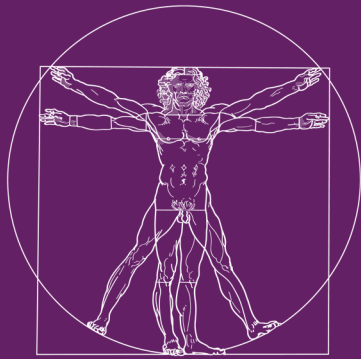


POCKET GUIDE TO LOSS AND DAMAGE

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DAMAGE
UNDER THE
UNECCC



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FOREWORD

For over a decade, the European Capacity Building Initiative (ecbi) has adopted a two-pronged strategy to create a more level playing field for developing country in the UN Framework Convention on Climate Change (UNFCCC): training for new negotiators; and opportunities for senior negotiators from developing countries and Europe to interact, understand each other's positions, and build mutual trust.

The first part of the strategy focuses on providing training and support to new developing country negotiators, particularly from least developed countries. The climate change negotiations are often technical and complex, and difficult for new negotiators to fully grasp even over a period of two or three years. We hold regional training workshops to bring them up to speed on the negotiations. We also organise workshops before the Conference of Parties (COPs) to the UNFCCC, covering topics specific to that COP. To ensure continuity in our capacity building efforts, we offer a few negotiators, particularly women, bursaries to attend the negotiations and represent their country and region/grouping. Finally, we help negotiators build their analytical capacity through our publications, by teaming them up with global experts to author policy briefs and background papers.

This strategy has proven effective over time. "New" negotiators that trained in our early regional and pre-COP workshops have risen not only to become senior negotiators in the process, but also leaders of regional groups and of UNFCCC bodies and committees, and ministers and envoys of their countries. These individuals are still part of our growing alumni, now capacity builders themselves, aiding our efforts

to train and mentor the next generation of negotiators. Their insights from being “new” negotiators themselves have helped us improve our training programmes.

The second ecbi strategy relies on bringing senior negotiators from developing countries and from Europe together, at the annual Oxford Fellowship and Seminar and the Bonn Seminar. These meetings provide an informal space for negotiators to discuss their differences, and try to arrive at compromises. They have played a vital role in resolving some difficult issues in the negotiations.

Following the adoption of the Paris Agreement in 2015, ecbi produced Guides to the Agreement in English and in French. These proved popular with both new and senior negotiators. We therefore decided to develop a series of thematic guides, to provide negotiators with a brief history of the negotiations on the topic; a ready reference to the key decisions that have already been adopted; and a brief analysis of the outstanding issues from a developing country perspective. These Guides are mainly web-based, and updated regularly. Although we have printed copies of the English version of the Guides due to popular demand, the online versions have the advantage of hyperlinks to help you access referred material quickly.

As the threat of climate change grows rather than diminishes, developing countries will need capable negotiators to defend their threatened populations. The Pocket Guides are a small contribution to the armoury of information that they will need to be successful. We hope they will prove useful, and that we will continue to receive your feedback.

Benito Müller,
Director, ecbi
on behalf of the ecbi Advisory and Executive Committees

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WHAT IS LOSS AND DAMAGE?

Loss and damage related to climate change has not been formally defined under the UN Framework Convention on Climate Change (UNFCCC).¹ It is most often conceptualised as climate change impacts that are not avoided through mitigation and adaptation.² A *working definition* was proposed by researchers working to better understand how loss and damage is incurred by households in developing countries:

*Loss and damage refers to negative effects of climate variability and climate change that people have not been able to cope with or adapt to.*³

Distinctions are also made between:

- loss and damage that is avoided (*avoided loss and damage*);
- loss and damage that is not avoided but could have been through greater mitigation and adaptation efforts (*unavoided avoidable loss and damage*); and
- loss and damage which cannot be avoided (*unavoided unavoidable loss and damage*).⁴

This framing highlights the fact that there is significant potential to avoid loss and damage by increasing mitigation ambition and enhancing adaptation efforts.

Loss and damage is sometimes also referred to as the “*residual impacts*” or “*residual costs*” of climate change not avoided by mitigation and adaptation⁵ – including by the [Intergovernmental Panel on Climate Change \(IPCC\)](#).⁶

Loss and damage occurs as a result of both *slow onset* climatic processes (called slow onset events under the UNFCCC) and *extreme weather events* (called extreme events). The [Cancun Adaptation Framework](#) defines slow onset events as including sea level rise, increasing temperatures, ocean

acidification, glacial retreat and related impacts, salinisation, land and forest degradation, loss of biodiversity, and desertification.⁷

The emphasis on slow onset events is important. Losses and damages due to such events are not covered under other processes such as the UN's International Strategy for Disaster Risk Reduction (UNISDR), where the emphasis is on losses and damages incurred as a result of extreme events. However, slow onset events caused by climate change are already manifesting in significant losses and damages worldwide. Ensuring these are averted, minimised and addressed to the extent possible is a critical issue, especially for particularly vulnerable developing countries, and needs to be continually emphasised within discussions under the UNFCCC.

WHAT ARE THE DIFFERENT TYPES OF LOSS AND DAMAGE?

In addition to the distinctions described above, the UNFCCC negotiations differentiate between economic losses, goods and services commonly traded in markets, and non-economic loss and damage (NELD) – items which are not commonly traded in markets.⁸

Examples of NELD include loss of life, health, territory, cultural heritage, sense of place, agency, identity, indigenous and local knowledge and biodiversity and ecosystem services.⁹ Addressing NELD is an important aspect of the loss and damage discussions under the UNFCCC. While NELD is difficult to measure, there are ways in which it can be addressed, and this is part of the on-going discussion on loss and damage.¹⁰

Permanent and irreversible loss and damage is also discussed within the UNFCCC negotiations. This type of loss and damage is particularly important for the small island

developing States (SIDS), which are faced with losing their entire territory in some cases as a result of sea level rise. Many communities within developing countries have already been permanently displaced as a result of climate change impacts. Addressing permanent losses and the loss of ecosystems, livelihoods and statehood – among others – is therefore a **significant issue** for developing countries.¹¹

WHY IS IT IMPORTANT TO DISCUSS LOSS AND DAMAGE UNDER THE UNFCCC?

The overarching objective of the UNFCCC – to stabilise emissions at levels and within a timeframe that will *allow ecosystems to adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner* – is, in fact, to avoid loss and damage.¹²

Monitoring loss and damage therefore provides a measure of the overall effectiveness of global (mitigation and adaptation) efforts. Mitigation efforts are the primary way of avoiding and minimising loss and damage – the lower the mitigation ambition, the greater the risk of loss and damage. Where mitigation ambition is not high enough, adaptation efforts can help avert or minimise loss and damage.

However, the IPCC warns that existing efforts have not been successful: *Without additional mitigation efforts beyond those in place today, and even with adaptation, warming by the end of the 21st century will lead to high to very high risk of severe, widespread and irreversible impacts globally (high confidence).*¹³

In addition to mitigation and adaptation efforts, support to enhance action in developing countries, including finance, technology transfer and capacity building, is crucial. That said, the IPCC maintains that even with mitigation and adaptation, there will still be “residual impacts”, or loss and damage.¹⁴

In the *Paris Agreement*, Parties agreed to undertake collective efforts to keep global average temperatures below 2°C and to do their utmost to limit the increase in global average

temperatures to 1.5°C.¹⁵ However, the **nationally determined contributions** which countries submitted in the lead up to the Paris Conference translate into global average warming closer to 3°C.¹⁶ Increasing ambition on mitigation, adaptation and means of implementation (finance, technology development and transfer and capacity building) remain critical to avert loss and damage.

