

**Response to the United Nations Climate Change Secretariat
Climate Finance Work Programme Consultation**

**Submission on behalf of the International Bar Association Banking and Financial
Law Committee and the Securities and Capital Markets Committee**

The International Bar Association (IBA) welcomes the opportunity to submit its views in response to the consultation issued by the United Nations Climate Change Secretariat on the climate finance work programme under the United Nations Framework Convention on Climate Change (UNFCCC).

The IBA is the global voice of the legal profession, with a membership comprising over 80,000 individual lawyers and more than 190 bar associations and law societies spanning over 170 jurisdictions. The IBA has an established track record of engagement on climate-related legal and policy issues, including contributions to discussions on sustainable finance, climate governance, and the role of legal frameworks in enabling effective climate action.

The IBA holds Observer status with the UNFCCC. Its Legal Policy & Research Unit serves as the designated point of contact for collaborations and engagements relating to the working mandate of the Conference of the Parties. The designated representative, Sara Carnegie (IBA Director of Legal Projects), received the communication inviting stakeholders to submit their views on the climate finance work programme.

The consultation was circulated to the relevant IBA committees for their consideration and input. This submission reflects the joint input of the IBA Banking and Financial Law Committee (with key contributions from its Financial Innovations Subcommittee) and the IBA Securities and Capital Markets Committee (with key contributions from its Debt Capital Markets Subcommittee).

Consultation Questions and Responses

(a) What are your overall expectations for the climate finance work programme? What concrete outputs and outcomes should the climate finance work programme deliver?

We expect the work programme to produce a practical framework for increasing climate finance flows in line with the Paris Agreement, and Article 9 in particular. Too often, there is a gap between the legal obligations and policy commitments Parties have undertaken and the actual movement of money - public and private. This work programme should

help close that gap, not least by strengthening the legal and regulatory frameworks that underpin climate finance flows.

An honest assessment of how well existing instruments and mechanisms are working would also be valuable, along with practical guidance on bringing in private capital through blended finance, green bonds, risk mitigation tools, and public-private partnerships - all of which depend on sound legal frameworks, enforceable contracts, and investor protections. In terms of concrete outputs, we would like to see recommendations on improving the predictability and accessibility of climate finance, including by streamlining access through the operating entities of the Financial Mechanism and addressing the legal and procedural barriers that delay or prevent disbursement. The programme should also address how Article 9 commitments are tracked and reported, so that there is a consistent, comparable, and legally robust basis for measuring compliance and progress. And it should offer ideas on how to strengthen the legal and institutional capacity of developing countries to structure bankable projects, negotiate fair terms, and attract investment.

(b) What are the thematic pillars of the climate finance work programme and the related subtopics that we should address within each pillar?

We suggest organising the work programme around four thematic pillars.

Pillar 1: Scale and Mobilisation. The central question here is how to get more money flowing. This means looking at how much climate finance is needed to meet Paris Agreement goals, how developed country Parties can scale up their public contributions, and how to bring in private capital through de-risking instruments, blended finance, and capital markets. The legal architecture around these instruments matters enormously - standardised documentation, clear governing law provisions, and enforceable dispute resolution mechanisms are essential to investor confidence. The role of multilateral development banks and international financial institutions also deserves particular attention, including the legal terms on which they deploy capital.

While standardised documentation is crucial for scaling up finance, our experience in cross-border deals shows that global standards sometimes clash with mandatory local laws in developing countries (e.g., local security creation, foreign exchange controls, or bankruptcy regimes). Adding a brief mention of "legal interoperability" shows our practical understanding that global standards must be legally workable on the ground to truly build investor confidence.

Pillar 2: Access and Deployment. Getting finance to where it is needed remains a persistent challenge. This pillar should examine how to simplify access - including by reducing the legal and administrative complexity of accreditation and funding approval

processes - how the Green Climate Fund and Global Environment Facility can be reformed, and national implementing entities can be strengthened. Building domestic legal capacity to negotiate funding agreements and comply with fiduciary standards is critical. The balance between mitigation and adaptation funding also needs serious discussion.

Pillar 3: Transparency, Accountability, and Reporting. There is still no consistent way to track and report climate finance flows, and the absence of agreed legal definitions compounds the problem. This pillar should work toward common definitions and methodologies with a clear legal basis, address how climate finance reporting fits within the enhanced transparency framework, and tackle the difficult question of how to account for mobilised private finance. Accountability mechanisms - including the legal consequences of non-compliance with reporting obligations - should also be explored. Developed country Parties should provide better ex ante information on their expected financial contributions.

The fragmentation of "green taxonomies" across different jurisdictions is currently one of the most significant legal and regulatory hurdles for global investors, often leading to cross-border greenwashing risks. Explicitly mentioning the legal alignment of green taxonomies would demonstrate our committee's deep grasp of cutting-edge regulatory trends.

Pillar 4: Innovation and Enabling Environments. New financial instruments—debt-for-climate swaps, carbon credits, insurance products, green derivatives—have real potential, but they require supportive domestic legal and regulatory environments to function effectively. Clear rules on property rights, contract enforcement, taxation, and cross-border transactions are prerequisites for these instruments to scale. This pillar should also cover the need for legal capacity building so that developing countries can negotiate on equal terms and engage effectively with these evolving tools and markets.

IBA Committees:

Banking and Financial Law Committee (Co-Chairs: Dirk Hermann Bliesener; Ulrike Erika Brigitte Ursula Naumann). Financial Innovations Subcommittee (Chair: Ellen-Teresa Heyerdahl; Vice Chair: Meng Su)

Securities and Capital Markets Committee (Co-Chairs: Michael Arnold; Theodor Haertsch; Trevor Norwitz). Debt Capital Markets Subcommittee (Chair: Christopher Andreas Jensen; Vice Chair: Massimiliano Giuseppe Danusso)

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