

# A Tentative Start for the Transitional Committee Of Troikas, Tensions, Test Balloons, Work Themes and Transparency Issues

*By Liane Schalatek, Heinrich Böll Stiftung North America*

May 2011

Global negotiators and observers met for two days in Mexico City at the end of April to start their work of designing the future Green Climate Fund. This first analysis by Liane Schalatek describes options for and potential obstacles to the process.

The first meeting of the Transitional Committee (TC), the 40 member body of negotiators tasked by the UN Climate Framework Convention to design a new Green Climate Fund (GCF), started in the same way that summarized the entire design process up to now: delayed. Almost two months later than the Cancun Agreement had mandated, the TC delegates and close to 100 observers from multilateral and bilateral financial institutions, international organizations, academia, the private sector and other civil society groups convened in Mexico-City on April 28th for the first time. Except that they didn't, at least not at first. Instead, the 40 countries representing the full UNFCCC membership of 194 (with 15 members from developed and 25 from developing countries) haggled in a non-public "non-session" for several hours fiercely over which countries should chair the process from now on. In the end, a "troika" of countries was confirmed with Mexico (the current COP presidency), South Africa (the future COP presidency) and Norway sharing the TC leadership as co-chairs.

The "election of officers" was of course one of the items on the tentative agenda for the two-day meeting. That it was dealt with behind closed doors by excluding all observers – whose right to attend was explicitly confirmed in Cancun – before the actual meeting even started suggest at least two important (and likely recurring) themes for the six-months long process: first and foremost, this seemingly technical exercise cannot be divorced from climate negotiation politics; second, full transparency will be crucial in order to help ease political suspicions and minimize political arm-wrestling and thus contribute to building the trust and partnership necessary among the 40 TC members if they are to succeed in creating a fundamentally different and better global climate fund for the benefit of developing countries.

The task before the 40 TC members and their advisors, selected by countries and regions for their experience and skills with respect to climate change and finance, is indeed a trying one: come up with a "robust, transparent, flexible design", so UNFCCC Executive Secretary Christiana

Figueres, that allows for a significant scaling up of current financial flows from developed to developing countries for urgently needed action in mitigation and adaptation. In Cancun, the global community reaffirmed that by 2020 developed countries plan to raise US\$100 billion per year. How much of this sum should come respectively from public, private and innovative sources of financing is still up in the air as is the percentage of this sum that should flow through a future GCF. In the first TC meeting in Mexico-City, the long-standing differences in opinion in this matter between many developing and developed countries were reiterated. Whereas many industrialized countries – including the US, Germany, the UK, France, Canada and Australia – in their interventions on the purpose of the fund equated its success with the new Fund's future capacity to leverage private sector investments, G77 countries and China underscored developed countries' obligation under the Convention to provide for the bulk of the future GCF funding via new and additional public resources as well as innovative financing, with private and carbon market financing serving only a complementary role.

### **Troika**

It will be quite interesting to see if the three co-chairs for the process, the unusual product of political arm-wrestling rather than technical expertise or even-handedness, will be able to guide the TC through fundamental differences between Annex I and Non-Annex I countries regarding the vision, purpose and scope of the new fund. Interestingly enough, all three men chosen – and it is worrisome omen that gender-balance had not been considered in anointing the TC leadership – come with a background in finance, not climate change and are new to the UNFCCC process and its intricacies. It remains to be seen if they are suited to build the collegial bridges between the worlds of finance and climate expertise that will be needed to make the TC's work successful. Mexican Finance Minister Ernesto Cordero Arroyo will be chairing the TC from now on together with Kjetil Lund, state secretary in the Norwegian Ministry of Finance and South Africa's Trevor Manuel, the head of the country's National Planning Commission. Trevor Manuel, who had sat in the UN High Level Advisory Group on Climate Change Financing last year, had canceled his participation short-notice, resulting in some irritation among TC members and a last minute persuasion call to South Africa during a negotiation pause behind closed doors.

The accepted solution presented a hard-won compromise leaving especially the Asian countries (which had proposed Pakistan as a co-chair) unhappy and unrepresented in the TC leadership. Pointing out repeatedly their regional group's "great flexibility" in relinquishing a co-chair, Asian members of the TC brought up the possibility of having another leadership position for the TC established in form of a vice chair. This option, supported by the African and Latin-American regional groups, will be discussed again at the next TC meeting. Behind this maneuver is also the fear of many developing countries that their interests might not be served too well by Mexico (an OECD member country) and South Africa (a G20 member) as co-chairs acting together with an industrialized country. The set-up serves assures a certain political continuity throughout the TC process by including the current and upcoming COP presidency (while also serving domestic political interests in both Mexico and South Africa) and provides a safety-valve for the continuation of the TC deliberations post-Durban, should the committee not be able to wrap up its work by COP 17 as ordered.

