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Adaptation Fund Board Thirty-fourth meeting Bonn, Germany, 10-11 October 2019

Agenda items 12

MATTERS RELATED TO THE MANDATE CONTAINED IN PARAGRAPH 6 OF DECISION 1/CMP.14: THE BOARD'S CONSIDERATION AND RECOMMENDATIONS ON THE TASKS MANDATED BY DECISION 1/CMP.14 TO BE INCLUDED IN THE ADDENDUM TO ITS REPORT TO CMP 15

I. Background

1. In Katowice, Poland in December 2019, by decision 13/CMA.1 and decision 1/CMP.14, Parties to the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA) and Parties to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP), respectively, decided that the Adaptation Fund (the Fund) shall serve the Paris Agreement under the guidance of, and be accountable to, the CMA with respect to all matters relating to the Paris Agreement, effective 1 January 2019, and that the Fund shall exclusively serve the Paris Agreement once the share of proceeds under Article 6, paragraph 4, of the Paris Agreement becomes available.

2. By decision 1/CMP.14, paragraph 6,¹ the CMP requested the Adaptation Fund Board (the Board) to consider the following and to make recommendations to the CMP at its fifteenth session (CMP 15) with a view to the recommendations being forwarded to the CMA at its second session (CMA 2) in December 2019²:

(i) the rules of procedure of the Board;

(ii) the arrangements of the Fund with respect to the Paris Agreement;

(iii) any other matter so as to ensure the Fund serves the Paris Agreement smoothly; and

(iv) implications of the Fund receiving the share of proceeds from activities under Articles 6, 12 and 17 of the Kyoto Protocol when the Fund serves the Paris Agreement.

3. By the same decision, the CMP requested the Subsidiary Body for Implementation, at its fiftieth session (SBI 50), to consider the eligibility for membership on the Board, and to forward a recommendation to the CMP 15.

4. Considering decision 1/CMP.14 the Board, at its thirty-third meeting in March 2019, discussed issues arising from CMP 14 and CMA 1-3, considering <u>document AFB/B.33/11</u> which was prepared by the secretariat. Having considered document AFB/B.33/11, the Board decided:

a) To request the secretariat to prepare for inclusion of, in the draft addendum to the report of the Board to the Conference of the Parties serving as meeting of the Parties to the Kyoto Protocol at its fifteenth session (CMP 15), possible Board's consideration and recommendations on the tasks mandated by decision 1/CMP.14 "Matters Relating to the Adaptation Fund," and submit them to the Board for consideration at its meeting in October 2019;

b) To request the secretariat, in preparation of the Board's consideration and recommendations mentioned in subparagraph a), to consult with the UNFCCC Secretariat, the interim trustee (the World Bank) and the GEF Secretariat on relevant matters;

¹ <u>https://unfccc.int/sites/default/files/resource/08a1e.pdf</u>.

² It was confirmed on 7 March 2019 that COP 25 / CMP 15 will take place on 2-13 December 2019.

- c) To establish a task force to provide guidance to the secretariat on:
 - (i) defining the scope of the elements to be included in the Board's consideration and recommendations on the tasks mandated by decision 1/CMP.14;
 - (ii) seeking inputs on the matter referred to in subparagraph a) from the trustee, the GEF, the UNFCCC Secretariat and other relevant sources;
 - (iii) reflecting the inputs referred to in subparagraph c) (ii) in possible Board's consideration and recommendations referred to in subparagraph a); and
 - (iv) considering any other matters that may arise related to subparagraphs a) and b) and c);

d) To elect the following as members of the tasks force which will serve until the Board meeting in October 2019 to fulfil the tasks as described in subparagraph c):

- (i) Ms. Sylviane Bilgischer (Chair of the Board, Belgium, Annex I Parties);
- (ii) Mr. Ibila Djibril (Vice-Chair of the Board, Benin, Africa);
- (iii) Ms. Claudia Keller (Germany, Western Europe and Others);
- (iv) Ms. Elenora Cogo (Italy, Western Europe and Others);
- (v) Ms. Sheida Asgharzadeh Ghahroudi (Islamic Republic of Iran, Asia-Pacific);
- (vi) Mr. Philip Weech (Bahamas, Latin America and the Caribbean);
- (vii) Mr. Mohammed Zmerli (Tunisia, Africa); and
- (viii) Mr. Aram Ter-Zakaryan (Armenia, Eastern Europe)

e) To decide to hold an additional meeting of the Board in Bonn, Germany, on 28-29 June 2019, in addition to the Board meeting scheduled in October 2019, to discuss the matter related to a); and

f) To request the task force and the secretariat to report the progress of the work contained in subparagraphs a), b) and c) to the Board at its meeting on 28-29 June 2019.

