

UNFCCC Secretariat Trust Fund for Participation

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*This advice is provided in response to **Query 28/23***

Query:

- 1. What is the legal basis for the secretariat's practice of funding the participation of eligible representatives from developing countries and economies in transition?**
- 2. What are the eligibility criteria?**
- 3. Are there grounds for reviewing the eligibility criteria?**

Advice:

1. Legal basis for the secretariat's practice

According to a 2017 UNFCCC document entitled 'Trust Fund for Participation in the UNFCCC Process',¹ the UNFCCC Executive Secretary administers a trust fund to provide support for eligible delegates from developing countries to attend UNFCCC COP sessions, subsidiary body meetings, and other official gatherings.

The establishment of the trust fund predates the ratification of the UNFCCC. The United Nations General Assembly's Resolution 45/212 in 1990 mandated a negotiation process to prepare an "effective framework convention on climate change", which eventually led to the creation of the UNFCCC in 1992.² In order to ensure broad participation in these negotiations, the same resolution established a special voluntary fund (para. 10). This fund aimed to enable developing countries, particularly the least developed countries and small island developing countries, to fully and effectively engage in the negotiation process.

Over time, this fund became part of the established funds of the UNFCCC. Decision 15/CP.1,³ which pertains to financial procedures for the COP, the subsidiary bodies, and the UNFCCC secretariat, specifies that the trust fund shall receive voluntary contributions. These contributions are meant to support the participation of representatives from developing-country Parties, with a particular focus

¹ UNFCCC document 'Trust Fund for Participation in the UNFCCC Process', 02 October 2017, available at https://unfccc.int/files/secretariat/budget/funding_at_the_unfccc/application/pdf/trust_fund_for_participation_in_the_unfccc_process.pdf

² United Nations General Assembly resolution 45/212, para. 1. Available at: <https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/566/01/IMG/NR056601.pdf?OpenElement>

³ Decision 15/CP.1, available at: <https://unfccc.int/sites/default/files/resource/docs/cop1/07a01.pdf#page=44>

on least developed countries, small island developing countries, and other Parties with transitioning economies.⁴ The utilization of funds from the trust fund was extended to chairs of negotiating groups during COP 2.⁵

The historical documentation evidences the secretariat's long-established practice of funding the participation of eligible representatives from developing countries and economies in transition.

2. Eligibility criteria

The eligibility criteria for accessing the resources of the trust fund are based on a measure of Parties' GDP per head, as indicator of their need for support (trust fund document of 2017, para. 7). The use of GDP per head to determine eligibility appears to have been inherited from the practice of the trust fund's predecessor, the special voluntary fund established in 1990.⁶ The secretariat acknowledges that, as at 2017, the use of GDP per head to determine eligibility had been used for the last 20 years (trust fund document, para. 10). According to the secretariat, such criterion "provides objectivity to the selection process, in particular when statistics come from recognised global institutions."⁷

Currently, financial support under the trust fund is provided to parties with a GDP per capita income of less than 14,000 USD and, in the case of small island developing countries, a GDP per capita income of less than 18,000 USD (trust fund document of 2017, para. 9).⁸ These thresholds are said to be based on statistics by the UN Conference on Trade and Development (UNCTAD) of 2011. In addition, such thresholds and statistics are said to be reviewed "periodically taking into consideration the needs of the negotiating process."

According to a June 2023 briefing from the UNFCCC secretariat,⁹ the secretariat refers to its 2017 trust fund document as its "policy" regarding eligibility for funding from the Trust fund for Participation in the UNFCCC. This also highlights that the criterion for eligibility currently used is still the same as in 2017.

3. Grounds for challenging the current eligibility criteria

The 2017 trust fund document originated from a request made by Parties during SBI 46, urging the organization of a technical workshop alongside SBI 47 (November 2017). The workshop aimed to explore ways to enhance the efficiency and transparency of the UNFCCC budget process. The secretariat prepared the document specifically for the workshop, providing details about the Trust Fund for participation in the UNFCCC process and the established eligibility criteria.

During the workshop, some Parties expressed their desire to review the eligibility criteria for funding, while others supported the existing criteria. It was acknowledged that any decision to modify the eligibility criteria would be the responsibility of the Parties themselves, rather than the secretariat.

⁴ *Idem*, annex 1, para. 15.

⁵ Decision 16/CP.2, available at: <https://unfccc.int/sites/default/files/resource/docs/cop2/15a01.pdf?download>

⁶ See ref. to "GDP per head of USD 1,800 or less in 1988" and "GDP per head of USD 3,500 or less in 1989" in UNGA Document A/AC.237/20, available at <https://digitallibrary.un.org/record/145539?ln=en>, and UNGA Document A/AC.237/23, available at <https://unfccc.int/resource/docs/a/23.pdf>, respectively.

⁷ *Idem*, Section II. B, para.11.

⁸ We note that support is also provided to chairs of the negotiating groups of the Group of 77 and China, the LDCs and SIDS and the African Group. However, the scope of this advice does not include country representatives occupying such a chairing position.

⁹ Available at: https://unfccc.int/sites/default/files/resource/Briefing_for_Parties_Q%26A.pdf

Notably, the workshop did not result in any mandate for further review of the funding process or eligibility criteria.¹⁰

Until 2017, the eligibility criteria appear to have remained unchallenged. According to the trust fund document, the policy regarding eligibility criteria had been acknowledged by Parties every year without objection in the relevant budgetary documentation. Nevertheless, there appears to have been a lack of awareness among parties regarding this criterion at that time.

