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On the Need to Certify

Oversight of compliance with financial commitments under the UN Framework Convention on Climate Change

by Benito Müller¹

The history of financial support for developing countries is seen by many as littered with disappointments and broken promises that have eroded trust to an unprecedented level. Whatever financial regime is to emerge from the Copenhagen Climate Conference, it will have to remedy this situation. This is highly unlikely without some form of financial commitments. The aim of this note is to highlight this problem and to propose a solution through a system of certification and registration to be applied to payments towards such commitments.

The Bonn Declaration (Verification) Fiasco

In 2001, the EU15 – together with Canada, Iceland, New Zealand, Norway and Switzerland – made a *‘political commitment’* in the so-called ‘Bonn Declaration’ that by 2005, they would collectively provide \$410 million annually to developing countries for climate change activities. According to the terms of the declaration, the overall level of funding promised could be contributed in four ways: (i) contributions to *GEF climate change related activities*, (ii) any *additional bilateral or multilateral funds* provided against funding levels of 2001, (iii) any funds directed towards either the *Special Climate Change Fund* (SCCF), the *Least Developed Country Fund* (LDCF) or the *Kyoto Protocol Adaptation Fund* (AF), and (iv) funding deriving from the *share of proceeds of the CDM*.

Climate change help for the poor 'has not materialised'

Large sums promised to developing countries to help them tackle climate change cannot be accounted for, a BBC investigation has found.

Rich countries pledged \$410m (£247m) a year in a 2001 declaration - but it is now unclear whether the money was paid. UN Secretary General Ban Ki-moon has accused industrialised countries of failing to keep their promise. The EU says the money was paid out in bilateral deals, but admits it cannot provide data to prove it.

"There have been promises which have not been fully materialised. There is an issue of trust," says Ban Ki-moon. The question of finance for developing countries to tackle climate change is one of the keys to a deal at the Copenhagen summit next month. Poor countries may not sign up to a new agreement unless they trust rich countries to keep their promises, and are satisfied with the mechanisms put in place to handle the flow of funds.

Source: <http://news.bbc.co.uk/1/hi/business/8376009.stm>, Wednesday, 25 November 2009

In light of the current revival of the idea of ‘political commitments,’ it is not surprising that the issue of compliance has been raised, not only among negotiators, but also the media (see Box 1).

A study by Marc Pallemmaerts and Jonathan Armstrong was published earlier this year with the aim to investigate precisely this question.² While they were able to ascertain easily how much was paid into the dedicated multilateral climate change funds and instruments, they faced considerable *difficulties with the fragmented bilateral transactions*. Analysing the climate change-related bilateral funding was problematic both methodologically and practically due to unavailability of most recent data in the National Communications, varied reporting quality of bilateral funding, countries’ inadequate compliance with the requirement of the reporting guidelines, the lack of clarity in defining what constitutes new and additional funding, and the lack of clear uniform criteria for determining the bilateral aid projects which are directly relevant to climate change mitigation or adaptation. The authors speculate that countries may have taken advantage of these ambiguities and included in their National Communications certain funds and aid not entirely relevant to the implementation of the UNFCCC in order to meet their commitments on amounts of funding needed.

In their own words, the authors were forced to conclude that the *‘average annual level of financial support to developing countries collectively provided by the 15 EU Member States ... through specific multilateral climate change related funding channels falls well short of the level ... to which they committed themselves. Whether or not the EU is complying with its political commitment under the Bonn Declaration depends entirely on these Member States’ bilateral aid efforts and any additional contributions through other multilateral channels. Unfortunately, the information on such efforts ... is insufficient to enable even an informed observer to make a reliable judgment about the volume of aid additional to 2001 levels that is effectively being provided at the present time.’*

Clearly, this situation is not tenable, regardless of the legal nature of commitments. One of the key functions of the future financial regime must to *ensure that compliance can be easily ascertained*.

MRV or CRR?