Norway, one of the industrialized countries most active in climate finance (primarily through its leadership in the global REDD initiative) is adding the perspectives of potential GCF contributor countries to the future GCF to the process.

### **Tensions**

As TC members discussed possible working arrangements for the committee, some obvious tensions within the group became apparent. Samoa, speaking on behalf of small island states, demanded a discussion on the purpose, scope and the principles for the new fund first, hoping for the articulation of a common understanding for a common vision of the GCF. Against the objection of the United States, Spain and others who felt that the Cancun Agreement already had elaborated on the mission and vision for the GCF and that the TC's focus should solely be on technical aspects, a one hour exchange of views on the subject was added to the agenda. China and other G77 countries underscored that the TC's work on designing the GCF as an operating entity of the financial mechanism of the convention should be governed by the UNFCCC principles as articulated in the Bali Action Plan as well as in the Cancun Agreements. Developing countries stressed the financial responsibility of industrialized countries to respond to a demand-driven articulation of needs by developing countries with adequate and predictable funds that are easily and directly accessible and transformational in purpose. While they emphasized the notion of equity and climate justice as an important guideline for operationalizing the GCF, developed countries avoided any reference to a financial obligation and focused instead on efficiency, effectiveness and results-orientation as the guiding principles for the new global fund, expressing their expectation that it would streamline and reduce the fragmentation in climate funding and provide the scalability and speed needed to support low-carbon development.

Developed and developing countries also showed a differing appreciation of how pragmatic and flexible the rules of engagement in the TC should be. While the United States and other industrialized countries like Italy and Canada argued that existing procedural rules under the UNFCCC Conference of Parties should be adjusted and modified as needed in the workings of the TC, developing countries such as the Philippines, Nicaragua, China, India or the Democratic Republic of Congo speaking for the African group stressed that the TC, including its officers, is to operate "under the authority" of the UNFCCC and thus obligated to follow its rules. This is of course in contrast to the future GCF, which will only follow COP guidance, but not its authority. For example, they urged a clear and explicit definition of the proposed decision-making by consensus to mean the absence of any formal objection. This clarification, no doubt, was sought in response to the acceptance of the Cancun Agreements at the COP16 last December despite Bolivia's formal objection to several of its decision points. Countries also disagreed on whether a simple or absolute majority of TC members and balance between developed and developing country votes was needed for a quorum. The draft proposal on working arrangements, the UNFCCC Secretariat had prepared for the meeting, was sent back for a revision. With no formal decision being taken, it remained unclear how the next TC meeting will deal with working arrangements again.

## **Test Balloons**

Indeed, at the first TC meeting, it seemed at times as if members, the new TC chairs and the UNFCCC Secretariat almost felt their way forward with their eyes closed, uncertain on how to proceed and if decisions were formally taken or an agenda point just merely concluded. The UNFCCC Secretariat, acting as the TC Secretariat but yet without formal guidance by the TC members, for example had prepared a quite detailed proposal for how a Technical Support Union (TSU) for the TC should operate and be composed. Given the importance of the TSU in preparing design options for the new fund and organizing and providing all expert input into the TC, this was no doubt a sort of a test balloon by the Secretariat and Executive Director Figueres to determine the level of oversight and direction the full TC would be willing to provide. The TSU and who sits on it matter, and TC members underscored that the TSU should be strong and competent. A number of international organizations, including all regional development banks, the World Bank and the European Investment Bank, as well as the GEF Secretariat, the Adaptation Fund Board, UNEP and UNDP, have agreed to second a staff person to the TC process, which will form a resident team of yet undefined overall size to be located with the UNFCCC Secretariat in Bonn, Germany. Some bilateral development banks, Germany's KfW and the French AFD, are likewise engaged; other organizations such as the WHO or OECD have offered their support. Somewhat surprising, none of the developing countries objected to the inclusion of either KfW or AFD experts in the TSU, probably because several countries, foremost Pakistan, stressed the need to bring in the expertise of national banks in receiving countries as well. It is still unclear if and how private sector institutions and civil society experts can be engaged, for example in a proposed roster of non-resident expertise.