(Decision B.33/52)

5. In accordance with subparagraph b) of decision B.33/52, the secretariat has conducted further review and held consultations with the World Bank (the trustee), the GEF Secretariat and the UNFCCC Secretariat on the topics relevant to decision B.33/52 since April 2019. The secretariat reported to the Task Force on the status and outcome of the consultations which had been held from April 2019 to early June 2019 and sought their guidance as per subparagraph c) of decision B.33/52. The secretariat prepared the relevant documents which incorporated the Task Force's input in the documents, in line with decision B.33/52, and submitted to the Board at its additional meeting (B.33.b) held on 28-29 June 2019. At the additional meeting, the secretariat also reported to the Board the progress of the work which had been made from the thirty-third Board meeting through the first week of the SBI 50.

6. Considering decision 1/CMP.14, decision B.33/52, document AFB/B.33.b/3 and its annex I, and the relevant Board discussions, at its additional meeting (AFB.33.b) held in June 2019, the Board made three decisions as follows:

<u>Terms and Conditions of the trustee services to be provided by the World Bank as the interim Trustee</u>

The Adaptation Fund Board decided to request the secretariat:

(a) To prepare, in consultation with the World Bank as the interim trustee (the trustee) and the secretariat of the United Nations Framework Convention on Climate Change, draft amendments to the Terms and Conditions of the trustee services to be provided by the World Bank as the interim trustee (T&Cs);

(b) To share the draft amendments to the T&Cs with the Task Force established in decision B.33/52 for its guidance and input; and

(c) To incorporate the guidance and input of the Task Force into the draft amendments to the T&Cs and present them to the Board for its consideration and decision at its thirty-fourth meeting.

(Decision B.33.b/1)

Institutional arrangement (MoU) with the GEF for Secretariat services to the Board

The Adaptation Fund Board decided to request the secretariat:

(a) To prepare, in consultation with the secretariat of the Global Environment Facility (GEF) as the interim secretariat and the secretariat of the United Nations Framework Convention on Climate Change, draft amendments to the Memorandum of Understanding with the GEF for secretariat services to the Adaptation Fund Board (MoU);

(b) To share the draft amendments to the MoU with the Task Force established in decision B.33/52 for its guidance and input; and

(c) To incorporate the guidance and input from the Task Force into the draft amendments to the MoU and present it to the Board for its consideration and decision at its thirty-fourth meeting.

(Decision B.33.b/2)

Implications of the Fund receiving the share of proceeds from activities under Articles 6, 12 and 17 of the Kyoto Protocol when the Fund serves the Paris Agreement;

The rules of procedure of the Adaptation Fund Board; and

Any other matter so as to ensure the Fund serves the Paris Agreement.

The Adaptation Fund Board decided to request the secretariat:

(a) To prepare a proposal for the Board's consideration and recommendation related to the Rules of Procedure of the Adaptation Fund Board;

(b) To draft, in consultation with the World Bank as the interim trustee (the trustee) and the secretariat of the United Nations Framework Convention on Climate Change, a proposal for the Board's consideration and recommendation related to the "implications of the Adaptation Fund receiving the share of proceeds from activities under Articles 6, 12 and 17 of the Kyoto Protocol when the Adaptation Fund serves the Paris Agreement";

(c) To draft a proposal for the Board's consideration and recommendation related to "any other matter so as to ensure the Adaptation Fund serves the Paris Agreement smoothly";

(d) To prepare a document containing the draft proposals referred to in subparagraphs (a), (b) and (c) and share it with the Task Force established in decision B.33/52 for its guidance and input; and

(e) To incorporate the guidance and input from the Task Force into the document and present it to the Board at its thirty-fourth meeting for its consideration and decision related to the tasks mandated by decision 1/CMP.14, to be included in the draft addendum to the report of the Board to the fifteenth session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.