Losses and damages from climate change impacts are already being manifested, and will continue to increase because of historical emissions and the current lack of mitigation ambition. As 2017 went on record as the **warmest year on record** without an El Niño,¹⁷ for instance, extreme weather events inflicted losses and damages all over the world. 41 million people **lost their homes** in Bangladesh, India, and Nepal, when floods hit South Asia.¹⁸

The **Caribbean region was ravaged** by no less than ten hurricanes in 2017, inflicting significant damage on islands – for instance, 99% of the buildings were destroyed in Barbuda, and 60% of the population was made homeless in the wake of Hurricane Irma.¹⁹ A short week later, a second category 5 hurricane devastated Dominica, claiming over 25 lives and severely damaging more than 80% of the housing sector.²⁰ (This was only two years after losses and damages from **tropical storm Erika** were estimated at 90% of Dominica's GDP.)

Countries in the Pacific **suffered from a shortage of water** from 2015-2017 due to a lack of rainfall.²¹ Food security was threatened in the Solomon Islands, when crops were hit by floods, drought and cyclones.²²

In the Horn of Africa, meanwhile, the **severe drought** that has affected the region since 2015 continued, rendering 15 million people food insecure (including 8.5 million in Ethiopia alone) and displacing two million people.²³

While some of these losses and damage could have been averted through adaptation, there is evidence that the limits of adaptation are already being reached in some parts of the world,²⁴ with the affects particularly acute in least developed countries (LDCs). While acknowledging that limits to adaptation exist, that IPCC differentiates between the *soft levels of adaptation*, where adaptation options exist but are not available or accessible, and *hard limits of adaptation* where adaptation options do not yet exist.²⁵

Evidence of hard limits to adaptation being reached and losses and damages incurred as a result have been found in the coastal region of Bangladesh, where rising salinity levels have rendered cultivation of even the most saline tolerant varieties of rice impossible.²⁶ A study in the region found that the loss in rice yields due to salinisation in three villages alone was estimated to be US\$ 1.9 million. Some of the poorest households lost 74% of their income during that period. In Burkina Faso, a study in ten villages found that 99% of households experienced significant negative impacts as a result of a prolonged drought, lasting from 2004 to 2010. 40% of those who adopted coping strategies such as reducing food consumption and selling livestock still experienced severe negative impacts.²⁷

Loss and damage associated with the adverse impacts of climate change has significant repercussions on development. A study in Kenya found that when faced with loss and damage many households adopt *erosive coping strategies*, selling assets for short-term gains, which ultimately make them more vulnerable to future climate change impacts.²⁸ A lack of development also makes countries more vulnerable to loss and damage, making the implementation of sustainable approaches to address loss and damage even more critical.

These examples speak to two critical issues: more support is needed for adaptation to ensure that loss and damage is avoided and minimised to the extent possible; and approaches to address loss and damage are needed for impacts that cannot be avoided through adaptation.

Already overwhelmed with the implementation of development policies and plans, policy makers and implementers in developing countries must deal with the additional burden of implementing adaptation strategies. Dealing with loss and damage is a tertiary burden, which will be even more challenging without additional capacity and resources.

HOW HAS LOSS AND DAMAGE EVOLVED UNDER THE UNFCCC?

Discussions on loss and damage in the global climate change regime began before the UNFCCC was agreed. In 1991, during the negotiations that resulted in agreement to the UNFCCC in 1992, Vanuatu, on behalf of the Alliance of Small Island States (AOSIS), *proposed* an international fund to support measures to address the impacts of climate change, and an insurance pool to provide insurance against sea level rise in SIDS.²⁹ Revenue for the insurance pool would come from mandatory contributions from developed countries.

In the end, neither an insurance pool nor a global fund was incorporated into the Convention. However, insurance was acknowledged in *Article 4.8*:

*Parties shall give full consideration to what actions are necessary under the Convention, including actions related to funding, insurance and the transfer of technology, to meet the specific needs and concerns of developing country Parties arising from the adverse effects of climate change and/or the impacts of the implementation of response measures...*³⁰

After the UNFCCC was adopted, negotiations focused on mitigation and the adoption of the Kyoto Protocol in 1997. At *COP7* in Marrakech, in 2001, insurance arose again, when Parties decided to *consider, at its eighth session, the implementation of insurance-related actions to meet the specific needs and concerns of developing country Parties arising*

from the adverse effects of climate change.³¹ In the end, there was no decision on insurance at COP8 in Delhi in 2002. However, there were two workshops to explore insurance in 2003,³² accompanied by a background paper that considered insurance-related actions and risk assessment in the context of the UNFCCC.³³ In subsequent years there were calls for exploring insurance further and at least one call for compensation for the impacts of climate change, but nothing substantial arose from these requests.³⁴

It was not until COP13 in Bali, in 2007, that the term loss and damage appeared explicitly for the first time in a decision, in the context of calls for enhanced action on adaptation including:

*Disaster risk reduction strategies and means to address loss and damage associated with climate change impacts in developing countries that are particularly adverse to the impacts of climate change.*³⁵

A subsidiary body – the Ad Hoc Working Group on Long-term Cooperative Action under the Convention (AWG-LCA) – was created to implement the Bali Action Plan. In response to a call for submissions on how the work of the AWG-LCA should be carried out, AOSIS submitted a proposal for a multi-window mechanism to address loss and damage from the adverse impacts of climate change in 2008.³⁶ The proposed mechanism consisted of three inter-dependent components:

- **Insurance**, to address climate-related extreme weather events and risks to crop production, food security and livelihoods.
- **Rehabilitation and compensation**, to address progressive negative impacts that result in loss and damage.
- **Risk management**, to promote risk assessment and risk management tools and strategies at all levels.

This proposal was also included by AOSIS submission for a legally-binding agreement submitted in advance of COP15 in Copenhagen, in 2009. The African Group of Negotiators also included loss and damage in its proposal for a Copenhagen Agreement.³⁷

In the wake of the failure of the Copenhagen conference to deliver a successful outcome, the next opportunity to address loss and damage came at COP16 in 2010, where Parties agreed to establish a work programme on loss and damage to consider approaches to address loss and damage in developing countries particularly vulnerable to the impacts of climate change.³⁹ At the 34th session of the Subsidiary Body for Implementation (SBI) in the spring of 2011, the work programme was further differentiated into three thematic areas:³⁹

- Assessing the risk of loss and damage associated with the adverse effects of climate change, and the state of current knowledge.
- A range of approaches to address loss and damage associated with the adverse effects of climate change, including impacts related to extreme weather events and slow onset events, taking into consideration experience at all levels.
- The role of the UNFCCC in enhancing the implementation of approaches to address loss and damage associated with the adverse effects of climate change.

At COP17 in Durban, Parties agreed that an international mechanism was a possible modality for addressing loss and damage. At COP18 in Doha in 2012, discussions focused on the role of the UNFCCC in addressing loss and damage. After extended discussions, it was decided that the role of the Convention is to:⁴⁰

- Enhance knowledge and understanding of comprehensive risk management approaches to address loss and damage associated with the adverse effects of climate change, including slow onset impacts;
- Strengthen dialogue, coordination, coherence and synergies among relevant stakeholders; and
- Enhance action and support, including finance, technology and capacity building, to address loss and damage associated with the adverse effects of climate change.