However, there was also worry that a powerful TSU, if not given clear instructions by the TC, could become a non-transparently operating black box, set the TC's agenda rather than following the Committee's working orders and thereby predetermine outcomes, for example by constricting the design choices presented to the TC. A number of TC members, mostly from developing countries, questioned therefore the proposed composition of the TSU, which would have clearly assigned the important role of the funds design specialist to an expert seconded from a multilateral development bank. Rumor had it that Secretary Figueres had Warren Evans, the former Environment Director of the World Bank, who was instrumental in operationalizing the Climate Investment Funds at the World Bank, tapped for this position.

In the view of several TC members (including Nicaragua, the Philippines and India) such an assignment would clearly constitute a conflict of interest as it would give seconded World Bank staff a role in designing the fund and its governance structures that the World Bank is meant to oversee as interim trustee with fiduciary responsibilities. They pointed to internationally accepted fiduciary standards as well as a 2010 ruling by a US court (*United States vs. Arthur Anderson LLP*) that clearly forbids the combination of individual or institutional consultancy with fiduciary functions, arguing that already the perception of a conflict of interest needs to be avoided to safeguard the integrity and impartiality of the TSU. Several countries asked therefore to remove any reference to a specific institution providing the expert from the job descriptions of proposed TSU positions and to ensure that secondments to the TSU would be balanced equitably and regionally from a larger

range of institutions to avoid a preponderance of the development banks. They argued that other best practice experiences for example from the Adaptation Fund or the Global Fund to Fight AIDS, Tuberculosis and Malaria need to be included. Several countries demanded additional expertise particularly on how LDCs and small island states can access funds, including via direct access modalities. UNFCCC Executive Secretary Figueres gave the TC members assurances that the TSU was not a closed group, it was to “shadow” the TC and follow its directions and that the Secretariat would look at the conflict of interest issue again to tighten the rules of engagement of seconded personnel to avoid even the appearance of such a conflict.

While not addressed by TC countries during the deliberations, it is crucial for the TC to include strong and varied expertise on formulating comprehensive social, including gender, and environmental safeguards in the TSU (the draft proposal had only included one such position). Non-resident experts should be drawn from academia, independent research institutions, labor unions, human rights and women’s rights organizations as well as groups representing climate-affected communities and Indigenous Peoples, taking into account gender and regional balance. It will be important for the TC to facilitate financial support for such participation, seeing that the TSU – having become by default operational right after the first TC meeting – currently asks seconding organizations to foot the bill for the participation of their experts in the TSU (advantaging more affluent and larger organizations such as the World Bank and the MDBs even further in giving expertise).

### **Work Themes**

In their discussions during the first meetings, all TC members had stressed an eagerness to have a detailed work plan for the next six months. Three more meetings of the full TC are planned, with the first one likely to be held in Tokyo/Japan the second week of July. Two additional TC meetings are suggested for mid-September and early November; countries interested in hosting are Switzerland, Singapore and South Africa. At least two technical workshops are also planned, as is the preparation of background documents to facilitate discussion on issues such as lessons learned from existing funds and channels, including on existing direct access models within and outside of the climate regime. Several members, including Japan and Nicaragua, suggested to host the first technical workshop giving a state-of-the-art overview over all existing climate financing mechanisms just before the next TC meeting. The TC members agreed to task Pakistan together with Sweden to prepare the concept for such a workshop. Both negotiators are former members of the Adaptation Fund Board.

Given the short period of time available for the TC to do its work, the Committee decided to organize its work in four separate work streams or working groups that are to convene and prepare proposals for consideration by the full TC simultaneously. A draft work plan was discussed which outlined most of the respective work stream mandates, but was not considered to be comprehensive at this point. While all work streams are to be open to any TC member wishing to participate, given the reality of generally small member delegations – comprised of the principal member with a few advisors (and some developing countries on the TC even lacking advisors) – it is most likely that countries will have to pick and choose one or two of the working groups to primarily engage