It is worth noting that in 2018, the secretariat mentioned that the application of the eligibility criteria led to 144 eligible Parties. Out of these, 143 Parties utilized the funding to cover the participation-related expenses of 362 delegates during COP 23. As of the June 2023 secretariat briefing, the number of eligible Parties still appears to be 144.

However, there appear to be legitimate grounds for challenging the current eligibility criteria:

- 1) The first ground relates to the use of GDP per head/capita as a criterion. While it is a useful indicator of economic activity, it does have its limitations, especially when comparing countries with varying levels of inequality. From an economic perspective, scholars have identified several issues that support the need for revising this criterion, two of the main ones are summarised below.¹¹

One major problem is the omission of capital consumption or destruction in GDP per capita calculations. The fundamental principles of GDP overlook the fact that capital is not indestructible and constantly depreciates. As a result, we encounter situations where GDP consistently increases following sudden disasters. Natural calamities, for example, destroy significant amounts of capital each year, including factories, infrastructure, buildings, and natural resources. However, GDP only considers the subsequent rebuilding of this capital, leading to an increase in GDP that aligns with the extent of destruction caused by the disaster. This issue becomes particularly pertinent given the heightened likelihood of natural disasters associated with climate change. It can serve as a compelling reason to challenge the validity of this criterion.

Another critical concern arises from the disparity between perceived economic growth and actual improvements in people's well-being when using GDP per capita as a measure. This discrepancy stems from the fact that GDP per capita is based on a population mean. When there are significant shifts in income distribution, GDP per capita fails to provide an accurate assessment of the conditions faced by a large portion of the population. When inequality rises substantially compared to the increase in average GDP per capita, many individuals may experience a decline in their well-being, despite the overall increase in average income. While most individuals see little to no improvement in their own wealth. For instance, in the United States, despite a significant GDP growth from 1999 to 2008, the majority of individuals witnessed a decline in their income during the same period when adjusted for inflation. While the country's GDP per capita increased, a large portion of the population's quality of life deteriorated. Considering the recent inflationary surge between 2021-2023, this can be used as a strong argument for challenging the current resource allocation system. There is therefore a reasonable case to be made for revisiting the GDP

¹⁰ See Section VII of *Technical workshop on ways to increase the efficiency and transparency of the budget process*, FCCC/SBI/2018/2, 19 February 2018. Available at: <https://unfccc.int/sites/default/files/resource/02.pdf>

¹¹ Bucknall, R., Christie, S., Heys, R., Taylor, C. *GDP and Welfare: Empirical Estimates of a Spectrum of Opportunity*. ESCoE Discussion Paper No. 2021-08, July 2021, <https://escoe-website.s3.amazonaws.com/wp-content/uploads/2021/07/05183316/ESCoE-DP-2021-08.pdf>
Stiglitz, J.E., Amartya S., Fitoussi J-P. *Mismeasuring Our Lives: Why GDP Doesn't Add Up: The Report*. New York: New, 2010, <https://wcfia.harvard.edu/publications/mismeasuring-our-lives-why-gdp-doesnt-add>

per capita criterion, especially considering the wider utilization of alternatives like the United Nations Human Development Index.

- 2) The second ground relates to the thresholds used to determine which countries receive financial support under the trust fund (GDP per capita income of less than 14,000 USD and, in the case of small island developing countries, a GDP per capita income of less than 18,000 USD). At present, it seems to us that there is a lack of transparency regarding how those thresholds are fixed and their review process (see point 3 below regarding the review process).

Regarding the thresholds, the secretariat states that they are “fixed in such a way as to maintain the level of financial support while matching the needs of the negotiating process.” (trust fund document of 2017, para. 11). In this context, using a threshold based on a GDP indicator allows the secretariat -in its own words- to set limits in accordance with the resources available. By deduction, there should be a method by which the “needs of the negotiating process” are assessed and an exercise to balance these against the funds available in the trust fund. In addition, it is unclear to us what is meant by the “needs of the negotiating process”.

- 3) The third ground relates to the statistics used. At present, it seems to us that there is a lack of specificity regarding the source of the country-level statistics (GDP per head) which would put a country within or outside the thresholds mentioned above, and the review process for these thresholds and statistics.

Regarding the source of the statistics, we have searched, unsuccessfully, in UNCTAD statistics and other UNCTAD reports.¹² The figures that one should be referring to when considering the GDP per head eligibility criterion are not self-evident. If indeed UNCTAD statistics is the source, this should be clearly acknowledged, rather than a mere reference made to statistics by the UNCTAD of 2011. In addition, again if it is indeed the correct source for the statistics, which of two variants of GDP per capita -constant prices or current prices- ought to be specified.

Regarding the review process for the thresholds and statistics, the trust fund document of 2017 indicates that they are reviewed “periodically taking into consideration the needs of the negotiating process.” (trust fund document of 2017, para. 9). However, we were unable to find information on what “periodically” means here and when the last review was conducted. We are also unclear as to whether -potentially outdated- statistics from 2011 are still being used.

In conclusion, the secretariat’s approach to the eligibility criteria for the Trust Fund is based on a long established and recognised practice, which appears not to have been challenged until 2017. At that time, some Parties expressed a desire to review the eligibility criteria for funding, but no mandate was given for a further review of the funding process or eligibility criteria. In our view, there are however, legitimate grounds for challenging the current eligibility criteria as we have indicated above.

¹² Gross domestic product: Total and per capita, current and constant (2015) prices, annual. Last updated 18 Jul. 2023. Available at: <https://unctadstat.unctad.org/datacentre/dataviewer/US.GDPTotal>