

EVOLVING FUNCTIONS OF THE UNFCCC



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Over its 25 history, the UN Framework Convention on Climate Change (UNFCCC) regime has grown tremendously in size and complexity. Much of this evolution has occurred from the bottom-up, through a series of *ad hoc*, incremental changes. After years of almost continuous negotiation, the completion of the rulebook for implementing the Paris Agreement presents an occasion to take stock of the UNFCCC's institutions and functions, and to consider in a more systematic, top-down manner how the regime might evolve as its focus shifts from negotiation to implementation. This paper offers three frames for thinking about climate change governance, reviews the UNFCCC's current functions, assesses its strengths and weaknesses, and presents three versions of how the regime might evolve.

THREE WAYS TO THINK ABOUT CLIMATE CHANGE GOVERNANCE

The issue of climate change governance can be framed in at least three ways, ranging from narrow to broad.

First, one can focus on the UNFCCC process itself. This is an inward-looking perspective, which takes the UNFCCC regime on its own terms and seeks to maximize its effectiveness. In this context, key issues include:

- Now that the UNFCCC has largely concluded the negotiation of the Paris rulebook, what more can it do to promote ambition and implementation?
- Are there overlapping or unnecessary activities which reduce the UNFCCC's efficiency?

A second perspective encompasses the wider ecosystem of climate change governance. This is an outward-looking perspective that considers other forums where climate change is being discussed, including both:

- General forums, such as the UN Secretary General's climate summits, the **High Level Political Forum on the UN's Sustainable Development Goals**, and the **G20**, and
- Sector- or issue-specific forums, such as the

International Civil Aviation Organization, the **International Maritime Organization**, the **Montreal Protocol**, and the **Sendai Framework for Disaster Risk Reduction**.

Key issues here include:

- What is the appropriate division of labor between the UNFCCC and other forums that consider climate change?
- In this connection, what is the UNFCCC's value-added?

Third, one can take an even wider perspective that considers other regimes that impact on or are affected by climate change action, either positively or negatively, such as the **World Trade Organization**, the **World Intellectual Property Organization**, bilateral investment treaties, and the international refugee and human rights regimes. This wider "climate change and" perspective goes beyond what may ordinarily come to mind when one thinks of climate change governance. Here, the key questions are:

- What role should the UNFCCC play in relation to these other regimes?
- How can the UNFCCC mitigate conflicts and promote synergies?

FIGURE 1: Growth of UNFCCC Regimes



Since the mid-1990s, the number of UNFCCC constituted bodies has increased from 1 to 13, the number of SBI agenda items has increased from 7 to 44, the number of portals operated by the UNFCCC Secretariat has increased from 2 to 9, and the UNFCCC Secretariat staff has increased from 34 to more than 400.

Source: UNFCCC Secretariat, Programme Budget for the Biennium 2020-2021, FCCC/SBI/2019/4, at 8

EXISTING UNFCCC GOVERNANCE

A wide variety of institutions have been created pursuant to the UNFCCC and Paris Agreement (See **Figure 2**). Some of these institutions have been created by the agreements themselves, and others by decisions of the parties. These institutions differ along several dimensions, including composition, function, and authority.