Ever since the final night of the Bali Climate Conference (COP13 in December 2007), the acronym ‘*MRV*’ (‘Measurable, Reportable, and Verifiable’) has taken on a special significance in the international climate change debate. Originally devised to characterize Nationally Appropriate Mitigation Actions (NAMAs) of developing countries, it was transferred to cover also the financial, technical and capacity building support for NAMAs.³

Three points are of importance in the context of this note. First, it is clear that, as regards finance, ‘measurability’ is not an issue, provided one can count. So the key to financial support of NAMAs is that it must be reportable and, crucially, verifiable. Second, the origin of the phrase in qualifying the supported actions makes its application to climate change finance in general problematic. It can lead to the incorrect converse inference that (MRV) financially supported activities – including adaptation actions – should all be MRV. Finally, applying the phrase ‘MRV’ to climate finance in general fails to capture an essential aspect of payments which are meant to count towards compliance with financial commitments under the UNFCCC: Yes, they need to be reportable, and yes, they must be verifiable⁴ – but it is highly likely that they will also have to *comply with certain specific criteria*. As such, they also have to be *certifiable*.

1. The most commonly mentioned criterion in this respect – *viz.* the Bonn Declaration – is that such payments must be ‘*new and additional*,’ (generally referring to being over and above what would otherwise have been spent on Official Development Assistance). This is meant to counter (i) the practice of ‘*double counting*’ – which has also recently hit the headlines⁵ – where funds are delivered for climate change purposes, and at the same time counted as ODA, and (ii) the practice of diverting funds from ODA for climate change purposes.

2. But there are other possible compliance criteria that might be applied. Take the case of payments under the Clean Development Mechanism (CDM) for Certified Emission Reduction units (CERs). If they are acquired for the purpose of *offsetting* developed country emissions, then the transaction is purely commercial. It enables the developed country buyers to achieve compliance with their *mitigation commitments* more cheaply than would otherwise be the case. In light of this, it is difficult to see how the money paid in exchange for the CERs could be considered financial support (in the sense of paragraph 1.b.ii of the Bali Action Plan) to be counted also towards *financial obligations*.

However, if the CERs acquired were *not used for offsetting*, but retired – as proposed by Müller and Ghosh⁶ – then there are good reasons why the money spent on acquiring these Retirement CERs should *be certified as counting towards financial obligations* (under the Convention).

3. The G77+China have also proposed the criterion that only payments to the financial mechanism of the Convention should count towards compliance with financial obligations.

Whatever criteria will ultimately apply must be up to the COP to decide. What is clear is that there will be conditions, and that they will have to be checked before payments are counted towards financial commitments. This is why there is *a need* not just for verification, but *for certification of payments as regards the fulfillment of these compliance criteria*.