(Decision B.33.b/3)

7. This document is prepared in accordance with decisions B.33.b/1, B.33.b/2, and B.33.b/3 and presented to the Board at is thirty-fourth meeting, for its consideration and decision related to the tasks mandated by decision 1/CMP.14, to be included in the draft addendum to the report of the Board to the CMP at its fifteenth session. The document is not intended to influence or prejudge any future decisions by Parties on the relevant matters. Instead, as affirmed by the Board at its additional meeting (B.33.b), this document is to help the Board report to the CMP 15 on the tasks mandated by decision 1/CMP.14, which would help the Parties provide further relevant guidance and/or make relevant decisions related to the Adaptation Fund and its Board. The draft amendment of T&Cs between the CMP and the World Bank as the trustee and the trustee's cover note on T&Cs are contained in document AFB/B.34/9/Add.1 and document AFB/B.34/9/Add.2 respectively; the draft amendment of the MoU between the CMP and the GEF Council for secretariat services to the Adaptation Fund Board is contained in document AFB/B.34/9/Add.3; and the Board's consideration on the matter of the Rules of Procedure of the Board is contained in document AFB/B.34/9/Add.4. In addition, for reference purposes, relevant Board documents related to this matter discussed by the Board at its thirty-third meeting and its additional meeting (B.33.b) are available as documents AFB/B.34/Inf.7 and AFB/B.34/Inf.8.

II. The arrangements of the Adaptation Fund with respect to the Paris Agreement

8. At its thirty-third and additional meetings (B.33.b), the Adaptation Fund Board Secretariat (the secretariat) highlighted the fact that the current T&Cs will automatically expire in May 2020, unless otherwise agreed in the manner, for instance, of adoption of extension of the T&Cs by CMP decision and World Bank's agreement in the extension of the T&Cs; and that the CMP, through decision 2/CMP.12, renewed the interim institutional arrangements (MoU) with the GEF as the interim secretariat of the Adaptation Fund board for an additional three years from 30 May 2017 to 30 May 2020. The Board also took note of the fact that in the period, during which the Fund serves both the Kyoto Protocol and the Paris Agreement ('transitional period'), the Fund and its Board remained under the authority of the CMP, while they were under the guidance and accountable to the CMA with respect to all matters relating to the Paris Agreement from 1 January 2019. Therefore, it was noted that during the transitional period, the CMP continues to be a signing party to the T&Cs and MoU.

9. At the additional meeting (B.33.b), there was a general consensus on the importance of ensuring predictability and sustainability of the arrangements for the trustee services and secretariat services and the importance of timely renewing the legal arrangements: Terms and Conditions of the trustee services to be provided by the World Bank as interim trustee (T&Cs) and Institutional arrangement (MoU) with GEF for secretariat services to the Board.

1) Terms and Conditions of the trustee services to be provided by the World Bank as the interim trustee

10. For a timely renewal of the Terms and Conditions of the trustee services to be provided by the World Bank as interim trustee (T&Cs), the following process should be completed in time:

- The amendment of the T&Cs to extend the trustee service to be reviewed and approved by the Board at the thirty-fourth meeting;
- The Board's submission of its recommendation to the CMP at its fifteenth session for decision (to be made at its fifteenth session in December 2019) to adopt the amendment of the T&Cs to extend the trustee service; and
- The World Bank's formal acceptance, as the interim trustee, of the amendment of the T&Cs in writing to the Chair of the Board and to the CMP, with copy to the UNFCCC Executive Secretary.

11. In line with decision B.33.b/1, the draft amendment of T&Cs is prepared by the World Bank (interim trustee), in consultation with the secretariat of the Adaptation Fund Board and the secretariat of the UNFCCC. This also incorporates relevant guidance from the Task Force established in decision B.33/52. The draft amendment of the T&Cs and the trustee's cover note on the T&Cs are contained in document AFB/B.34/9/Add.1 and document AFB/B.34/9/Add.2 respectively and presented to the thirty-fourth meeting of the Board for its consideration and decision.

