



**GREEN
CLIMATE
FUND**

Meeting of the Board
28 - 30 June 2016
Songdo, Incheon, Republic of Korea
Provisional Agenda Item 23 (a)

GCF/B.13/28

4 June 2016

Administrative Tribunal of the Green Climate Fund (Status Update)

I. Introduction

1. Pursuant to decision B.12/40, the Board requested the Secretariat to identify the options for the arrangements for the Administrative Tribunal of the Fund. It was intended that the Secretariat should focus on existing relevant administrative tribunals whose jurisdiction could be extended to the Secretariat.
2. This document provides a status update on the Secretariat's progress with respect to preparing such options for the Board's consideration.

II. Identifying appropriate options

3. The Secretariat reviewed the statutes of the administrative tribunals established by the international organizations set out in Annex I.
4. Of these, it focused on international organizations with a similar global reach to the Fund and further filtered such organizations based on whether the statutes of their related administrative tribunal would allow such tribunal to exercise jurisdiction over a multilateral entity such as the Fund.
5. The following four administrative tribunals were identified as potentially satisfying both criteria:
 - (a) the administrative tribunal of the International Labour Organization;
 - (b) the administrative tribunal of the International Monetary Fund;
 - (c) the United Nations Disputes Tribunal; and
 - (d) the administrative tribunal of the World Bank.
6. In addition, the Secretariat is also analysing the option of referring employment disputes to arbitration. This option has been used in the past by a number of smaller international organizations that have chosen to neither establish their own administrative tribunal nor accede to the jurisdiction of an existing administrative tribunal.

III. Status

7. The Secretariat contacted each of the four administrative tribunals referred to above and enquired as to the process for accepting their jurisdiction. Following requests from certain of the tribunals, the Secretariat sent such tribunals certain information regarding the establishment and status of the Fund.
8. Three of the tribunals contacted are now in the process of undertaking their own legal analysis on whether their jurisdiction can be extended to the Secretariat (one of them has already completed their analysis).
9. In addition to this legal analysis, the governing bodies or boards of such organizations and, in certain cases, the members of the related tribunal, would need to approve extending the jurisdiction of the relevant tribunal to the Secretariat.
10. With respect to the option of arbitration, the Secretariat is currently undertaking an analysis of the pros and cons of such an approach.
11. For completeness, the Secretariat also contacted the Asian Development Bank (ADB) to enquire whether the jurisdiction of the ADB's administrative tribunal could be extended to the Fund, since the Fund's administrative policies are based on those of the ADB. However, as this

option would require an amendment to the statute of the ADB's administrative tribunal, this option will be considered only if the other options set out above prove to be unsuccessful.

IV. Recommended Action by Board

12. It is recommended that the Board adopt the draft decision set out in Annex II of this document.

Annex I: International Organizations with existing administrative tribunals

1. African Development Bank
2. Asian Development Bank
3. Council of Europe
4. European Bank for Reconstruction and Development
5. Inter-American Development Bank
6. International Labour Organization
7. International Monetary Fund
8. North Atlantic Treaty Organization
9. Organization of American States
10. Organisation for Economic Co-operation and Development
11. United Nations
12. World Bank

Annex II: Draft decision of the Board

The Board, having reviewed document GCF/B.13/28 “Administrative Tribunal of the Green Climate Fund (Status Update)”:

- (a) Takes note of the progress made to date with respect to the arrangements for the Fund’s administrative tribunal; and
 - (b) Requests the Secretariat to prepare a document for consideration by the Board as soon as possible, and no later than at its fifteenth meeting, setting out the options for the Fund’s administrative tribunal, which document should include an estimate of the related costs.
-