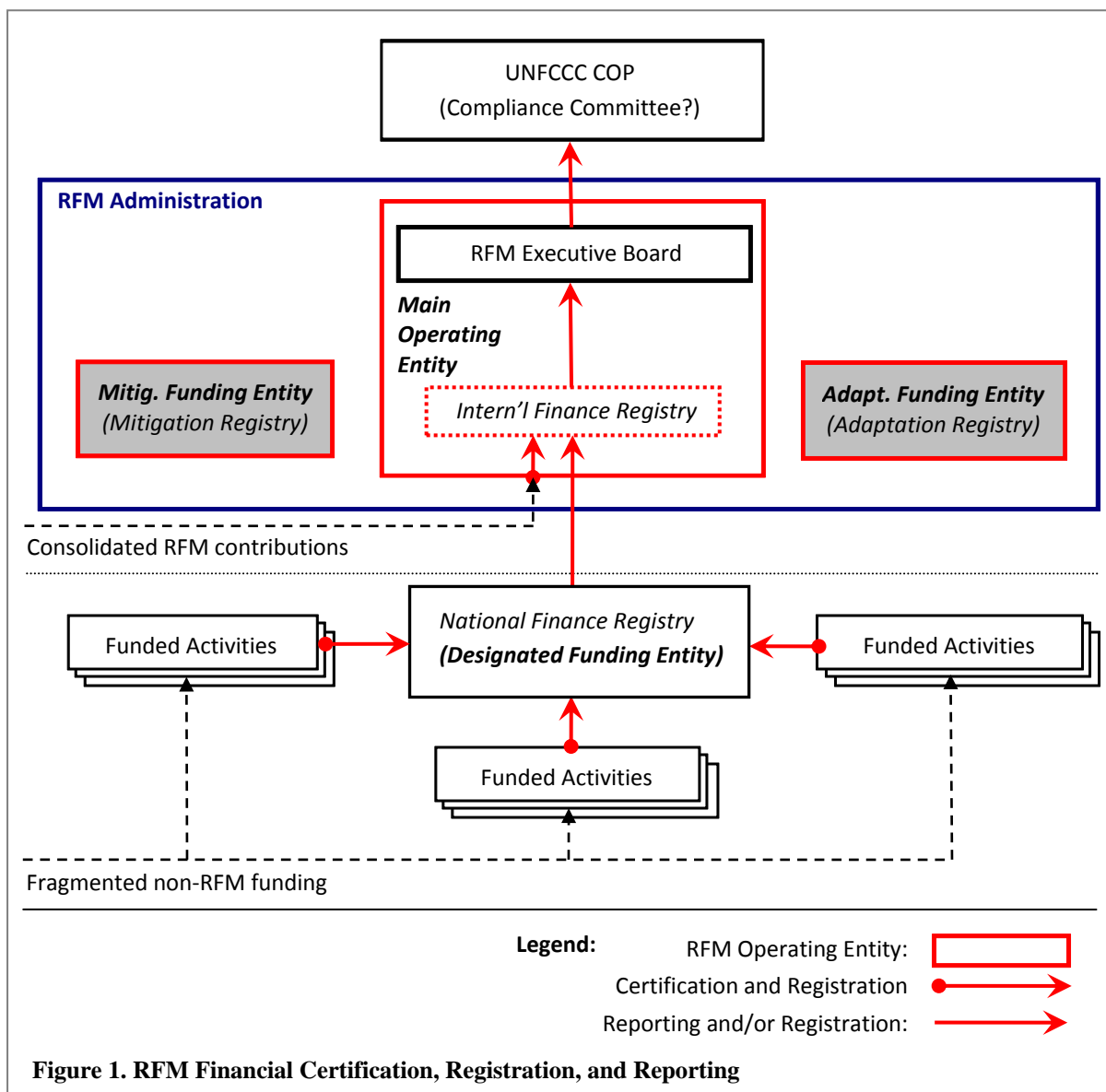
Institutional Arrangements

Who should be in charge of certification? The answer depends, of course, on who might be available. For expository purposes, the following discussion is set against the background of the RFM compromise model described in Müller (2009).⁷

What is clear quite generally is that certification will have to be accompanied by a *system of registration and reporting* which is, to some extent, easier to place institutionally. How might such a system work in the context of the RFM?

Registering and Reporting

In order to overcome the problem of *renege pledges*, the registration of the payments as having been received should take place *at the receiving end*. This means that there will have to be *National Climate Finance Registries*. Moreover, the principle of parsimony⁸ suggests that if the country has a Designated Funding Entity (DFE),⁹ then it should keep this registry. As illustrated in Figure 1, the National Registry would report to an *International Finance Registry*, kept at the Main Operating Entity of the RFM, where contributions to the RFM are registered, and all the information relevant to the issue of compliance with financial commitments under the Convention is collated from country reports, and reported annually by the RFM Executive Board to (a Compliance Committee of) the COP.



Certification

Whereas registration has a ‘natural habitat’ (the ‘receiving end’) – if one aims to avoid broken promises – the case of certification is not as straightforward. There are a number of precedents that could be followed.

1. There is, for one, the sort of ‘*self-certification*’ on part of the payer practiced in the current ODA registry under the OECD DAC. While this may work in the context of voluntary ODA payments, it is doubtful whether it would be acceptable in the context of certifying payments with respect to financial obligations.

2. Then there is the option of *central international certification* as carried out in the Clean Development Mechanism (CDM). The CDM provides some interesting lessons with respect to certification. Take the fact that, *the CDM’s executive board – which vets the projects – is blamed for*

*bottlenecks which investors say create long waits for carbon offsets.*¹⁰ Whether or not this is justified, what is clear is that the idea of vetting even parts of projects/programmes (i.e. their funding) at the international level is completely contrary to the ethos of international administrative efficiency embodied in the RFM proposal.¹¹

3. Finally, one might consider the possibility of *recipient certification*, as seems to be the practice in the Multilateral Fund of the Montreal Protocol with regard to bilateral funding, or in the case of the CDM, with regard to the fulfillment of the relevant sustainable development criteria. The problem here is that recipients might find themselves in a ‘race to the bottom’, i.e. compelled to certify as otherwise the money might go elsewhere.

In short, none of the options discussed is completely unproblematic. On balance, however, I would tend towards the third option, not least because it would avoid institutional proliferation by co-locating certification with the financial registry system – that is, by having certification carried out at the point of registration. The keys to avoid the race to the bottom and other certification problems – in particular with respect to the concept of ‘additionality’¹² – are *simplicity and transparency*. The operational certification criteria have to be as simple as possible, and based on *measurable parameters*. The certification process, in turn, must be transparent, with public feed-back as practiced in the case of CDM approvals.