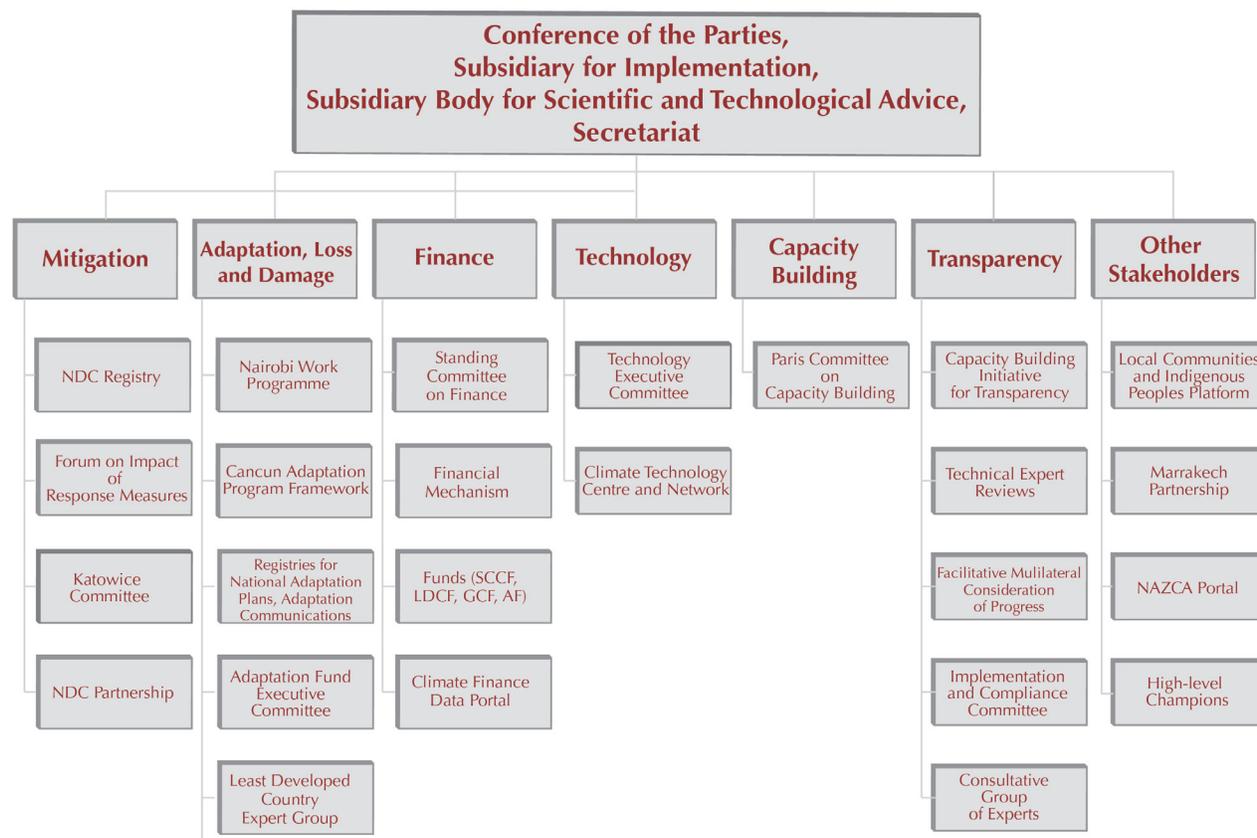
In terms of composition:

- Some comprise representatives of State Parties, like the UNFCCC Conference of the Parties (COP), the COP serving as the meeting of the Parties to the Paris Agreement (CMA), the Subsidiary Body for Scientific and Technological Advice (SBSTA), and the Subsidiary Body for Implementation (SBI).
- Some are expert-based, such as technical expert review teams and the new Implementation and Compliance Committee.
- Some involve representatives of stakeholders, such

as the **Local Communities and Indigenous Peoples Platform (LCIPP)**.

The UNFCCC’s institutions also differ in function:

- Some provide a forum for policy formulation and standard-setting by the Parties, such as the COP, SBSTA, and SBI.
- Some are regulatory in nature, such as the **Clean Development Mechanism (CDM) Executive Body**.
- Some play an administrative role, such as the UNFCCC Secretariat.
- Some focus on facilitating and assisting implementation by Parties through capacity building, financial and technical assistance, and information sharing. Examples include the **Least Developed Country Expert Group**, the **Nairobi Work Program**, the **Cancún Adaptation Framework**, and the **Paris Committee on Capacity Building**.
- Some provide technical analysis, for example, through expert roundtables and secretariat reports.

FIGURE 2: Selected UNFCCC Institutions

- Some play a coordinating role, such as the **Climate Technology Centre and Network**.
- Some aim to oversee implementation by state Parties through transparency and review, such as technical expert review teams and the new Implementation and Compliance Mechanism.

Finally, the UNFCCC's institutions differ in terms of authority. The COP and the CMA can, in some cases, adopt binding decisions pursuant to the UNFCCC and the Paris Agreement, respectively, while other institutions can only make recommendations or provide advice.

STRENGTHS AND WEAKNESSES

In considering the possible evolution of UNFCCC governance, it is helpful initially to consider its strengths and weaknesses.