12. The proposed amendment of T&Cs is mainly related to the 'extension of the trustee services' and 'removal of the automatic termination clause' (Article 34 of the T&Cs). Additional updates reflect the correct number of amendments to the T&Cs and inclusion of the relevant CMP decisions in subparagraph (g) of Section 1 of 'Recitals.' It is noteworthy that the MoU with GEF does not contain such 'automatic termination clause' as the one in the T&Cs.

13. Considering the Trustee's cover note on the amendment of T&Cs as contained in document AFB/B.34/9/Add.2 and the amendment of T&Cs as contained in document AFB/B.34/9/Add.1, the Board may want to decide to:

(i) Approve the amendment of T&Cs as contained in document AFB/B.34/9/Add.1; and

(ii) Submit its recommendation to CMP at its fifteenth session on the amendment of T&Cs (to be included in the addendum to the Board Report to CMP 15) for consideration and adoption by the CMP at its fifteenth session in December 2019.

2) Institutional arrangement (MoU) with GEF for secretariat services to the Board

14. For a timely entry into effect of the amendment of the MoU with GEF for secretariat services to the Board, the following process should be completed in time:

- The amendment of the MoU be reviewed and approved by the Board at the thirty-fourth meeting;
- The Board's submission of its recommendation to the CMP at its fifteenth session for decision (to be made at its fifteenth session in December 2019) to adopt the amendment of the MoU for the secretariat service; and
- GEF Council's formal acceptance of the amendment of the MoU in writing to the Chair of the Board and to the CMP, with copy to the UNFCCC Executive Secretary.

15. In line with decision B.33.b/2, the draft amendment of MoU is prepared by the secretariat, in consultation with the secretariat with the GEF (interim Secretariat) and the secretariat of the UNFCCC, and under the guidance of the Task Force established in decision B.33/52. The draft amendment of the MoU is contained in document AFB/B.34/9/Add.3 and presented to the thirty-fourth meeting of the Board for its consideration and decision.

16. The proposed amendments of MoU are mainly related to (i) adding the recital of subparagraphs 1 of decision 13/CMA.1 and subparagraph 2 of decision 1/CMP.14 in the Preamble; (ii) adding reference to decisions 1/CMP.14 and 13/CMA.1 in Article 1 : (iii) replacing reference to decision 1/CMP.3 with 'decisions of the CMP and the CMA' in Articles 2 (I) and 7; (iv) correcting the typo in Article 6 by adding "from" after "withdraw"; and (v) deleting the outdated and completed task of CMP's review of MoU at its sixth session in 2010.

17. The Board may consider deciding to:

(i) approve the amendment of MoU as contained in document AFB/B.34/9/Add.3; and
(ii) submit its recommendation to CMP at its fifteenth session on the amendment of MoU
(to be included in the addendum to the Board Report to CMP 15) for consideration and adoption by the CMP at its fifteenth session in December 2019.

III. Implications of the Fund receiving the share of proceeds from activities under Articles 6, 12 and 17 of the Kyoto Protocol when the Fund serves the Paris Agreement

18. This section is prepared in line with Decision B.33.b/3 (b) in consultations with the trustee, the secretariat and UNFCCC Secretariat and considering the discussions had at the additional Board meeting (B.33.b) in June 2019. Relevant information is contained in the Annex I to document AFB/B.33.b/4³ which is a discussion note prepared by the World Bank as the interim trustee.

19. The focus of the discussion on this theme was on the monetization of the remaining Kyoto Protocol carbon assets (certified emission reductions (CERs) as Clean Development Mechanism (CDM) Share of Proceeds), and the need for a decision to include modalities to monetize remaining carbon credits at the CDM. At the additional Board meeting, the trustee reported to the Board that there is very limited market for these assets, and therefore monetization by the trustee in recent years has focused on small customized transactions with specific buyers willing to pay a premium for small volumes of these CERs. Continued monetization of these assets would be possible if the amendment of the T&Cs is adopted by the CMP and the World Bank as the amendment of the T&Cs continues to authorize the trustee to continue to sell these CMP assets.⁴

20. The Board may consider deciding to submit to the CMP at its fifteenth session for consideration and any relevant guidance, a summary of its consideration on the matter of 'implications of the Fund receiving the share of proceeds from activities under Articles 6, 12 and 17 of the Kyoto Protocol when the Fund serves the Paris Agreement.