In addition, it was decided that institutional arrangements – including an international mechanism – would be established at COP19 in Warsaw to help the UNFCCC carry out these functions.⁴¹

► WARSAW INTERNATIONAL MECHANISM

One of the key issues in Warsaw was whether loss and damage was part of adaptation, or beyond adaptation. In the end a compromise text was struck that recognises the synergies with adaptation but acknowledges that loss and damage involves more than can be addressed by adaptation.⁴² The WIM was established under the Cancun Adaptation Framework, but it was decided that a review of the WIM would take place in 2016 at COP22, including of its mandate, structure and effectiveness.

After two weeks of intense negotiations at COP19, the Warsaw international mechanism for loss and damage associated with climate change impacts (WIM) was established, to *address loss and damage associated the impacts of climate change in developing countries particularly vulnerable to the adverse effects of climate change*.⁴³ The functions of the Mechanism are elaborated in **Box 1**.

The WIM is overseen by an Executive Committee or

BOX 1: Functions of the WIM

The functions of the WIM from Decision 2/CP.19 and following from discussions in Doha were determined to be:

- 1) **Enhancing knowledge and understanding of comprehensive risk management approaches to address loss and damage** associated with the adverse effects of climate change, including slow onset impacts, by facilitating and promoting:
 - a. Action to address gaps in the understanding of, and expertise in, approaches to address loss and damage associated with the adverse effects of climate change, including, inter alia, the areas outlined in [Decision 3/CP.18, paragraph 7\(a\)](#);
 - b. Collection, sharing, management and use of relevant data and information, including gender-disaggregated data; and
 - c. Provision of overviews of best practices, challenges, experiences and lessons learned in approaches to address loss and damage.
- 2) **Strengthening dialogue, coordination, coherence and synergies** among relevant stakeholders by:
 - a. Providing leadership and coordination and, as and where appropriate, oversight under the Convention, on the assessment and implementation of approaches to address loss and damage associated with the impacts of climate change from extreme events and slow onset events associated with the adverse effects of climate change; and
 - b. Fostering dialogue, coordination, coherence and synergies among all relevant stakeholders, institutions, bodies, processes and initiatives outside the Convention.
- 3) **Enhancing action and support**, including finance, technology and capacity building, to address loss and damage associated with the adverse effects of climate change, so as to enable countries to undertake actions pursuant to [Decision 3/CP.18, paragraph 6](#), including by:
 - a. Providing technical support and guidance on approaches to address loss and damage associated with climate change impacts, including

- extreme events and slow onset events;
- b. Providing information and recommendations for consideration by the COP when providing guidance relevant to reducing the risks of loss and damage and, where necessary, addressing loss and damage, including to the operating entities of the financial mechanism of the Convention, as appropriate;
 - c. Facilitating the mobilisation and securing of expertise, and enhancement of support, including finance, technology and capacity building, to strengthen existing approaches and, where necessary, facilitate the development and implementation of additional approaches to address loss and damage associated with climate change impacts, including extreme weather events and slow onset events.⁴⁴

ExCom, whose official mandate is to guide the implementation of the functions of the WIM. The Committee is comprised of 20 members – ten from Annex I (developed) countries, and ten from non-Annex I (developing) countries.

The ExCom meets twice a year to discuss the implementation of its workplan. These meetings are where the substantive discussions on loss and damage take place.

► WHAT DOES THE PARIS OUTCOME INCLUDE ON LOSS AND DAMAGE?

In the run up to COP21 in Paris, loss and damage was a contentious and highly political issue. Many developed countries did not want to see loss and damage in the Agreement, while developing countries needed the Agreement to address loss and damage, particularly after the IPCC's *Fifth Assessment Report* predicted increased warming and rising impacts.

In the end, loss and damage was treated separately from

adaptation and included as a stand-alone article (Article 8). As part of the ‘deal’ for this treatment, an ‘exclusion clause’ was included in [Decision 1/CP.21](#), which indicates that Article 8 does not serve as a basis for any liability or compensation.

The WIM was established as the overarching body on loss and damage under the Paris Agreement and subject to the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA). The body is currently under the authority of the COP as a joint agenda item under both the SBI and the Subsidiary Body for Technological and Scientific Advice (SBSTA). Once the Paris Agreement is implemented, the WIM will serve both the UNFCCC and the Paris Agreement, and will be accountable to both the COP and the CMA. That said, guidance from the CMA may take precedence over COP decisions.

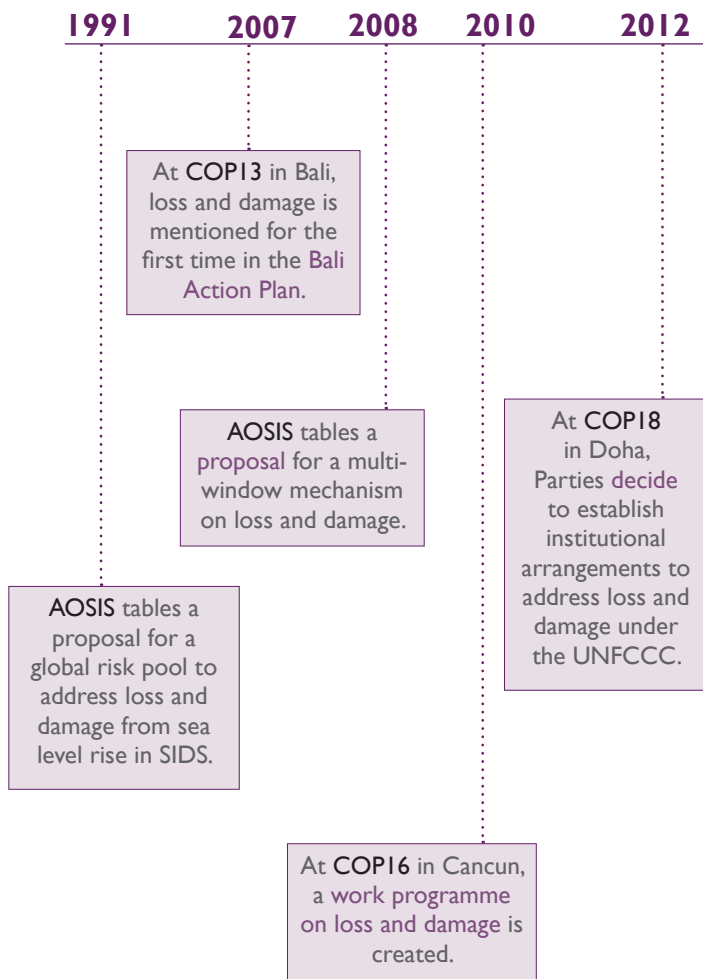
The Paris outcome on loss and damage also strengthened the WIM. In [Decision 1/CP.21](#) the ExCom was requested to establish a clearing house for risk transfer to *serve as a repository of information on insurance and risk transfer, in order to facilitate the efforts of Parties to develop and implement risk management strategies*,⁴⁵ now known as the [Fiji Clearing House for Risk Transfer](#).

The ExCom was also asked to establish a [Task Force on Displacement to develop recommendations for integrated approaches to avert, minimize and address displacement related to the adverse impacts of climate change](#).⁴⁶ Both the Fiji Clearing House for Risk Transfer and the Task Force on Displacement have now been operationalised.