Strengths of the UNFCCC regime include:

- *Universal membership* – As of November 2019, the UNFCCC had 197 Parties, while the Paris Agreement had 195 signatories and 187 Parties.
- *Focusing high-level attention on the climate change issue and driving ambition* – The Copenhagen and Paris conferences (COPs 15 and 21) received huge international attention and brought together unprecedented numbers of Heads of State and Government, including more than 120 in Copenhagen and more than 150 in Paris. This high-level attention helped produce pledges of climate change action by a much broader group of states in Copenhagen, and nationally determined contributions (NDCs) by more than 180 countries under the Paris Agreement.
- *Technical capacity* – The UNFCCC secretariat and UNFCCC expert bodies have significant expertise

on a wide variety of issues, including technology transfer, capacity building, and reporting.

- *Financial resources* – In November 2014, governments pledged more than \$10 billion to the **Green Climate Fund** (GCF) as part of its “initial resource mobilization,” and, as of November 2019, the GCF had committed more than \$5 billion to 124 projects and programs.¹ Although GCF funding falls short of the estimated resources needed to mitigate and adapt to climate change, financial support for developing countries under the UNFCCC is quite large compared to other international flows of public finance for environmental protection.
- *Transparency* – The UNFCCC has been successful in generating and reviewing information about national greenhouse gas emissions.

At the same time, several factors, some shared with other multilateral bodies, have often made the UNFCCC’s work challenging:

- *Consensus decision-making* – The absence of rules of procedure and the associated requirement that decisions be made by consensus have often made it difficult to adopt decisions and led to least-common-denominator outcomes. Perhaps the best known example was the inability of COP 15 to adopt the Copenhagen Accord.
- *Negotiating ethos* – Over the course of the UNFCCC’s history, many rituals have developed that have slowed the UNFCCC’s work. For example, delegates generally assume that COPs will run longer than scheduled and that nothing will be decided until the last possible minute. As a result, Parties often seek to drag out the negotiations, simply repeating their positions rather working to find compromises.

Inertia – Over the years, Parties tend to become wedded to particular positions and phrases, making them resistant to new ideas and approaches. For example, it took almost two decades, and many broader changes in climate politics, to shift from the Kyoto to the Paris paradigm.

- *Focus on procedure rather than substance* – The UNFCCC process is often consumed by procedural disputes, rather than focusing on substantive issues.
- *Budget* – On a more practical level, the UNFCCC Secretariat faces recurring budget challenges, which make taking on new tasks difficult.

OPTIONS FOR EVOLUTION AND REFORM OF UNFCCC GOVERNANCE

The UNFCCC regime could evolve in several, non-mutually exclusive ways.

Option 1: Incremental de facto evolution

De facto, the UNFCCC regime will continue to evolve through the accretion of COP decisions that create new institutions or programs or modify or eliminate existing ones. Although the specific path of this evolutionary process is uncertain, two general observations are possible:

- First, institutions and programs will continue to proliferate, since it is easier to create new institutions and programs than to eliminate existing ones, each of which has a constituency that will fight to retain it.
- Second, COP presidencies can strongly influence the evolution of the regime through new initiatives that seek to leave their mark on the process.

The Secretariat’s proposed budget for the 2020-2021 biennium envisions a continuation of this process of incremental evolution, with an increased focus on implementation and a corresponding increase in resource requirements, from 57 million euros currently to 68 million euros per year in the next biennium.

Option 2: Modest reforms

Parties could leave the basic structure and focus of the UNFCCC regime intact, but undertake one or more modest reforms aimed at making the regime more efficient and effective:

- Parties could change the frequency of the COPs on the theory that annual COPs are unnecessary and consume too many resources.² This possible reform has received considerable attention, and several parties have made submissions on the issue;³ for example, Switzerland has proposed to hold COPs every 2.5 years. Alternatively, COPs could continue to be held annually, but could be shortened in length, with some not including a ministerial segment.
- Parties could seek to change the focus of COPs, making them more technical and less political in nature. For example, more time at COPs could be devoted to expert roundtables or technical seminars focusing on promoting ambition and

implementation, which would push states to include more experts on their delegations and involve them more centrally in the UNFCCC process.

