

Guidance from the COP to the GCF

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*This advice is provided in response to **Query 7/2025***

This memorandum addresses three queries regarding the Green Climate Fund's (**GCF**) obligations to consider guidance from the Conference of the Parties (**COP**), the nature of the relationship between COP and GCF, and the mechanisms available to ensure that all relevant guidance is brought to the GCF's attention and considered by it.

Query:

1. *Does the GCF have a mandate or obligation to consider and respond to guidance included in all COP Decisions?*

Summary: In our view, the GCF is obliged to consider and respond to any guidance from the COP that is directed to it, regardless of the form, heading or location of such guidance. The arrangements between the COP and the GCF do not limit the communication of guidance to the designated item 'Report of the Green Climate Fund to the Conference of the Parties and guidance to the Green Climate Fund' (**Report and Guidance Item**), although this is where most guidance is located. The GCF has previously recognised and acted on guidance from the COP that was not contained under the Report and Guidance Item, such as the guidance contained in Decision 9/CP.19.

2. *Does this behaviour by the GCF represent a breach of the agreed arrangements between COP and GCF?*

Summary: We consider the GCF Board's current practice of only considering guidance under the Report and Guidance Item as arguably inconsistent with its obligations under its Governing Instrument and the arrangements between the COP and the GCF. The Governing Instrument requires the GCF Board to take action in response to *any* COP guidance. Selective consideration based on the location of the guidance risks undermining the accountability framework established under Article 11 of the United Nations Framework Convention on Climate Change (the **Convention**).

3. *As an additional analysis and provided the GCF would not be acting in breach of existing arrangements, how can the guidance to the GCF contained in other COP decisions be brought to its attention (rather than those in Report of the Green Climate Fund to the Conference of the Parties and guidance to the Green Climate Fund)? Can this be done only by a specific request*

by parties in a decision, or could the UNFCCC secretariat, or someone else (GCF Board member?) do this?

Summary: There are several mechanisms through which such guidance may be brought to the GCF Board's attention:

- a) by a specific request in a COP decision, which may clarify that guidance to the GCF may appear in any COP decision;
- b) via the Standing Committee on Finance (**SCF**), which may recommend that the GCF consider guidance embedded in other decisions;
- c) through informational transmission by the UNFCCC Secretariat; or
- d) by GCF Board members themselves raising relevant COP decisions for discussion during meetings of the Board, or for it to be included as an item on the agenda for a Board meeting.

These mechanisms for bringing guidance to the GCF Board's attention are available regardless of whether the GCF Board is in breach of its obligations. Based on our review, there are no other mechanisms available to address a failure by the GCF Board to consider or act upon COP guidance.

For completeness, we have also considered whether complaints could be raised relating to the GCF Board's performance via the GCF's Independent Redress Mechanism (**IRM**). While the GCF's Governing Instrument describes the IRM in broad terms, stating that it "will receive complaints related to the operation of the Fund and will evaluate and make recommendations", the IRM's Terms of Reference (**TOR**)¹ provide a narrower and more specific mandate. In particular, the TOR provide that the IRM will:

- a) address requests for reconsideration of funding decisions (in accordance with paragraphs 6–10 of the Arrangements between the GCF and the COP); and
- b) address grievances and complaints by individuals or communities who have been or may be adversely affected by a GCF-funded project or programme, where there is alleged non-compliance with the Fund's operational policies and procedures.

As such, the IRM's scope is limited to funding- and project-related matters, and it does not extend to allegations of non-compliance by the GCF Board more generally.

Background:

The GCF was established under Decisions 1/CP.16² and 3/CP.17³ and is designated as an operating entity of the financial mechanism under Article 11 of the Convention.

All operating entities of the financial mechanism are to function under the guidance of, and are accountable to, the COP.

¹ The Independent Redress Mechanism's Terms of Reference are available at: <https://www.greenclimate.fund/sites/default/files/document/updated-terms-reference-independent-redress-mechanism.pdf>

² Decision 1/CP.16 is available at: <https://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf>

³ Decision 3/CP.17 is available at: <https://unfccc.int/decisions?f%5B0%5D=session%3A3463>

In Decision 3/CP.17, the COP also approved the GCF's Governing Instrument,⁴ which provides that:

- a) The GCF is *"accountable to and function under the guidance of the [COP]"*.
- b) The GCF Board will:
 - i) *"receive guidance from the COP, including on matters related to policies, programme priorities and eligibility criteria, and matters related thereto;*
 - ii) *take appropriate action in response to the guidance received; and*
 - iii) *submit annual reports to the COP for its consideration and receive further guidance."*
- c) A specific function of the GCF Board is to *"Receive guidance and take action in response to any guidance from the COP and prepare annual reports to the COP on its activities"*.

