain approval from the Finance Board for its funding decisions.

(ii) Finance Board

The interaction between the Copenhagen Green Climate Fund (**CGCF**) and the Finance Board is unclear on the face of the LCA Text. The LCA Text states at Annex I, paragraph 35(a) that the Finance Board is to "[p]rovide guidance/assistance to, and ensure accountability to the Conference of the Parties of all operating entities of the financial mechanism". Nevertheless, despite the CGCF being an operating entity (Annex I, paragraph 37), there is no guidance in the LCA Text on the way in which the Finance Board oversees or provides any specific guidance/ assistance to the CGCF in particular.

(iii) Adaptation Committee

There seems to be some conflict between the Adaptation Committee and the Capacity Building Technical Panel, particularly in relation to their ability to approve applications for financial support from developing country Parties for adaptation projects. See, for example, the Adaptation Committee's role at Annex II, paragraph 7(f) as compared to the Capacity Building Technical Panel's role at Annex IV, paragraph 6. It is unclear how the two institutions interact on this point and whose decisions prevail.

(iv) Adaptation Loss and Damage Mechanism

It is unclear how the Adaptation Committee and the Adaptation Loss and Damage Mechanism complement each other. It may be advisable to insert some more detail into Annex II, paragraph 8 about how it supports and provides guidance to the Adaptation Committee's functions, as set out at Annex II, paragraph 7.

(v) Technology Executive Committee

There appears to be some conflict between the Adaptation's technical support capacity (as set out at option 1's Annex II, paragraph 7(h)) and option 2's Annex II, paragraph 7(b) and the functions of the Technology Executive Committee. It is recommended that some clarification is provided about how these two institutions will resolve any potential conflict on this issue.

(vi) Capacity Building Technical Panel

There may be some conflict between the funding arrangements as they are set out at Annex IV, paragraph 8 and the functions of the financial board, as set out at Annex I, paragraph 35. It is recommended that some of this conflict is clarified by providing some wording about how funding decisions by the Capacity Building Technical Panel will be dealt with by the Financial Board.

(vii) Registry Mechanism

Annex V, paragraph 3 currently has parenthesis around "*financial and technology mechanisms*" and "*framework for capacity-building*". We would suggest that the inclusion of both of these is important and the parenthesis should be removed. That is, without the financial and technology mechanisms as well as the framework for capacity-building included, the interaction between the Registry Mechanism and these other institutions remains unclear. Further, Annex I, paragraph 12 (option 2) states that technology, financial and capacity-building support will be recorded in the registry. It is therefore important to keep the references to technology, financial and capacity-building support for consistency with Annex I, paragraph 12 (option 2).

(viii) REDD

It is unclear from Annex VI, paragraph 12(a) how the "*provision of financial resources and investment*" interacts with the Financial Board. It may be advisable to insert further detail about the financial board's capacity for oversight over the funding of REDD.

Gaps between the proposed institutions

We set out below some proposed amendments that may be made to the LCA Text to 'plug' the 'gaps' which we have identified:

(i) Copenhagen Green Climate Fund

It is uncertain how the CGCF decides what "*projects, programmes, policies and other activities related to mitigation*" to support. Perhaps there could be more guidance in the LCA Text about how the CGCF is to make this decision. Given that the Technology Executive Committee, Capacity Building Technical Panel and REDD mechanisms have responsibilities to gather data on what projects are required, it may be advisable to provide some guidance about how these institutions will provide the necessary information to the CGCF.

(ii) Adaptation Committee

Annex II, paragraph 7 does not fully reflect the aims of the Adaptation Committee set out at Annex II, paragraph 4(3). It may be advisable to incorporate some of these aims, particularly at Annex II, paragraph 7(c), where further guidance as to adaptation activities, strategies and programmes may be provided.

Further, there may be a need for more detail at Annex II, paragraph 7(h) regarding the interaction between the adaption needs related to finance and technology set out there. That is, for the purposes of clarity, you may wish to provide if there is any mechanism by which financial support requests are referred to the financial board for approval. Moreover, the Technology Executive Committee may be in a position to provide some assistance in relation to technological adaption needs and it is suggested that some explicit wording about how the Technology Executive Committee could provide this assistance should be inserted.

(iii) Adaptation Loss and Damage Mechanism

The Adaptation Loss and Damage Mechanism (as set out at Annex II, paragraph 8) could benefit with more detail about its government and functioning. First, it is unclear who oversees the mechanisms and how such oversight is constituted. Moreover, any detail as to funding is notably absent. It may be appropriate for the board/committee which oversees to the mechanism to have some reporting requirements to the Adaptation Committee, who may be required to review such reports as they are presented from time to time.

(iv) Technology Executive Committee

The financing of the Technology Mechanism (including the Technology Executive Committee and the Climate Technology Centre) could benefit with the provision of more detail. That is, Annex III, paragraph 6 states that “*the Technology Mechanism ... shall be funded by the financial arrangement, including the provision of new and additional financial resources ...*”. It may be advised to insert further guidance around how such funding relates to the Financial Board, and whether the Financial Board is required to provide any necessary approvals of funding for the Technology Mechanism.

We suggest that any issues later addressed in relation to intellectual property at Annex III, paragraph 7(h) are made in accordance with Annex III, paragraph 11, for the purposes of consistency.

(v) Climate Technology Centre

The interaction with the Technology Executive Committee is clearly set out. With respect to Annex III, paragraph 10(d)(vi), however, we would suggest that the Climate Technology Centre and Network does provide its updates to the Technology Executive Committee (as is currently one of the options set out at Option 2), in order to ensure productive dialogue between the two institutions. Without such dialogue, the Technology Executive Committee's policy-making functions are arguably weakened since it is not a party to the more grassroots identification of technology needs provided by the Climate Technology Centre and Network (as set out at Annex III, paragraph 10).

(vi) Capacity Building Technical Panel

Annex IV, paragraph 6 (option 2) stipulates that capacity-building activities should be made available through the “*operating entity(ies) of the financial mechanism*”. Again, it may be necessary to insert further detail about how the operating entity(ies) will have accountability for its/their decision by the financial board.

Decisions in Cancun and long-term implications

On our analysis of the LCA Text it appears unlikely that the CGCF, Finance Board or Registry Mechanism would restrict those remaining institutions. The language establishing these three key institutions appears to be sufficiently flexible to accommodate later decisions made with respect to the remaining institutions.