IV. The Rules of Procedure of the Board (RoP)

21. The rules of procedure (RoP) of the Board was established based upon Decision 1/CMP.3 which includes integral features of the Fund: operating entity of Fund; Board's functions, composition, membership, quorum, decision-making, and chairmanship; frequency of meetings; observers; transparency; secretariat; trustee; monetization; access to finding; institutional arrangements; and review. The RoP was adopted by decision 1/CMP.4 and its amendment was adopted by decision 1/CMP.5.

³ Available at: <u>https://www.adaptation-fund.org/wp-</u>

content/uploads/2019/06/AFB.B.33.b.3 Matters Related to the Mandate Contained in Paragraph 6 of Decision <u>1_CMP.14.pdf</u>.

⁴ See Annex I to document AFB/B.33.b/3, *Discussion Note prepared by the Trustee*.

22. The CMP requested, through Decision 1/CMP.14, the Board to consider, inter alia, the rules of procedure of the Board and make recommendations to CMP 15, with a view to forwarding those recommendations to CMA 2 in December 2019. At its additional meeting (B.33.b) in June 2019, the Board considered this matter taking note of the fact that the Fund is in a transitional period where it is serving both the Kyoto Protocol and the Paris Agreement and until it started to exclusively serve the Paris Agreement, and that the current operational frameworks of the Fund has well served their purposes. The Board also considered that many provisions of the current Rules of Procedure could be unaffected by the transitional period, while some provisions are linked to CMP decision(s) expected at its fifteenth session in December 2019 related to the issue of the eligibility for membership on the Board.

23. In this regard, the Board concluded that rather than presenting partial revisions of the Rules of Procedure to the CMP, it was desirable to present to the CMP its consideration on this matter by identifying (i) the provisions that are closely linked to anticipated CMP decisions related to, inter alia, the eligibility for Board membership and (ii) the provisions that are not closely linked to anticipated CMP decisions and that may be revised with updates in line with Decisions 1/CMP.14 and 13/CMA.1. The outcome of this analysis contained in document AFB/B.34/9/Add.4 is prepared by incorporating the guidance and input from the Tasks Force in line with decision B.33.b/(b) and is presented to the Board for its consideration and decision at its thirty-fourth meeting in October 2019.

24. The Board may consider deciding to submit to the CMP at its fifteenth session for consideration and any relevant guidance, its consideration on the matter of 'Rules of Procedure of the Adaptation Fund Board' as contained document AFB/B.34/9/Add.4.

V. Any other matter so as to ensure the Fund serves the Paris Agreement smoothly

25. In line with Decision 1/CMP.14, the Board has considered on 'any other matter so as to ensure the Fund serves the Paris Agreement smoothly.' This includes the reviews on the Fund's governing instruments and policies and guidelines as listed below, from the perspectives on whether there is a need of update or revision to ensure that the Fund services the Paris Agreement:

- <u>Strategic Priorities, Policies and Guidelines of the Adaptation Fund</u> (hereinafter "SPPG");
- Operational Policies and Guidelines (OPG)
- Code of Conduct of AFB
- Zero Tolerance Policy for the Board
- General guidelines for Committees
- <u>PPRC ToR</u> and <u>EFC ToR</u>

- <u>Accreditation Panel ToR</u>
- Risk Management Framework
- <u>Environmental and Social Policy</u> (ESP) (approved in 2013 and amended in 2016): The Board may consider the Parties' views suggested during the negotiation.
- <u>Gender Policy and Action Plan</u> (adopted in 2016): Update process has been launched in May 2019
- Open Information Policy (adopted in July 2013): The Board may want to consider updating the policy in line with the international best practices. CSOs (Transparency International) recommended for update or improvement related to, inter alia, a lack of appeal process and process of holding executive session. During APA negotiations, there was a request to the Board to review 'disclosure policies.'
- <u>Ad Hoc Complaint Handling Mechanism</u> : During APA session, there was a request to the Board to consider a need of 'independent accountability mechanism.
- <u>Resource Mobilization Strategy</u> (adopted in 2016)
- <u>Medium-Term Strategy</u> 2018-2022: Will be updated in 2022-2023.
- <u>Methodologies for Reporting AF Core Impact Indicators</u> (adopted in 2014)

