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LAWYERS RESPONDING TO CLIMATE CHANGE

Explainer: New Collective Quantified Goal on Climate Finance

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Introduction

Developed countries have financial obligations towards developing countries to support the implementation of their obligations under the UNFCCC and the Paris Agreement. The New Collective Quantified Goal (**NCQG**) is a new global financial goal for climate finance to be set from a floor of USD $100 billion as an annual target. The NCQG aims to contribute to achieving Article 2 of the Paris Agreement by supporting the mitigation and adaptation goals and making finance flows consistent with a pathway towards low greenhouse gas emissions.

Negotiations on the NCQG began at COP 26 (2021) and are expected to end at COP 29 (2024). This briefing provides an overview of NCQG discussions and the core elements: the quantum and quality of finance, the structure and nature of the NCQG (including sources and allocation), the contributor base, the timeframe for the NCQG, and accountability and transparency arrangements.

Background

At COP 15 (2009), developed countries pledged to jointly mobilise USD $100 billion annually by 2020 to address developing countries' needs. COP 21 (2015) extended this goal to 2025, with a new target to be set before then by the CMA, starting from a floor of USD $100 billion annually and taking into account the needs and priorities of developing countries. The previous goal was not delivered and the first Global Stocktake (GST) (2023) expressed regret that developed countries missed the target in 2021.

COP 26 (2021) established the deliberation process for the NCQG, involving an ad hoc work programme (**AHWP**) with Technical Expert Dialogues (**TEDs**), high-level ministerial dialogues, stocktakes, and guidance by the CMA. Discussions are set to conclude at COP 29 (2024). The Azerbaijan COP Presidency has been prioritising NCQG negotiations and facilitating political engagement, including during Climate Week NYC in September 2024.

During COP 29, the CMA is expected to consider: (i) the annual report of the AHWP, including the substantive framework for a draft negotiating text (referred to below as the **Draft Text**); and (ii) the summary of the deliberations at the high-level ministerial dialogue on the NCQG which took place on 9 October 2024 (the **2024 HLMD**). The Draft Text, published on 15 October 2024, has undergone considerable streamlining from a 63-page input paper in May 2024 to its current 9-page version, but key disagreements remain. Securing agreement during COP 29 will likely require significant political will.

NCQG matters are expected to be addressed under CMA 6, but related topics may also be covered under other sessions, such as the topics of the Loss and Damage Fund (under COP 29, SBSTA 61 and SBI 61) and the UNFCCC Standing Committee on Finance (under COP 29 and SBI 61).

Key elements expected to be discussed at COP 29 are:

QUANTUM AND QUALITY OF FINANCE

Determining the quantum

At the 2024 HLMD, there was a general consensus that the NCQG needs to be in trillions of US dollars and should be established considering the needs and priorities of developing countries (as per the UNFCCC and the Paris Agreement). Countries and other stakeholders have emphasised the importance of bottom-up needs assessments, which draw on nationally determined contributions (NDCs), national adaptation plans, long-term low emissions strategies, reports and other national communications to the UNFCCC. This complex analysis requires extensive data from many countries, which is often incomplete or unavailable. Furthermore, the lack of agreed definitions of "climate finance" and "new and additional" finance add to the challenge. The NCQG is expected to be flexible and reviewable as needs and priorities evolve.

While bottom-up assessments are important, delegates at TED 6 (June 2023) emphasised the need to have complementary top-down assessments to help determine the quantum by offering a holistic view. These include reports from the Intergovernmental Panel on Climate Change (IPCC), the International Energy Agency (IEA), and the United Nations Environmental Programme (UNEP).

The first GST (2023) recognised a considerable gap between the needs of developing country Parties and the financial support actually provided and mobilised. In the NCQG negotiations, determining the quantum is far from settled, and the roles that top-down and bottom-up assessments will play are unclear. **The Draft Text reflects Parties' varied views on quantum**, including: (i) a floor of USD $100 billion; (ii) at least USD $1 trillion; (iii) USD $1.1/1.3 trillion; and (iv) USD $2 trillion, each option being per year, with a target year of 2029, 2030 or 2035.