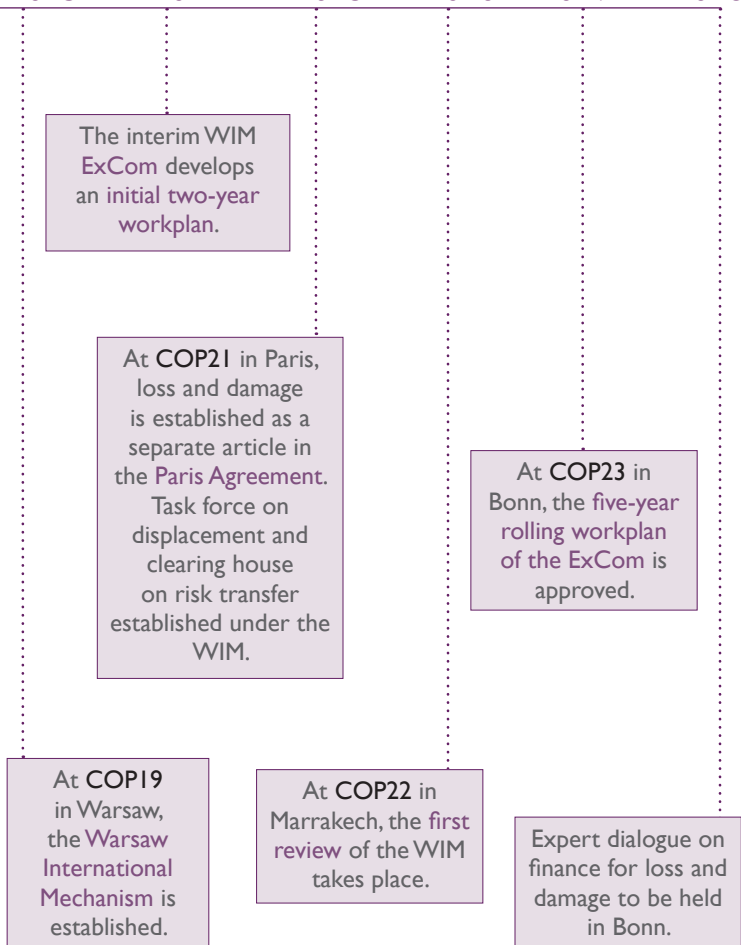
Loss and damage is also increasing being raised in discussions under the Ad-hoc Working Group on the Paris Agreement (APA) – including in discussions on transparency and the global stocktake. This is being driven by both evidence

of loss and damage today and predictions of loss and damage in the future, particularly given a lack of both historical and current mitigation ambition.

TIMELINE



2013 2014 2015 2016 2017 2018



DOES THE PARIS OUTCOME RULE OUT COMPENSATION AND LIABILITY FOR LOSS AND DAMAGE?

Legal interpretations of the “exclusion clause” in *Decision 1/CP.21* vary. Some legal scholars have concluded that *all options remain for the development of a system under the climate regime that can address the underlying concerns raised by small island developing states (SIDS) and others in calling for a system of compensation and liability.*⁴⁷ Several proposals for compensation frameworks have been put forth since COP21.⁴⁸ It has also been argued that the exclusion clause is contained within a COP decision, and would need to have been put forth by the CMA, as its governing body, in order to apply to the Paris Agreement.⁴⁹

Compensation could also be sought within other international legal frameworks. The governments of Nauru, the Marshall Islands, and Tuvalu have all declared that in agreeing to *Decision 1/CP.21* they do not renounce their rights under others laws, including international laws.⁵⁰ It has been argued that under the no-harm rule, widely recognised under international law, *states are obligated to prevent loss and damage* and minimise the risk of loss and damage to other states.⁵¹

The fact remains that developing countries face debilitating losses from climate impacts, which they cannot possibly bear on their own. For instance, the Government of Kiribati *purchased land* on Vanua Levu, Fiji’s second largest island, in 2014 at a cost of US\$ 8.77 million in anticipation that its entire citizenry of 100,00 people spread over 33 islands may need to relocate in the near future due to impacts of sea

level rise.⁵² Relocating all its citizens to the purchased territory – located 2,000 km away from Kiribati – will be an expensive undertaking that the Government of Kiribati will not be able to bear.

There are a number of on-going cases currently being considered in courts around the world. In early 2015 [Saul Luciano Lliuya](#), a Peruvian farmer brought a case against RWE, a German utility cost seeking US\$ 21,000, a fraction of the costs of protecting his village from flooding due to the overflow of glacial lakes.⁵³ In November of 2017 a [German court](#) determined that the case had merit and could therefore proceed.⁵⁴ Cases are also being brought against states. In 2015, in a [case](#) brought by Urgenda, a Dutch NGO, and 900 Dutch citizens against the Dutch government, a court ruled that a causal link exists between Dutch emissions, global climate change and its impacts exist, and the Netherlands must do more to avert loss and damage from climate change impacts.⁵⁵

It has been argued that as a result of historical emissions developed countries have amassed an emissions debt (leaving very little of the atmospheric space for developing countries to develop); an adaptation debt (by disproportionately contributing to the impacts to which developing countries must adapt to); and a loss and damage debt in the cases in which no amount of adaptation will avoid impacts of climate change.⁵⁶

WHEN CAN LOSS AND DAMAGE BE ATTRIBUTED TO CLIMATE CHANGE?

The fact that anthropogenic climate change is taking place is now well established by scientists. The IPCC's *Fifth Assessment Report* maintains that it is extremely unlikely that the increase in global temperatures observed since the 1880s would have occurred without anthropogenic greenhouse gas emissions. Studies have also linked the rise in anthropogenic greenhouse gas emissions to the rise in regional temperatures and global sea levels.⁵⁷ But can loss and damage caused by individual slow onset or extreme events be attributed to climate change?

In theory, to do so will require a causal chain from emissions of greenhouse gases to impacts, or losses and damages, and then the individual event must be linked to anthropogenic climate change.⁵⁸ In practice, however, this is easier said than done, as there could be many drivers of risk.⁵⁹ Some slow onset events such as increasing temperatures, sea level rise, and glacial retreat can be more easily attributed to anthropogenic climate change.⁶⁰ Others, such as salinisation and the loss of biodiversity, are more difficult to attribute.

It is even more complex to attribute extreme weather events, such as heatwaves, droughts and floods, to anthropogenic climate change.⁶¹ However, the IPCC agrees that anthropogenic climate change is causing extreme weather events to increase in both magnitude and frequency.⁶² Increasingly, attribution science is able to indicate the extent to which anthropogenic climate change increased the probability of an event, referred to as probabilistic attribution.⁶³ Scientists are better able to determine the extent to which some events,

such as heatwaves and precipitation-related events, were made more likely by anthropogenic climate change than others.⁶⁴ Probabilistic attribution is still difficult to establish for hurricanes, however. That said, attribution science is quickly evolving.⁶⁵ A 2016 study found, with 95% probability, that at least half of the flooding that has occurred within the US over the past ten years would not have occurred without anthropogenic climate change.⁶⁶

There remain many challenges even with observing changes in extreme events, such as greater frequency or higher magnitude. The availability and quality of data varies, and significant data gaps exist.⁶⁷ Unsurprisingly, more data is available in developed than developing countries.⁶⁸

As attribution science has evolved, both moral and legal questions about the need to establish attribution have been raised over the past decade. It has been argued that attribution of climate-related hazards to anthropogenic climate change should not be a pre-requisite for global action to ensure that developing countries have support to address loss and damage.⁶⁹ Many have argued that the international community is ethically obliged to help developing countries build resilience to climate change, including by helping to build their capacities to address climate change.⁷⁰ As such, support should be provided to help vulnerable countries and communities address loss and damage regardless of whether they can be attributed to anthropogenic climate change.⁷¹ In fact, Article 8.3 of the Paris Agreement provides for enhancing action and support on loss and damage on a cooperative and facilitative basis, and it follows that attribution should not be a necessary precondition for international cooperation.⁷²

WHAT HAS THE WIM WORKED ON, AND WHAT WILL IT DO IN FUTURE?