in. Following UNFCCC rules of procedure, all four work streams will be headed by a pair of co-facilitators chosen from an Annex I and Non-Annex I country each. These were suggested by the Mexican chair – and apparently worked out in informal consultations during a coffee break. Thus, Spain and Barbados will facilitate Work Stream I, which is to deal with the scope, guiding principles and cross-cutting issues of the future GCF, looking at its size and scalability, its complementarity and value-added to existing funds, and country-led and results-based processes. Switzerland and the Democratic Republic of Congo (representing the African group in the negotiations) will look at governance and institutional arrangements in Work Stream II, which will give suggestions on procedures for the Board, the selection and establishing of an independent GCF secretariat as well as the trustee arrangements and will define the relationship of the GCF with national entities as well as other Convention bodies, including the yet to be formed Standing Committee. Australia and Pakistan are jointly responsible for guiding the work in Work Stream III dealing with operational modalities, potentially the most controversial of the four working groups; it will deal with methods to manage upscaled financial resources from a number of sources, look at ways to leverage private sector finance, will have to devise methods for a balanced allocation between mitigation and adaptation, ensure that appropriate non-binding expert and technical advice is provided to the GCF and ensure stakeholder input and participation. Lastly, Sweden and Bangladesh will organize the work in Work Stream IV which will address monitoring and evaluation by suggesting mechanisms for periodic independent evaluation of the Fund's performance as well as the performance of the activities supported by the fund, and propose mechanisms to ensure both the financial accountability of the Fund as well as the application of internationally accepted fiduciary standards, sound financial management, and – last but not least – the application of environmental and social safeguards.

### **Transparency Issues**

Going into the first TC meeting, which was webcast live on the UNFCCC website, many TC members – as well as observers – had felt that there was not enough transparency on who had drafted the working documents for the first meeting and under whose mandate. They also felt insufficiently informed about members and activities of a group of advisors from observer organizations acting in the capacity of a de facto interim Technical Support Unit even before such a unit had been formally established and tasked by the full TC. Members therefore urged to increase and guarantee the transparency of the TC by making relevant documents, including all working papers and notes, available at least two weeks before meetings and sessions, Ideally, those documents should not just be accessible to the TC members and their advisors, but to all registered observers and the larger interested public. Members also wanted to have more information on the individuals proposed to serve as resident or non-resident experts for the TSU. This information is supposed to be made available via a formal website for the TC to be set up by the UNFCCC secretariat. A dedicated TC website at the request of member states would also allow for an electronic interface for direct interaction between the 40 TC members in between formal meetings.

None of the TC members spoke out against a broad inclusion of observers in the TC and work stream meetings, however several countries asked that a distinction be made – and thus

preferential treatment given – to observers from countries not represented on the TC over private sector and civil society organizations. And while many TC members from both developed and developing countries welcomed the “wholesale engagement of civil society organizations and the private sector” (USA), non spoke explicitly to the kind of observer role and active participation civil society should play in the TC proceedings. Although the Cancun Agreements had stipulated that the TC be open to all accredited observers of the UNFCCC, it is not yet clear if civil society participants can be “active observers” (following established practice at the World Bank’s Climate Investment Funds for example). This would mean that civil society representatives in any full TC meeting, in the work streams, workshops or other sessions could (a) take the floor and make an intervention, (b) suggest agenda items and (c) be active participants in all drafting groups or executive sessions. A hopeful first step in that direction was taken in allowing some civil society remarks to the full TC during the meeting’s first day, although not during the second. Civil society groups are hoping that at a minimum each of the nine formal UNFCCC constituencies (including labor, the business sector, women and gender groups, Indigenous Peoples, environmental groups, research institutions and youth groups among others) will be allowed to have a two minute intervention at each TC meeting. Indications are that this might be the unrealistic best-case scenario at this point, with some TC member countries actively discouraging it. The next TC meeting will address the working arrangements, including stakeholder participation, again. In a post-TC meeting with civil society groups, Mexican Co-Chair Cordero promised to work with his co-chairs and the UNFCCC secretariat on proposal for ways to ensure the inclusion of civil society’s technical expertise in the workings of the TC to be discussed at the next full TC meeting.

Of course, a strong and active civil society role in the TC is only the indispensable preliminary to ensure that broad and engaged stakeholder participation, including from a wide range of civil society groups, will be operationalized in the new Fund. This would not only provide the GCF’s value-addition to existing climate funds, but also ensure that the new Fund will be operating transparently in the most effective, efficient and equitable way possible. To further this goal, it is mandatory to address the question of broad stakeholder participation comprehensively in the proposed working groups as well as in future TC deliberations and meetings. Currently, the issue is scheduled to be dealt with only in TC Work Stream III, dealing with operational modalities. This, according to many civil society experts following the TC, is important but not enough. They demand instead to make the issue additionally also an important consideration in setting up the governance and institutional arrangements for the future GCF, by debating and formalizing the participation of civil society and particularly affected communities in Board meetings and decisions, similar to best practices in existing arrangements such as under the Global Fund to Fight AIDS, Tuberculosis and Malaria.

**Liane Schalatek** (*liane@boell.org*) is Associate Director of the Heinrich Böll Foundation North America.