SCF assessment report of climate-related needs of developing country Parties

The UNFCCC Standing Committee on Finance (SCF) published a comprehensive assessment of climate-related needs of developing country Parties based on NDCs, biennial update reports and other national reports (September 2024). Similarly to its 2021 report, the SCF was unable to express estimated needs using a single definite figure. Parties reported needs using diverse criteria, and in many cases the expressed needs were not costed (budgeted).

For example, the NDCs of 142 countries contained 5,760 needs but only half of them were costed and estimated at USD $5.0-$5.9 trillion up until 2030. In addition, further needs are expressed in other instruments, such as national communications.

Quality of finance

Beyond quantity, Parties have discussed the quality of finance, which refers to the forms of climate finance (including the use of grants and loans) and issues around access, concessionality, and predictability. A significant issue is that most climate finance is debt-based. From 2016 to 2020, over 72% of public climate finance was in loans, while grants made up only 25% (OECD, 2023), which adds to the pressures of debt sustainability in many developing countries.

Submissions and deliberations have emphasised the need for scaling up grant-based, highly concessional finance and non-debt-creating instruments, to avoid adding to debt in developing countries.[1] At the 2024 HLMD, Colombia made the point that we cannot respond to the climate crisis with a debt crisis. Parties such as the G-77 + China, the Arab Group and Germany have also emphasised the need to address "disenablers" which prevent countries from accessing climate finance, for example: unsustainable debt burdens, high transaction costs, credit rating downgrades and complex processes to access finance.

Parties have also considered other forms of finance beyond grants and loans. Many Parties take the view that new and innovative financial instruments such as debt swaps, blended finance, levies and taxes should be included in the NCQG. For a more detailed mapping of potential sources and forms of funding in the context of the NCQG, please see LRI's literature review.[2]

STRUCTURE AND NATURE OF THE NCQG

Negotiations about the structure of the goal remain highly contested. Disagreement remains on whether the goal will be for the provision of finance from developed to developing countries or a more general finance mobilisation goal. During the 2024 HLMD, co-chairs of the AHWP indicated that Parties are moving towards agreement in terms of counting both the provision of public finance and the mobilisation of private finance, but have yet to agree whether to have separate goals.

Parties are grappling with two main dimensions of the structure: sources and allocation.

Options for structuring of sources include:

(a) A "*single-layer*" approach - having one overall goal for climate finance. This approach requires a clear definition of what "climate finance" includes and excludes; or

(b) A "*multi-layer*" approach - having a core goal for public finance and one or more broader goals that may include total investment flows to developing countries / to all countries. The European Union (EU) and the United Kingdom have indicated support for this option.

Options for structuring of allocation include:

(a) Having one overall goal for climate action; or

(b) Having sub-goals for different types of climate action, such as mitigation, adaptation, and loss and damage (**L&D**). Parties in favour include the G-77 + China, AILAC, the Arab Group and the LDC Group.

[1] Submissions by the Independent Association of Latin America and the Caribbean (AILAC), the Alliance of Small Island States (AOSIS), the African Group of Negotiators (AGN), the Like-Minded Developing Countries (LMDC) and the Least Developed Countries Group (LDC Group).

[2] Legal Response International "Literature Review - Funding sources in context of NCQG", September 2023.

Those who support **the multi-layer approach and having sub-goals** note that such a structure **allows for standalone negotiation and consideration of each component**. For example, the goal for public finance for mitigation can be considered independently of the goal for public finance for adaptation. This modular approach could align well with the transparency considerations of tracking allocations and progress on each type of climate action.

A potential disadvantage is that the overall quantum may appear larger, but including private finance (within a broader goal) may be seen as watering down the emphasis placed on expected commitments from public sources and on concessional (better than market rate) finance and grants. China has criticised this approach as too complex and over-reliant on the private sector.