The WIM initially focused on a *two-year workplan*, which concluded in 2017. The body's structure, mandate and effectiveness came up for *review in 2016* at COP22 in Marrakech – before the initial two-year workplan period ended and work on the plan was completed, but after the Paris Agreement was adopted.⁷³

In a *report to the COP* during this review, the ExCom highlighted progress on a number of elements of the work plan, including agreeing terms of reference for the task force on displacement to deliver their recommendations by COP24; setting up expert groups on facilitating support; closer collaboration with the *Standing Committee on Finance and Technology Executive Committee*; and *knowledge products* on slow onset events, NELD, financial instruments, and displacement.

A key issue for the 2016 review was that of making a clear distinction between adaptation and loss and damage. The WIM was established under the Cancun Adaptation Framework – an adaptation framework – but on the understanding that the placement would be reviewed at a later date. However, the issue was complicated by the fact that the WIM now serves both the COP and the CMA, following the ratification of the Paris Agreement. Legal interpretations of how Article 8 of the Paris Agreement affects the placement of the WIM therefore remain unsettled.

Another key issue for the 2016 review was the call for strengthening and enhancing the WIM to better support

developing countries in addressing loss and damage. Specifically, developing countries argued that more focus was needed on the third function of the WIM – enhancing action and support from developed countries. As a result, the ExCom was asked to include a strategic workstream on enhancing action and support, including finance, technology and capacity building, to address loss and damage in its five-year rolling workplan.⁷⁴

It was also agreed that the implementation of activities that were not concluded from the ExCom’s initial two-year workplan would be taken up within its *five-year rolling workplan*,⁷⁵ developed during the course of 2017 and implemented from 2018. The five-year rolling workplan calls for enhanced cooperation and facilitation in relation to the following five strategic workstreams:

- Slow onset events.
- Non-economic losses.
- Comprehensive risk management approaches, including assessment, reduction, transfer, and retention.
- Human mobility, including migration, displacement and planned relocation.
- Action and support, including finance, technology and capacity-building.

The workplan identifies concrete activities to be implemented in 2018 and 2019 and outlines priority activities to be implemented from 2019 to 2021. However, the COP23 decision also gives the ExCom the flexibility to prioritise activities, include emerging issues, and allow for the consideration of timely issues and emerging and urgent needs.⁷⁶ The ExCom is expected to assess progress of the implementation of the workplan in 2020, and regularly thereafter.

The ExCom also has the mandate to develop expert groups, sub-committees, panels, thematic advisory groups or task-focused ad hoc working groups to help it guide the implementation of the WIM.⁷⁷ Currently these include an expert group on non-economic losses (NELs), a technical expert group on comprehensive risk management approaches, and a task force on displacement. The Fiji Clearinghouse for Risk Transfer is also overseen by the ExCom.

WHAT IS COMPREHENSIVE RISK MANAGEMENT IN ADDRESSING LOSS AND DAMAGE?

Comprehensive risk management in the context of addressing loss and damage from climate change consists of addressing the entire gamut of possibilities from reducing loss and damage before it occurs, to addressing loss and damage that cannot be avoided.⁷⁸

While mitigation is the best way to reduce loss and damage before it occurs, and adaptation is the best alternative once climate change impacts are inevitable, risk reduction efforts can play a role in both averting and minimising loss and damage.

To address loss and damage that cannot be avoided, meanwhile, risk transfer approaches (like insurance) and risk retention approaches (like social safety nets) can play an important role. Developing countries are already implementing a range of approaches to comprehensively address loss and damage. For example, the Government of Bangladesh is considering the development of a [national mechanism to address loss and damage](#).⁷⁹ However, a number of gaps exist – as highlighted, for instance, in a [report](#) by the UNFCCC secretariat on institutional arrangements to deal with loss and damage.⁸⁰

In response to a request from the WIM ExCom, the secretariat has prepared a [compendium](#) of existing comprehensive risk management approaches based on a survey.⁸¹ In addition, the ExCom has [synthesised submissions](#) on the best practices, challenges and lessons learned from existing financial instruments that address the risk of loss and damage.⁸²

In recent years, there has been increasing focus on risk transfer approaches, particularly climate risk insurance. In 2015, the G7 launched the *InsuResilience Initiative* with the goal of providing 400 million people with access to insurance by 2020 through direct insurance schemes, financial support of funds which provide support for the implementation of insurance, and broader resilience building efforts.⁸³ In 2017, the *InsuResilience Global Partnership for Climate and Disaster Risk Finance* was launched with the aim of bringing together a range of actors with the collective goal of helping countries respond more readily to disasters and being better prepared for future climate and disaster risks through risk finance and insurance tools. InsuResilience also supports regional initiatives including the *Pacific Catastrophe Risk Assessment and Financing Initiative* (PCRAFI), *African Risk Capacity* (ARC), and the *Caribbean Catastrophe Risk Insurance Facility* (CCRIF), among others.

While insurance is an important tool in comprehensive risk management, many feel that there has been undue focus on risk transfer in the UNFCCC discussions. For developing countries, other measures such as social protection measures are also very important components of comprehensive risk management strategies for loss and damage.

Some risk management approaches were not covered in the UNFCCC compendium, but are very important for developing countries – particularly in the context of ‘unavoided unavoidable loss and damage’ such as sea level rise and extreme events of severe magnitude. These include recovery, reconstruction and rehabilitation to limit economic and NELD that households and communities suffer in the wake of slow onset and extreme weather events. Increasingly, reconstruction efforts are aimed at building back better to

ensure that the original conditions and levels of vulnerability are not re-built and re-created. However, focus is also needed on *rehabilitating livelihoods* – particularly in cases where agriculture, an important source of livelihood for the poor, becomes unviable.⁸⁴

WHAT CHALLENGES DO THE LOSS AND DAMAGE NEGOTIATIONS FACE?

Negotiations on loss and damage under the UNFCCC have faced considerable challenges, not least because of the highly politicised nature of the issue, and the reluctance of some countries to actively engage, particularly on the issue of support. From the very beginning, loss and damage has been associated with liability, compensation and justice.⁸⁵ Although the focus on liability and compensation has diminished since Paris, progress remains slow.

There have also been technical, financial, capacity-related and territorial challenges – such as the complexities of drawing a distinction between adaptation and loss and damage; attributing loss and damage to climate change; finance for loss and damage; the capacity of developing countries to take the issue forward, and to engage effectively in the work of the WIM; and potential synergies with the [Sendai Framework on Disaster Risk Reduction \(SFDRR\)](#) and the [Sustainable Development Goals \(SDGs\)](#).

The most significant challenge in the negotiations is the fact that loss and damage is a very political issue, one that goes to the very heart of the climate change negotiations. Acknowledging that loss and damage is already being caused by climate change amounts to a sense of failure of the Convention in achieving its ultimate objective – that of limiting damage. It can be construed, to some extent, as failure not only to mitigate climate change, but also to adequately enable adaptation, or to enable the global cooperation that is necessary to tackle an issue where the perpetrators are not the victims, and

the latter are among the poorest and most vulnerable. Such acknowledgement raises uncomfortable questions related to responsibility and liability, which historic (and even current) emitters are unwilling to face.

