

# Climate Finance Law

## *Legal Readiness for Climate Finance*

Report and Findings of Workshop  
held at King's College London  
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# 1 INTRODUCTION

## The Legal Challenge

Climate change mitigation and adaptation require increased flows of private capital and more effective leveraging of public capital especially to and within developing nations. What role does law and regulation play in enabling public and private climate finance? How can domestic law makers and regulators support the implementation of the Sustainable Development Goals (SDGs) and the Paris Agreement?

To date, policy-makers and financial practitioners have largely focused on project transactions and climate aid. While valuable, these initiatives on their own lack the systemic approach necessary to generate finance at the scale required, to build project pipeline, and to ensure corollary benefits of enhancing economic

and social development in a sustainable way. Systemic change will also require a critical mass throughout the world of national frameworks that integrate laws and regulation which are ‘fit for purpose’ to de-risk, unlock, mobilise, leverage and mainstream public and private climate finance in-country.

This level of change presents a new challenge for many law makers around the world. Yet there are some early-moving countries already undertaking legal and regulatory reforms to enable more climate-related investment more quickly and effectively. Learning from the experiences of early-movers first-hand can help other countries to initiate their own legal and regulatory reforms for a truly global transformation.

## Workshop Purpose and Design

This report summarises the findings of the workshop Climate Finance Law: *Legal Readiness for Climate Finance* co-convened by King's College London and UN Environment. The workshop is part of an ongoing partnership to stimulate collaborations and mutual learning between public and private stakeholders in developing and developed countries for transformational change. The aim of our partnership is to provide a forum in which countries can assist each other to strengthen their national law and regulation to enable climate finance at the scale required for implementation of SDGs and Nationally Determined Contributions (NDC) targets under the Paris Agreement. The ultimate objective is to help build endogenous capacity for autonomy and empowerment.

The purpose of this workshop was to share knowledge about the legal dimensions of climate finance for the benefit of law and policy-makers. Running over three days it provided an opportunity for mutual knowledge-sharing with a focus on Global South-South exchange to help build in-country capacity and legal readiness for climate finance.

The workshop was structured around two main components (see boxes on right).

**1** Scholarly research on the legal dimensions of climate finance and practical tools for law and policy makers to analyse legal readiness for climate finance. This entailed presentations on a Legal Analytical Framework for climate finance under development by King's College London in partnership with UN Environment; and demonstration of the Law and Climate Change Toolkit being developed by the Commonwealth Secretariat with UN Environment and the United Nations Framework Convention on Climate Change (UNFCCC).

**2** The practical experiences of Mexico and Kenya as early-moving countries that have undertaken legal and regulatory initiatives to enable increased public and private climate finance. Mexico and Kenya were selected as case-studies based on prior research by the King's College London/UN Environment partnership that showed their initiatives to be comprehensive, innovative, and informative for other countries seeking to reform their own frameworks.

This workshop was aimed primarily at the public sector. Delegates comprised 27 invited government and parliamentary officials from Kenya, Mexico and the UK, as well as participants from UN bodies, multilateral financial institutions, private consultancies, and academia. Participating organisations are listed in [Appendix A](#).

*Below: Participants of the Climate Finance Law workshop held at King's College London*



# **2 'LEGAL READINESS' FOR CLIMATE FINANCE?**



## 2.1/ What is climate finance?

At present there is no internationally agreed definition of ‘climate finance’. The absence of such a definition has ramifications for tracking flows generally and for measuring outcomes and impacts of financial mechanisms such as green bonds. Nonetheless, for the purposes of legal and regulatory analysis, climate finance can be defined broadly as capital that is sourced and leveraged through international, domestic, public, and private channels, via government or market instruments, to address climate change mitigation and adaptation.

## 2.2/ What is Climate Finance Law?

Climate Finance Law is an emerging field which the King’s College London/UN Environment partnership is helping to shape. In the narrowest sense, Climate Finance Law can relate to state obligations arising under the UNFCCC regime (eg Zahar 2017). The King’s College London/UN Environment partnership has taken a broader approach to define Climate Finance Law as the matrix of laws and regulation, both domestic and international, that mobilise and leverage finance and investment for climate mitigation and adaptation. This broad definition is seen as most true to how law and regulation for climate finance is manifesting in practice and it embraces legal and financial plurality. Work of the partnership will continue to inform and refine definitional concepts in this space.

The ultimate aspiration of Climate Finance Law must be to help *mainstream green and sustainable finance* through comprehensive legal and regulatory change that has *transformational* potential. Key to fulfilling this aspiration is legal pluralism. Law and regulation interact with institutionalised doctrines and practice and need to be considered in cultural context. So, in this space, law and regulation needs to be considered across a range of domains to include not only legislation and case-law but also financial and market regulation, soft law (such as industry codes), and contractual arrangements. All these legal forms come into play when engaging public

and private climate finance; yet so rarely are they identified in this context. This project makes the plurality explicit and essential.

## 2.3/ What is ‘legal readiness’ for climate finance?

A robust and transparent domestic legal system is key to attracting both public international funds and private sector finance. Yet, as noted by the Office of the General Counsel of the Asian Development Bank, the legal systems of many developing countries do not yet align well with the needs of public or private financiers.

What is required is legal readiness for climate finance. This includes:

- Laws and regulations “that have been carefully considered and enacted based on comprehensive assessment, analysis and consultations, [that] can enable access to climate finance and investments and realise NDC targets” (Morita and Pak 2018, p11); and
- Building legal and institutional capacity through knowledge and technical expertise.

‘Legal readiness’ encourages not only increased flows of climate finance, but also transparency, clarity, and accountability of multi-stakeholders by providing the architecture for regulating behaviours and activities. Importantly, legal and regulatory frameworks can both ‘call in’ external (multilateral) climate-related funding and also ‘put out’ endogenous (in-country) investment opportunities (Bowman 2018). So an important corollary of building legal readiness and capacity for climate finance is that it strengthens country ownership in financial processes. This in turn helps address any concerns that over-involvement by the private sector and/or financial institutions would devolve or contract out government engagement to undermine a country-driven approach.

Given that enabling legal and regulatory environments are so essential to climate finance and NDC implementation, the King’s College London/UN Environment workshop was aimed at addressing the big question: *How can countries ‘get’ legal readiness?*

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***Important benefits, including strengthened country ownership, can be gained from optimising law, regulation and governance for investment in climate action***

Howard Bamsey,  
Executive Director, Green  
Climate Fund (GCF)

*Photo facing page:  
Mexican Stock Exchange,  
Mexico City*

# 3 THE WORKSHOP

## 3.1/ The workshop agenda

The workshop was held 9-11 March 2018 at King's College London. The delegates worked together over three sessions with the aims of:

- ♦ Identifying concrete actions to improve the enabling legal and regulatory environment for climate finance, linkages with NDC implementation and financing plans, and Paris Agreement and SDG objectives;
- ♦ Testing a new Legal Analytical Framework for climate finance;
- ♦ Sharing institutional learning and knowledge exchange between participants from different geographical locations; and
- ♦ Creating and shaping a new global community of decision-makers in Climate Finance Law.

→ [p28 Appendix B](#) sets out a detailed agenda.

*Photo: Somerset House, King's College London Strand campus*



预览已结束，完整报告链接和二维码如下：

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