- Parties could systematically review existing UNFCCC institutions and programs, in order to identify potential overlaps, inefficiencies and tensions, and to consider their continued value or necessity.

Option 3: More significant changes

Finally, Parties could decide to take the UNFCCC in new directions. Possibilities include:

- *Greater governance of the action agenda* – Thus far, the UNFCCC regime has sought to encourage action by non-state actors (NSAs) through statements in COP decisions, the appointment of High-Level Climate Champions, the creation of the Marrakech Partnership for Global Climate Action and the NAZCA portal (now the Global Climate Action portal), and publication of the *Yearbook of Global Climate Action*. But quantifying the effect of these contributions by NSAs on greenhouse gas emissions has been difficult.⁴ Potentially, the UNFCCC could help through the development of guidelines to promote transparency and accountability, similar to those for NDCs. For example, SBSTA might elaborate guidelines concerning the information NSAs should provide in connection with their initiatives, similar to the information requirements for NDCs, as well as guidelines concerning the reporting of progress in achieving NSA initiatives.⁵
- *Consideration of geoengineering* – The UNFCCC could take up the issue of geoengineering, which the Intergovernmental Panel on Climate Change

(IPCC) scenarios for limiting climate change to well below 2°C assume will be necessary.

- *Coordination with other regimes* – The UNFCCC governing bodies could give more focused attention to the interaction of the climate change regime with other international regimes, such as those addressing trade, intellectual property, investment, and disaster relief, and could seek to coordinate with these regimes by organizing joint expert groups and roundtables and by encouraging Parties to coordinate their internal policy processes.

CONCLUSION

Thus far, the UNFCCC regime has evolved in an *ad hoc*, incremental manner, through the accretion of COP decisions. Given the difficulty of reaching consensus on institutional reform, this process of makeshift change is likely to continue. But the adoption of the Katowice Rulebook last year and the accompanying shift in the regime's focus from negotiation to implementation provide an opportunity to review the regime's institutional structure more systematically, in order to identify possible reforms that would improve the regime's efficiency and effectiveness and allow it to coordinate better with other regimes. Options include changing the frequency, duration, and/or focus of COPs; consolidating overlapping institutions; providing greater governance of actions by non-state actors; considering new issues such as climate engineering; and organizing meetings jointly with other regimes that impact on or are affected by climate change action.

ENDNOTES

1 While not strictly under the UNFCCC/Paris Agreement, the GCF is closely associated with the UNFCCC regime and has been designated as an operating entity under it.

2 The number of participants in COPs has grown from fewer than 4,000 at COP 1 to an average of almost 25,000 for the last four COPs. Although the size of some COPs may be justified given their importance – for example, the 38,000 participants at COP 21, which adopted the Paris Agreement – not every COP involves issues of sufficient importance to justify their size – for example, the 23,000 participants at COP 23. Dave Keating, “COP23: Is the Bonn Summit Worth the Effort?” <https://www.dw.com/en/cop23-is-the-bonn-summit-worth-the-trouble/a-41296570>.

3 Views on the Frequency and Location of Sessions of the Governing Bodies after 2020: Synthesis Report by the Secretariat, FCCC/SBI/2019/INF.1 (24 May 2019).

4 Angel Hsu et al., “A Research Roadmap for Quantifying Non-state and Subnational Climate Mitigation Action,” *Nature Climate Change*, vol. 9, pp. 11-17 (2019).

5 For other ideas about engagement with non-state actors, see *Galvanizing the Groundswell of Climate Actions: Global Climate Action in the UNFCCC after 2020* (June 2019).

Other C2ES Resources:

Paris Climate Agreement Q&A, November 2019.

Available at <https://www.c2es.org/document/paris-climate-agreement-qa>.

A Brief Guide to the Paris Agreement and 'Rulebook', June 2019.

Available at <https://www.c2es.org/document/a-brief-guide-to-the-paris-agreement-and-rulebook>.

Completing the Paris 'Rulebook'; Key Article 6 Issues, April 2019.

Available at <https://www.c2es.org/document/completing-the-paris-rulebook-key-article-6-issues>.



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