The arrangements between the COP and the GCF were formalised in the Annex to Decision 5/CP.19,⁵ which provides that:

- a) *"The GCF shall receive guidance from the COP, including on matters related to policies, programme priorities and eligibility criteria."* (paragraph 2)
- b) *"The COP will, after each of its sessions, communicate guidance to the GCF."* (paragraph 3)
- c) *"The GCF will take appropriate actions in response to the guidance received and report on such actions."* (paragraph 5)

At the most recent COP in Baku, Azerbaijan (**COP29**), the COP decided to modify these arrangements,⁶ including by replacing paragraph 3 with the following:

- a) *The COP will communicate guidance to the GCF:*
 - i) *Annually after each of its sessions, until the end of 2026, and biennially thereafter, after every other session;*
 - ii) *After each of its sessions immediately preceding the final year of each replenishment of the Green Climate Fund;*
 - iii) *Where applicable, after any of its sessions not referred to in paragraph [(i)-(ii)] above, should the COP decide to do so.*

These revised arrangements were subsequently approved by the GCF Board, thereby making them effective.⁷

We also note that the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (**CMA**) may provide guidance to the entities of the financial mechanism on the policies, programme priorities and eligibility criteria related to the Agreement for transmission by the COP.⁸

⁴ The Governing Instrument of the GCF is available at: <https://www.greenclimate.fund/sites/default/files/document/governing-instrument.pdf>

⁵ Decision 5/CP.19 is available at: <https://unfccc.int/resource/docs/2013/cop19/eng/10a01.pdf#page=13>

⁶ See Decision -/CP.29 (advanced unedited version) *Report of the Green Climate Fund to the Conference of the Parties and guidance to the Green Climate Fund* available at: https://unfccc.int/sites/default/files/resource/GCF_COP_AUV_8c.pdf

⁷ See GCF Board, *B.41/09 Guidance from the twenty-ninth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change: Co-Chairs' proposal* (March 2025) available at: <https://www.greenclimate.fund/decision/b41-09>

⁸ Decision 1/CP.21 paragraph 61, available at: <https://unfccc.int/resource/docs/2015/cop21/eng/10a01.pdf#page=2>

Advice:**Query 1**

In our view, neither the GCF Governing Instrument, the arrangements between the COP and the GCF, nor any COP decision limits the form in which COP guidance must be delivered. While guidance is typically consolidated under the Report and Guidance Item, this is a procedural convention, not a legal requirement.

In practice, the COP has issued guidance to the GCF in other decisions. For example:

- a) in Decision 9/CP.19,⁹ the COP requested the GCF to apply particular methodological guidance in its results-based finance operations. This was not included under the Report and Guidance Item, but the GCF Board nonetheless reported on the action it took in response;¹⁰
- b) in Decision 1/CP.21,¹¹ the COP requested the GCF to expedite support for the least developed countries and other developing country Parties for the formulation of national adaptation plans. Again, this was not included under the Report and Guidance Item, but the GCF Board nonetheless reported on the action it took in response;¹² and
- c) in Decision 1/CP.27,¹³ the COP encouraged the operating entities of the Financial Mechanism (which includes the GCF) to simplify access to climate finance for developing country Parties. Although framed as an encouragement rather than a request, this reflects substantive guidance from the COP directed to the GCF. However, the GCF Board did not report on the action it took in response to this guidance.¹⁴

Our view is further supported by the text of the GCF's Governing Instrument which specifies that a role and function of the GCF Board is to "*take action in response to any guidance from the COP*" (emphasis added). The use of the word 'any' confirms the GCF Board's obligation is triggered by the substantive nature of the guidance, not its placement within COP documentation.

Additionally, the revised arrangements introduced at COP29, clarify the timing and frequency with which the COP will communicate guidance to the GCF, but do not dictate form or placement. The inclusion for guidance to be communicated outside the regular cycle further supports a flexible interpretation of what constitutes guidance from the COP to the GCF.

If the GCF were only required to consider guidance under the Report and Guidance Item, this would place administrative burden on the COP. The COP would be required to ensure all guidance intended for the GCF—regardless of its subject matter or context—is formally consolidated under that Item, even where such guidance naturally arises in the context of broader thematic decisions such as mitigation, adaptation, or finance.

Accordingly, we consider that the GCF is obligated to respond to all relevant guidance from the COP, irrespective of where it appears in COP decisions.