After the considerable hurdle of adding loss and damage to the UNFCCC agenda was overcome, some countries continued to question the difference between loss and damage and adaptation. Many developed countries argued that loss and damage is part of adaptation, while developing countries argued that loss and damage is 'beyond adaptation'. Developing country negotiators argued, in the wake of COP19 in Warsaw, that this debate has little practical value.⁸⁶ The linkages and synergies between addressing adaptation and loss and damage have long been acknowledged. The UNFCCC has also acknowledged that loss and damage results from climate change impacts that cannot be averted or minimised by adaptation.⁸⁷ This is clearly recognised in the Paris Agreement, where loss and damage is treated independently of adaptation in a separate article.

The scientific and legal challenges of attributing loss and damage to climate change has been another significant challenge. Progress in being made in this regard, as elaborated earlier.

Means of implementation, finance, technology development and transfer, and capacity building, to enable developing countries to address loss and damage is another considerable challenge in the negotiations. The Paris Agreement does not include separate provisions for support for loss and damage, although developing countries pointed out that relying on adaptation finance to respond to climate-related loss and damage would further deplete an already inadequate adaptation pot. That said, Article 8.3 of the

Agreement recognises the importance of enhancing action and support. The magnitude of existing and (projected) future needs to address climate-related loss and damage is daunting. Despite the growing needs, discussions on means of implementation for loss and damage remain difficult. The issue of compensation aside, the uncertainty of the potential cost of addressing loss and damage associated with the adverse impacts of climate change has had a significant effect on the willingness of developed country Parties to agree to actions beyond those of enhancing understanding and coordination on loss and damage.

The lack of support for developing countries to address loss and damage is a contributory factor to the lack of capacity for developing countries to engage in the ExCom meetings as observers. Few developing countries attend the ExCom meetings because they lack resources. COP23 called on Parties to *actively engage in the work and to disseminate, promote and make use of the WIM, including by . . . [p]articipating in the meetings of the ExCom as observers, recognizing the constraints of time and resources.*⁸⁸ However, no additional resources were forthcoming to make this happen.

The overlapping mandates within global policy agendas is another challenge, the most obvious perhaps being overlaps with the SFDRR and SDGs. However, under the SFDRR and SDGs, states are responsible for implementing actions, with a very limited role for global cooperation. The SDGs, for instance, are focused mainly on voluntary national action. Unlike the SDGs and the SFDRR, common but differentiated responsibilities and respective capabilities is a founding principle of the UNFCCC.

While the SDGs have an important role to play in fostering resilience to the adverse impacts of climate change, climate

change impacts represent an additional development burden. Sustainable development approaches will not suffice in cases where climate change impacts overwhelm development efforts and result in permanent loss and damage.⁸⁹ Moreover, it has been estimated that implementing the SDGs will alone require US\$ 1 trillion – 750% more than what is currently provided for development through overseas development assistance.⁹⁰

Finally, ‘transformational approaches’ are increasingly discussed in the loss and damage negotiations.⁹¹ The term was included in both the initial two-year workplan and the five-year rolling workplan of the ExCom. While it is increasingly recognised that addressing climate change will require moving beyond business as usual approaches, and loss and damage will occur when the limits to adaptation are reached unless transformation takes place,⁹² there is no universal definition of transformation. The term has had a tendency to be ambiguous and open to interpretation. For example, some consider permanent relocation a form of transformational adaptation when the limits to adaptation have been reached. Others describe it as a permanent loss, including NELD. It is essential that transformation not be used as a vehicle for shifting responsibility for the impacts of climate change to states who bear little responsibility for its effects.

WHAT ARE THE PROSPECTS FOR FINANCE FOR LOSS AND DAMAGE?

Several estimates exist of the potential costs of loss and damage in future, although they vary considerably. For instance, in 2015, a [report](#) commissioned by the [Climate Action Tracker](#) estimated that the cost of economic damage from the economic costs of climate change in developing countries could reach US\$ 428 billion annually by 2030, and US\$ 1.67 trillion by 2050 if average global temperatures rise by 3°C.⁹³ If temperatures rise by 2°C, annual costs could be US\$ 399 million by 2030, and US\$ 1.07 trillion by 2050.⁹⁴

Estimates by the UN Environment Programme were more conservative, with the [2014 Adaptation Gap Report](#) estimating that the costs of adaptation and loss and damage by 2025/2030 could be US\$ 50 billion annually in LDCs, and rise to US\$ 100 billion by 2050.⁹⁵ The report estimates that the cost of adaptation and loss and damage for all developing countries in a 2°C world could be US\$ 150 million by 2025/2030 and between US\$ 250 million and US\$ 500 million by 2050. In 2015, another [report](#) by UNEP estimated that the annual costs of loss and damage, even with cost effective adaptation, for Africa alone would be US\$100 billion per year by 2050 with a below 2°C warming scenario; and double that with warming in the magnitude of 4°C.⁹⁶

The [Climate Action Network](#) has recommended that in addition to adaptation finance, the goal should be to raise US\$ 300 million annually for loss and damage by 2030.⁹⁷

Article 8.3 of the Paris Agreement could be seen as a vision for action and support to be provided to developing countries, though on a voluntary basis. At some point it will

be necessary to be more explicit both about responsibility and about goals for raising finance for loss and damage, particularly given current emission trajectories and warming scenarios.

The 2016 topic of the annual [forum](#) of the Standing Committee on Finance (SCF) was financing the risk of loss and damage. It highlighted that:

- An understanding of risks is a critical prerequisite for developing and operationalising financial instruments to address loss and damage. Many countries lack the capacity needed to collect data and develop risk models, and therefore the data needed to develop appropriate financial instruments. Providing support to build the capacity of institutions is important.
- There are a range of financial instruments to address the risk of loss and damage, but there is no ‘one-size-fits-all’ approach to addressing loss and damage, and no one instrument can address loss and damage on its own.
- Complementary approaches are needed – such as a combination of context-specific instruments and enabling policies to facilitate comprehensive risk management.
- Significant gaps exist on financing approaches, particularly to address slow onset events as most approaches are targeted at extreme weather events and rapid-onset events. The insurance sector can support the development of new tools for slow onset events.
- Policies and regulatory frameworks can be strengthened to incentivise public and private stakeholders to avert, minimise, and address loss and damage, along with public-private partnerships.
- More discussions are needed on the sustainability, affordability and accessibility of financial instruments, particularly for the most vulnerable. The Green Climate

Fund (GCF) could play a role in supporting financial approaches to address loss and damage.⁹⁸ The SCF was asked to follow up on the 2016 Forum with additional work on loss and damage finance.⁹⁹ Loss and damage is also included in the outline for the 2018 biennial assessment and overview of climate finance flows.¹⁰⁰ Engagement with the SCF and other relevant institutions is critical to ensure that this issue remains an important part of their agenda.

There has been increasing focus on innovative sources of finance. Suggestions have included a fossil fuel extraction levy, also known as *Climate Damages Tax*, the proceeds of which would be channeled to the Financial Mechanism of the UNFCCC through a dedicated window.¹⁰¹

Ensuring that support for loss and damage reaches those who most need it is also a critical issue, with some discussion on the modalities for channeling funds for loss and damage. Developing countries have advocated for a financial arm under the WIM, to channel finance from the Financial Mechanism and from other sources. It has also been proposed that a “loss and damage window” be established under the GCF, although this raises the concern that there will be demands for other specialised windows to be established in the Fund.