Many developing countries object to over-relying on private sector investment. Firstly, private sector entities are not Parties to the UNFCCC or the Paris Agreement and have no obligation to provide climate finance to developing countries. Secondly, private sector entities are not subject to the Paris Agreement's reporting obligations, making it difficult to hold them accountable and track progress. Furthermore, reliance on the private sector arguably shifts responsibility away from developed countries and diminishes the application of the "common but differentiated responsibilities and respective capabilities" (**CBDRRC**) principle found in the UNFCCC's Article 3.1.

In addition, discussions have touched on the role of multilateral development banks (MDBs) in providing climate-related loans. For example, an Independent Expert Group commissioned by the G20 called for a tripling of MDB lending, which would generate an additional USD $260 billion. MDBs have been responsive in expanding their share of lending, with the World Bank setting a climate finance target of 45% of its lending by 2025.

Discussions have also highlighted the need to adjust the regulatory environment to align investment decisions and financial flows. There has, for example, been discussion about incentives that developed countries should implement to promote private finance flow to developing countries. Other submissions emphasise philanthropic capital's role in reaching the NCQG.

Those who support the single-layer approach and having one overall goal note that this **reduces complexity**. However, a potential difficulty is agreeing on what "climate finance" includes and excludes. The singular target of USD $100 billion per year resulted in unbalanced allocation of climate finance, which has been mainly directed towards mitigation rather than adaptation. The first GST Decision acknowledges this and notes with concern that the "adaptation gap" is widening.

Consequently, many Parties and stakeholders have suggested using **thematic sub-goals** of mitigation, adaptation, and L&D to structure the quantum. There is consensus on establishing sub-goals for mitigation and adaptation, but not yet for a sub-goal on L&D. Article 9 of the Paris Agreement refers to finance for mitigation and adaptation and does not refer to L&D. However, L&D finance was formally included in the negotiations at COP 27 (2022), while COP 28 (2023) established the Loss and Damage Fund. Still, some developed countries are reluctant to include L&D in the NCQG. While most developing countries agree on including L&D as a stream of climate finance under the NCQG, not all concur about having it as a sub-goal. For more detail, see LRI's advice setting out potential arguments for and against having L&D as an NCQG sub-goal.[3] More on L&D can be found in LRI's L&D explainer.[4]

The scale of each sub-goal is yet to be agreed. Some Parties argue that the addition of L&D should not lower or limit the amount of finance needed for mitigation or adaptation initiatives, and requires new and additional finance. **Notably, the quantum needed for L&D is unclear** because total costs are **partly dependent on the success of mitigation and adaptation strategies**, and even adaptation-related financial needs remain unclear. Submissions from AILAC, the AOSIS, and the AGN have emphasised that clear boundaries need to be established between mitigation, adaptation, and L&D. Besides mitigation, adaptation and L&D, the Arab Group calls for the NCQG to cover technology transfer, capacity building and transparency support.

The Draft Text presents potential formulations for the structure, which include: (i) having an annual goal for provision and mobilisation from developed countries to developing countries; (ii) having an annual goal for investment (either into all countries or into developing countries) and an annual core goal for international support to developing countries; or (iii) a combination of the above formulations.

CONTRIBUTOR BASE

Reaching consensus on the contributor base for the NCQG remains a major challenge. As discussed at the 2024 HLMD, it is generally uncontroversial that existing contributors retain their commitments. Parties are generally divided along the following options:

(a) No change to the contributor base - contributions to be from developed countries to developing countries; or
(b) The contributor base to be expanded.

Developing countries advocating for "no change to the contributor base" point out that **under the UNFCCC's Article 4.3, developed countries committed to provide new and additional financial resources needed in developing countries**. This was reaffirmed by a commitment by developed countries to provide and raise climate finance in paragraphs 1 and 3 of Article 9 of the Paris Agreement, while under paragraph 2 "other Parties" are encouraged to provide such support voluntarily. Ultimately, this position centres on the language of Article 9.1 - and its reference to existing financial obligations under the UNFCCC's Articles 4.3 and 4.4 - and the application of the CBDRRC principle.

[3] Legal Response International "Including a sub-goal on loss and damage within the New Collective Quantified Goal", June 2024.
[4] Legal Response International "Updated Explainer on Loss and Damage", October 2024.