Properly designed, such a certification system will no doubt significantly contribute to restoring at least part of the trust that has been squandered. It is therefore key that *certification of payments is retained in the current negotiations* on institutional arrangements for international climate finance.¹³

Endnotes

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² Marc Pallemarts and Jonathan Armstrong, *Financial Support to Developing Countries for Climate Change Mitigation and Adaptation: Is the EU Meeting Its Commitments?*, Institute for European Environmental Policy, January 2009.

³ For more on the drama of these last night in Bali, see Benito Müller, “Bali 2007: On the road again! Impressions from the Thirteenth UN Climate Change Conference,” *Oxford Energy and Environment Comment*, February 2008, available at <http://www.oxfordclimatepolicy.org/publications/mueller.html>

⁴ ‘Verifiable’ here is taken to qualify the payment, i.e. refer to ascertaining whether it has occurred or not.

⁵ *A flagship British government fund to help victims of global warming in Bangladesh will break a pledge to supply climate funds on top of existing overseas aid, the Guardian has learned. The £60m promised by the government to help the country protect its people from rising sea levels will have to be found from existing budgets inside the Department for International Development (Dfid). Sources in the Bangladesh government said they were "concerned" by Britain's move on the so-called Multi-Donor Trust Fund for Climate Change (MDTF) because they had expected the cash to be additional. "We expected this [climate change aid] to be free of the commitments the UK has already made," one said.*

The Guardian has also discovered that several million pounds will never reach its intended recipients; instead it will go to the World Bank, which will administer the fund. Leaked documents show that \$8m (£4.9m) will be "executed by the World Bank, as administrator". The bank needs the money to cover the costs of administration, project appraisal and capacity building, as well as a management team in the bank's office

in the Bangladeshi capital, Dhaka, says the document.[David Adam and John Vidal, *Britain accused of 'double counting' over climate aid to Bangladesh*, The Guardian, 13 July 2009, <http://www.guardian.co.uk/environment/2009/jul/13/climate-change-development>]

- ⁶ Benito Müller and Prodipto Ghosh, “Implementing the Bali Action Plan: What role for the CDM? with Prodipto Ghosh,” *Oxford Energy and Environment Comment*, October 2008; available at www.oxfordclimatepolicy.org/publications/mueller.html
- ⁷ Benito Müller, “Is There Room for Compromise? The debate on institutional arrangements for climate finance.” *Oxford Energy and Environment Comment*, October 2009; available at www.oxfordclimatepolicy.org/publications/mueller.html
- ⁸ For more on this principle, see Benito Müller, “Procrustes' Bed & Ockham's Razor: The debate on existing institutions in climate finance”, *Oxford Energy and Environment Comment*, November 2009
- ⁹ In those cases where there are no DFEs, a ministry could be designated to perform the necessary registrations and notifications.
- ¹⁰ Michael Szabo, ‘Copenhagen still a “golden opportunity” for CDM’, *Reuters News* on 20 November 2009, <http://sites.thomsonreuters.com.au/carbon/2009/11/analysis-copenhagen-still-a-golden-opportunity-for-cdm/>
- ¹¹ For more on this, see Benito Müller, “The Time is Right! Devolution of funding decisions to designated national/regional climate change funding entities”, *Oxford Energy and Environment Comment*, November 2009.
- ¹² The CDM experience clearly demonstrates that, if a financial additionality criterion is to be adopted, then it is crucial that it be operationalised – made ‘measurable’ – without the need to second-guess intentions of decision makers. For more on these issues, see Benito Müller, *Additionality in the Clean Development Mechanism: Why and What?* Climate Strategies and Oxford Institute for Energy Studies, EV 43, March 2009.
- ¹³ At the time of writing, certification is still in the negotiating text, but relegated to an Annex (non-paper 54): 20. [The financial Mechanism established under the Convention shall] *Manage a certification and registry system for receiving, delivery of and deploying financial resources to enable developing country Parties to count financial contributions and technology support from developed country Parties towards compliance of their commitments under Article 4.3, 4.4, 4.5, 4.8 and 4.9 of the Convention and under paragraph 1(b) (ii) of decision 1/CP. 13. Financial resources will be made available to support an effective system to measure, report and verify the support provided by developed countries.*[p.19]