WHAT LIES AHEAD?

The loss and damage negotiations are inching forward slowly. The focus is likely to remain on the elements of the WIM workplan until the next review takes place in 2019, in particular on enhancing action and support to meet the needs of developing countries. Unsurprisingly, the focus of the loss and damage negotiations at COP22 and COP23 remained centered in large part on means of implementation. Some developing country groups have expressed the opinion that the WIM will not be fully operational until it includes a financial arm to channel resources to developing countries.

At COP23 in 2017, Parties decided to hold an expert dialogue (now known as the Suva Expert Dialogue) in conjunction with the 48th session of the UNFCCC Subsidiary Bodies in May 2018. The Suva Expert Dialogue will explore ways to facilitate *the mobilization and securing of expertise, and enhancement of support, including finance, technology and capacity building, for averting, minimizing and addressing loss and damage* to inform a technical paper by the secretariat, on financial support.¹⁰²

A second review of the WIM will take place in 2019, at COP25, to consider progress in implementing the ExCom workplan, and a long-term vision to guide how the WIM can be enhanced and strengthened. The terms of reference for the review will be developed by the Subsidiary Bodies in June 2019 – it is expected that this will be much more comprehensive review than the first (2016) review. A technical paper

elaborating the sources of financial support for addressing loss and damage, provided both through the UNFCCC Financial Mechanism and outside it, will be made available by Subsidiary Bodies in June 2019, to serve as an input into the terms of reference for the review.¹⁰³

The focus in 2018 is therefore likely to remain on developing the terms of reference; ensuring that the Suva Expert Dialogue focuses on the needs of developing countries; and implementing the five-year rolling workplan. Most of this work will take place within the ExCom, making engagement in its meetings very important. The ExCom also has the flexibility to update its workplan, and establish other groups, bodies and activities. Making the best use of this flexibility will be critical in the period before the 2019 review.

ANNEX I: KEY DECISIONS RELATED TO LOSS AND DAMAGE

DECISION I/CP.13 BALI ACTION PLAN

THE CONFERENCE OF THE PARTIES,

(...)

1. *Decides* to launch a comprehensive process to enable the full, effective and sustained implementation of the Convention through long-term cooperative action, now, up to and beyond 2012, in order to reach an agreed outcome and adopt a decision at its fifteenth session, by addressing, *inter alia*:

(...)

(c) Enhanced action on adaptation, including, *inter alia*, consideration of:

(...)

(iii) Disaster reduction strategies and means to address loss and damage associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change;

(...)

DECISION I/CP.16 CANCUN AGREEMENTS

THE CONFERENCE OF PARTIES,

(...)

26. *Decides* to hereby establish a work programme in order to

consider, including through workshops and expert meetings, as appropriate, approaches to address loss and damage associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change; (...)

DECISION 3/CP.18

APPROACHES TO ADDRESS LOSS AND DAMAGE ASSOCIATED WITH CLIMATE CHANGE IMPACTS IN DEVELOPING COUNTRIES THAT ARE PARTICULARLY VULNERABLE TO THE ADVERSE EFFECTS OF CLIMATE CHANGE TO ENHANCE ADAPTIVE CAPACITY

THE CONFERENCE OF THE PARTIES,
(...)

1. *Acknowledges* the need to enhance support, including finance, technology and capacity-building, for relevant actions;
2. *Notes* that a range of approaches, methods and tools is available to assess the risk of and to respond to loss and damage associated with the adverse effects of climate change, and that their selection depends upon regional, national and local capacity, context and circumstances, and involves the engagement of all relevant stakeholders;
3. *Also notes* that there are important linkages between extreme weather events and slow onset events, and the importance of building comprehensive climate risk management approaches;
4. *Agrees* that comprehensive, inclusive and strategic responses are needed to address loss and damage associated with the adverse effects of climate change;
5. *Also agrees* that the role of the Convention in promoting the implementation of approaches to address loss and damage

associated with the adverse effects of climate change includes, inter alia, the following:

- (a) Enhancing knowledge and understanding of comprehensive risk management approaches to address loss and damage associated with the adverse effects of climate change, including slow onset impacts;
- (b) Strengthening dialogue, coordination, coherence and synergies among relevant stakeholders;
- (c) Enhancing action and support, including finance, technology and capacity-building, to address loss and damage associated with the adverse effects of climate change;

6. *Invites* all Parties, taking into account common but differentiated responsibilities and respective capabilities and specific national and regional development priorities, objectives and circumstances, to enhance action on addressing loss and damage associated with the adverse effects of climate change, taking into account national development processes, by undertaking, inter alia, the following:

- (a) Assessing the risk of loss and damage associated with the adverse effects of climate change, including slow onset impacts;
- (b) Identifying options and designing and implementing country-driven risk management strategies and approaches, including risk reduction, and risk transfer and risk-sharing mechanisms;
- (c) The systematic observation of, and data collection on, the impacts of climate change, in particular slow onset impacts, and accounting for losses, as appropriate;
- (d) Implementing comprehensive climate risk management approaches, including scaling up and replicating good practices and pilot initiatives;
- (e) Promoting an enabling environment that would encourage investment and the involvement of relevant stakeholders in

climate risk management;

(f) Involving vulnerable communities and populations, and civil society, the private sector and other relevant stakeholders, in the assessment of and response to loss and damage;

(g) Enhancing access to, sharing and the use of data, at the regional, national and subnational levels, such as hydrometeorological data and metadata, on a voluntary basis, to facilitate the assessment and management of climate-related risk;

7. *Acknowledges* the further work to advance the understanding of and expertise on loss and damage, which includes, inter alia, the following:

(a) Enhancing the understanding of:

(i) The risk of slow onset events, and approaches to address them;

(iii) How loss and damage associated with the adverse effects of climate change affects those segments of the population that are already vulnerable owing to geography, gender, age, indigenous or minority status, or disability, and how the implementation of approaches to address loss and damage can benefit those segments of the population;

(iv) How to identify and develop appropriate approaches to address loss and damage associated with the adverse effects of climate change, including to address slow onset events and extreme weather events, including through risk reduction, risk sharing and risk transfer tools, and approaches to rehabilitate from loss and damage associated with the adverse effects of climate change;

(v) How approaches to address loss and damage associated with the impacts of climate change may be integrated into climate-resilient development processes;

(vi) How impacts of climate change are affecting patterns of

migration, displacement and human mobility;

(b) Strengthening and supporting the collection and management of relevant data, including gender-disaggregated data, for assessing the risk of loss and damage associated with the adverse effects of climate change;

(c) Enhancing coordination, synergies and linkages among various organizations, institutions and frameworks, to enable the development and support of approaches to address loss and damage, including slow onset events and comprehensive climate risk management strategies, including risk transfer tools;

(d) Strengthening and promoting regional collaboration, centres and networks on strategies and approaches, including to address loss and damage associated with the adverse effects of climate change, including slow onset events, including through risk reduction, risk sharing and risk transfer initiatives;

(e) Enhanced capacity-building at the national and regional levels to address loss and damage associated with the adverse effects of climate change;

(f) Strengthening institutional arrangements at the national, regional and international levels to address loss and damage associated with the adverse effects of climate change;