26. The review concluded that it may not be advisable to amend the OPG and the SPPG because some of their provisions are closely linked to the issue of the eligibility for Board membership which is expected to be decided by CMP 15 and the issue of 'the Parties eligible for funding from the Adaptation Fund.' Regarding the latter, paragraph 1 of decision 1/CMP.3 indicates that "*developing country Parties to the Kyoto Protocol that are particularly vulnerable to the adverse effects of climate change are eligible for funding from the Adaptation Fund to assist them in meeting the cost of adaptation.*"⁵

27. It is noteworthy that the secretariat has recently received an official letter from the national government of a country which expressed the interest of the country in accessing the financial resources of the Fund and submitted a nomination of the Designated Authority. As of the date of this report, the country whose government submitted the letter is **not a Party to the Kyoto Protocol (KP) and signed the Paris Agreement (PA)** and is, according to the government, in the process of ratification of the Paris Agreement. Therefore, as per paragraph 10 of the SPPG (*"Eligible Parties to receive funding from the Adaptation Fund are understood as developing country Parties to the Kyoto Protocol that are particularly vulnerable to the adverse effects of climate change"*) and paragraph 5 (a) of SPPG (*" . . .Adaptation Fund shall [a]ssist*

⁵ SPPG reflects paragraph 1 of decision 1/CMP.3 in paragraphs 5, 9-11 and 16.

developing country Parties to the Kyoto Protocol that are particularly vulnerable to the adverse effects of climate change in meeting the cost of adaptation,") which is a reflection of decision 1/CMP.3, the country cannot be considered as 'eligible Party' for funding from the Adaptation Fund as of the date of receipt of the letter because it is not a Party to KP. However, the question would arise when the country completes the ratification process and becomes the Party to PA: by then, whether this country would become eligible for funding from the Adaptation Fund or not. Although the number of countries which are a Party to either PA or KP but not a Party to both treaties could decrease over time, in the meantime the Fund may encounter requests for funding from a country which is a Party to KP but not to PA, or a country which is a Party to PA but not to KP. In this regard, additional guidance or clarification from the CMP or CMA on the matter of 'the Parties eligible for funding from the Adaptation Fund' could help the Fund address such requests from those countries.

28. The review also found that most of Fund's other policies and core instruments do not appear to require immediate major revisions as they well serve their purposes and are undergoing or will go through update process as scheduled and/or when the need arises.

29. The Board may consider deciding to submit to the CMP at its fifteenth session for consideration and any relevant guidance, a summary of its consideration on the matter of 'Any other matter so as to ensure the Fund serves the Paris Agreement smoothly.'

VI. Draft Decision

30. Having considered decision 1/CMP.14, documents AFB/B.34/9, AFB/B.34/9/Add.1, AFB/B.34/9/Add.2, AFB/B.34/9/Add.3, and AFB/B.34/9/Add.4 as well as the discussions at its 34th meeting in October 2019, the Adaptation Fund Board (the Board) may consider deciding to:

(a) Approve the amendment of Terms and Conditions of the trustee services to be provided by the World Bank as interim Trustee (T&Cs) as contained in document AFB/B.34/9/Add.1 and submit its recommendation to the fifteenth session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP 15) that CMP adopt the amendment of the T&Cs at its fifteenth session in December 2019;

(b) Approve the amendment of the institutional arrangement (MoU) with GEF for Secretariat services to the Adaptation Fund Board as contained in document AFB/B.34/9/Add.3 and submit its recommendation to the CMP 15 that CMP adopt the amendment of the MoU with GEF at its fifteenth session in December 2019; and

(c) Include the summary of the Board's consideration on the Rules of Procedure of the Adaptation Fund Board as contained in document AFB/B.34/9/Add.4 and Board's discussions at its thirty-fourth meeting in the addendum to the Report of the Board to CMP 15; and

(d) Include the summary of the Board's consideration on the following matters as contained in document AFB/B.34/9 and Board's discussions at its thirty-fourth meeting in the addendum to the Report of the Board to CMP 15:

- (i) implications of the Fund receiving the share of proceeds from activities under Articles 6, 12 and 17 of the Kyoto Protocol when the Fund serves the Paris Agreement; and
- (ii) any other matter so as to ensure the Fund serves the Paris Agreement smoothly.