According to the CBDRRC principle, developed countries - responsible for the bulk of historical emissions - have a duty to provide financial resources to developing countries which have not caused the problem, yet bear the main burden of the effects of climate change. In essence, this is an issue of "distributive justice" and whether countries are doing their "fair share" against climate change.[5]

In contrast, **some developed countries argue that the contributor base should be expanded beyond developed countries**. They assert that some emerging economies now contribute substantially to the overall level of emissions and should also provide financial support. For example, Canada has suggested adding new contributors that are "capable of contributing". The EU argues that the NCQG needs to be seen as a global effort, so Parties besides developed countries should also provide financial support. As a counterargument, China has expressed that it will continue contributing to south-south cooperation, but that the NCQG should reflect developed countries' obligations under the Paris Agreement and, therefore, expanding the contributor base would require renegotiating the Paris Agreement. LRI has produced advice on the contributor base for funding L&D.[6]

ACCOUNTABILITY AND TRANSPARENCY ARRANGEMENTS

Monitoring and tracking

The previous finance goal provided no formal monitoring process. Hence, Parties have proposed several options for a transparency framework to monitor progress on the NCQG.
Various Parties, such as the UK, the AOSIS, the US, Argentina, Brazil, and Uruguay, have proposed using the existing transparency framework under the Paris Agreement (**ETF**) and linking NCQG reporting to it. Through the ETF, countries individually report on their climate action efforts, including tracking their NDC, and on support provided (mandatory) and received (voluntary) for climate action.

Discussions at CMA 5 (2023) showed progress towards a consensus on using an ETF-based framework. The core advantage is that it does not require designing a framework from scratch.

At TED 10, during SB 60 (June 2024), there was a general view that reporting under the NCQG should include all dimensions, with both quantitative and qualitative elements. Some Parties have proposed another option: delegating tracking functions to the SCF. It may be more efficient to task a centralised body like the SCF to create and publicise regular reports on the NCQG. As set out in the Draft Text, this could be through stand-alone reports or as part of its biennial assessment and overview of climate finance flows.

Parties generally agree that a transparency process should be developed based on existing systems with some caveats: some developed countries are looking to incorporate issues such as the impact of climate finance, particularly in reporting and transparency arrangements. This is contested by developing countries because it may impose new burdens.

Defining climate finance

An outstanding issue in the proposed transparency framework is the definition of climate finance. This also impacts the NCQG and its quantum more generally. Currently, there is no unified definition, which, combined with self-reporting, has led to conflicting views on the accuracy and validity of data. The AOSIS and the LDC Group have highlighted the importance of a standard method for tracking climate finance. Moreover, the AGN has raised the importance of clear definitions for what is "new and additional" finance compared to development finance.

A potential way forward is to agree a list of exclusions such that it is clear what is **not** considered climate finance (also known as having a "negative definition"), for example in the way set out in the Draft Text. Another potential reference point is the SCF's November 2023 report on clustering types of climate finance definitions in use. A new SCF report on common practices regarding climate finance definitions is expected to be considered at COP 29.

OTHER MATTERS

Legal basis
Some Parties have questioned the legal basis of the NCQG. One interpretation is that the NCQG would only be formally established upon a decision being taken at CMA 6.

For more coverage on the NCQG's legal basis, please see LRI's advice.[7]

Timeframe for review
The Draft Text sets out three broad options for reviewing progress on the NCQG and/or its quantum:
(i) when considering the SCF's reports (annual or biennial);
(ii) as part of the second or third GST (2028 or 2033); or
(iii) starting from CMA 10 (2028) / 11 (2029) / 12 (2030) with a view to providing recommendations at the next CMA session in 2029 / 2030 / 2031.

[5] https://ecbi.org/news/what-has-justice-got-do-climate-change
[6] Legal Response International "Finance for Loss and Damage within the NCQG: analysis of the contributors base", September 2024.
[7] Legal Response International "Legal basis of the New Collective Quantified Goal and its link to Article 9 of the Paris Agreement", June 2024.

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