⁹ Decision 9/CP.19 paragraph 7, available at: <https://unfccc.int/resource/docs/2013/cop19/eng/10a01.pdf#page=24>

¹⁰ See FCCC/CP/2014/8 *Report of the Green Climate Fund to the Conference of the Parties* available at: <https://unfccc.int/documents/?f%5B0%5D=symboldoc%3AFCCC/CP/2014/8&f%5B1%5D=symboldoc%3AFCCC/KP/AWG/2006/L.1>

¹¹ Decision 1/CP.21 paragraph 46, available at: <https://unfccc.int/resource/docs/2015/cop21/eng/10a01.pdf#page=2>

¹² See GCF, *Fifth Report of the Green Climate Fund to the Conference of the Parties to the United Nations Framework Convention on Climate Change* (8 June 2016) available at: <https://www.greenclimate.fund/sites/default/files/document/gcf-b13-04.pdf>

¹³ Decision 1/CP.27 paragraph 42, available at: https://unfccc.int/sites/default/files/resource/cp2022_10a01_E.pdf#page=2

¹⁴ See GCF, *Twelfth report of the Green Climate Fund to the Conference of the Parties to the United Nations Framework Convention on Climate Change* (July 2023) available at: <https://unfccc.int/sites/default/files/resource/Resubmission%20Twelfth%20report%20of%20the%20GCF%20to%20the%20COP%20to%20the%20UNFCCC.pdf>

Query 2:

In the GCF's Co-Chair's Proposal regarding the Guidance from the twenty-ninth session of the COP,¹⁵ it states that other COP decisions '*may require consideration by the Board.*'

Annex II of this Proposal provides a table summarising COP guidance and GCF responses, but includes only guidance issued under the Report and Guidance Item, omitting guidance that appears elsewhere in COP decisions.

This suggests that the GCF Board may be treating guidance from other COP decisions as discretionary or optional.

We understand the GCF Board has taken a similar approach in its annual reports to the COP since 2020.

This is arguably inconsistent with GCF Board's obligations under its Governing Instrument and the arrangements between the COP and the GCF and in particular, the GCF's role and function to "*take action in response to any guidance from the COP*" under its Governing Instrument. As discussed under Query 1, it is our view that these instruments do not limit the GCF's obligations to guidance issued through the Report and Guidance Item.

By only responding to guidance consolidated under the Report and Guidance Item, the GCF Board risks undermining both its legal accountability to the COP and the integrity of the financial mechanism, which depends on the responsiveness of operating entities to COP guidance.

Query 3:

There are multiple pathways to ensure that guidance to the GCF appearing in broader COP decisions is brought to the GCF Board's attention:

- a) **The COP:** The most direct approach is for the COP to include a specific request under the Report and Guidance Item instructing the GCF to consider guidance issued elsewhere. Such a request could also clarify that COP guidance may appear across any one of its decisions.
- b) **Standing Committee on Finance (SCF):** The COP established the SCF to assist the COP in exercising its functions in relation to the financial mechanism of the Convention.¹⁶ Among others, the SCF's functions include providing draft guidance to the COP for the operating entities of the financial mechanism (including the GCF) and making recommendations on how to improve the coherence, effectiveness and efficiency of the operating entities.¹⁷ Notably, the function to make recommendations is not limited to making such recommendations to the COP or for the COP to consider the matter in the context of the Report and Guidance Item. Accordingly, the SCF could recommend directly to the GCF that it consider guidance issued outside the Report and Guidance Item. The SCF could also recommend to the COP for the COP to make the request referred to in sub-paragraph a).
- c) **The UNFCCC Secretariat:** The core functions of the Secretariat include supporting the COP, and ensuring the necessary coordination with the secretariats of other relevant international bodies (which would include the Secretariat of the GCF).¹⁸ The Secretariat's role is administrative in nature and in our view, it does not have the mandate to interpret COP decisions as 'guidance to the GCF'. That said, it may support awareness by transmitting

¹⁵ <https://www.greenclimate.fund/sites/default/files/document/13-guidance-cop29-co-chairs-proposal-gcf-b41-08.pdf>

¹⁶ See Decision 1/CP.16 available at: <https://unfccc.int/resource/docs/2010/cop16/eng/07a01.pdf> ; Decision 2/CP.17 available at: <https://unfccc.int/decisions?f%5B0%5D=body%3A1343&f%5B1%5D=conference%3A3461> ; and Decision 5/CP.18 available at: <https://unfccc.int/decisions?f%5B0%5D=body%3A1343&f%5B1%5D=conference%3A3845>

¹⁷ Decision 2/CP.17 available at: <https://unfccc.int/decisions?f%5B0%5D=body%3A1343&f%5B1%5D=conference%3A3461>

¹⁸ See Article 8 of the Convention.

relevant decisions to the GCF Secretariat or Board and highlighting relevant content. However, such transmission would be informational, not authoritative.

- d) **GCF Board Members:** Whilst the GCF Governing Instrument or the Rules of Procedure of the Board do not explicitly provide for a Board member to request an item to be included on the agenda for a Board meeting, there is nothing which prevents a GCF Board member from bringing relevant COP decisions to the Board's attention during meetings or requesting that such matters be included on the agenda to the Secretariat (who is responsible for preparing the provisional agenda for each Board meeting). We note the provisional agenda for GCF Board meetings must be approved by the Co-Chairs, which may affect whether and how such items are ultimately tabled.

These mechanisms for bringing guidance to the GCF Board's attention are available regardless of whether the GCF Board is in breach of its obligations. Based on our review, there are no other mechanisms available to address a failure by the GCF Board to consider or act upon COP guidance.