8. *Requests* developed country Parties to provide developing country Parties with finance, technology and capacity-building, in accordance with decision 1/CP.16 and other relevant decisions of the Conference of the Parties;

9. *Decides* to establish, at its nineteenth session, institutional arrangements, such as an international mechanism, including functions and modalities, elaborated in accordance with the role of the Convention as defined in paragraph 5 above, to address loss and damage associated with the impacts of climate change in developing countries that are particularly vulnerable

to the adverse effects of climate change;

10. *Requests* the secretariat to carry out the following interim activities under the work programme on loss and damage, prior to the thirty-ninth session of the Subsidiary Body for Implementation:

(a) An expert meeting to consider future needs, including capacity needs associated with possible approaches to address slow onset events, and to prepare a report for consideration by the Subsidiary Body for Implementation at its thirty-ninth session;

(b) Preparation of a technical paper on non-economic losses;

(c) Preparation of a technical paper on gaps in existing institutional arrangements within and outside of the Convention to address loss and damage, including those related to slow onset events;

11. *Requests* the Subsidiary Body for Implementation to consider the technical paper referred to in paragraph 10(c) above in developing the arrangements referred to in paragraph 9 above;

12. *Also requests* the Subsidiary Body for Implementation to elaborate, at its thirty-eighth session, activities under the work programme on loss and damage, to further the understanding of and expertise on loss and damage associated with the adverse effects of climate change, taking into account the provisions contained in paragraph 7 above;

13. *Takes note* of the estimated budgetary implications of the activities to be undertaken by the secretariat pursuant to the provisions contained in this decision;

14. *Further requests* that the actions of the secretariat called for in this decision be undertaken subject to the availability of financial resources; in the absence of adequate additional funding, as indicated in the budgetary estimates referred to

above, the secretariat may not be in a position to undertake the requested activities.

DECISION 2/CP.19

THE ESTABLISHMENT OF THE WARSAW INTERNATIONAL MECHANISM

THE CONFERENCE OF THE PARTIES,

(...)

1. *Establishes* the Warsaw international mechanism for loss and damage, under the Cancun Adaptation Framework, subject to review at the twenty-second session of the Conference of the Parties (November–December 2016) pursuant to paragraph 15 below, to address loss and damage associated with impacts of climate change, including extreme events and slow onset events, in developing countries that are particularly vulnerable to the adverse effects of climate change (hereinafter referred to as the Warsaw international mechanism), and in line with the provisions contained in paragraphs 2–15 below;
2. *Also establishes* an executive committee of the Warsaw international mechanism, which shall function under the guidance of, and be accountable to, the Conference of the Parties, to guide the implementation of functions referred to under paragraph 5 below;
3. *Requests* the executive committee to report annually to the Conference of the Parties through the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation and make recommendations, as appropriate;
4. *Decides* that, as an interim measure, the executive committee shall consist of two representatives from each of the following bodies under the Convention, ensuring that there is a balanced

representation between developed and developing country Parties: the Adaptation Committee, the Least Developed Countries Expert Group, the Standing Committee on Finance, the Technology Executive Committee and the Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention;

5. *Also decides* that the Warsaw international mechanism shall fulfil the role under the Convention of promoting the implementation of approaches to address loss and damage associated with the adverse effects of climate change, pursuant to decision 3/CP.18, in a comprehensive, integrated and coherent manner by undertaking, inter alia, the following functions:

(a) Enhancing knowledge and understanding of comprehensive risk management approaches to address loss and damage associated with the adverse effects of climate change, including slow onset impacts, by facilitating and promoting:

(i) Action to address gaps in the understanding of and expertise in approaches to address loss and damage associated with the adverse effects of climate change, including, inter alia, the areas outlined in decision 3/CP.18, paragraph 7(a);

(ii) Collection, sharing, management and use of relevant data and information, including gender-disaggregated data;

(iii) Provision of overviews of best practices, challenges, experiences and lessons learned in undertaking approaches to address loss and damage;

(b) Strengthening dialogue, coordination, coherence and synergies among relevant stakeholders by:

(i) Providing leadership and coordination and, as and where appropriate, oversight under the Convention, on the assessment and implementation of approaches to address loss and damage associated with the impacts of climate change

from extreme events and slow onset events associated with the adverse effects of climate change;

(ii) Fostering dialogue, coordination, coherence and synergies among all relevant stakeholders, institutions, bodies, processes and initiatives outside the Convention, with a view to promoting cooperation and collaboration across relevant work and activities at all levels;

(c) Enhancing action and support, including finance, technology and capacity building, to address loss and damage associated with the adverse effects of climate change, so as to enable countries to undertake actions pursuant to decision 3/CP.18, paragraph 6, including by:

(i) Providing technical support and guidance on approaches to address loss and damage associated with climate change impacts, including extreme events and slow onset events;

(ii) Providing information and recommendations for consideration by the Conference of the Parties when providing guidance relevant to reducing the risks of loss and damage and, where necessary, addressing loss and damage, including to the operating entities of the financial mechanism of the Convention, as appropriate;

(iii) Facilitating the mobilization and securing of expertise, and enhancement of support, including finance, technology and capacity-building, to strengthen existing approaches and, where necessary, facilitate the development and implementation of additional approaches to address loss and damage associated with climate change impacts, including extreme weather events and slow onset events;

5. *Further decides* that the Warsaw international mechanism should complement, draw upon the work of and involve, as appropriate, existing bodies and expert groups under the Convention, as well as on that of relevant organizations and

expert bodies outside the Convention, at all levels;

6. *Decides* that, in exercising the functions outlined in paragraph 5 above, the Warsaw international mechanism will, *inter alia*:

- (a) Facilitate support of actions to address loss and damage;
- (b) Improve coordination of the relevant work of existing bodies under the Convention;
- (c) Convene meetings of relevant experts and stakeholders;
- (d) Promote the development of, and compile, analyse, synthesize and review information;
- (e) Provide technical guidance and support;
- (f) Make recommendations, as appropriate, on how to enhance engagement, actions and coherence under and outside the Convention, including on how to mobilize resources and expertise at different levels;

7. *Invites* the Executive Secretary, in consultation with the President of the Conference of the Parties, to convene the initial meeting of the executive committee by March 2014, the meetings of which will be open to observers, and invite representatives of relevant international and regional organizations having the necessary skills in approaches to addressing loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events;

8. *Requests* the executive committee to develop its initial two-year workplan for the implementation of the functions outlined in paragraph 5 above, including the scheduling of meetings, taking into account the issues outlined in decision 3/CP.18, paragraphs 6 and 7, for consideration at the forty-first sessions of the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation (December 2014);

10. *Also requests* the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation to consider the composition of, and procedures for, the executive committee, and to make recommendations thereon for adoption by the Conference of the Parties at its twentieth session (December 2014), with a view to finalizing the organization and governance of the executive committee;

11. *Invites* relevant international and regional organizations, institutions and processes to integrate, where appropriate, measures to address the impacts of climate change and to explore and strengthen synergies in the context of addressing loss and damage associated with the adverse impacts of climate change, especially in particularly vulnerable developing countries;

12. *Also invites* Parties to work through the United Nations and other relevant institutions, specialized agencies and processes, as appropriate, to promote coherence at all levels in approaches relevant to addressing loss and damage associated with the adverse effects of climate change, including extreme events and slow onset events;

13. *Further invites* Parties to strengthen and, where appropriate, develop institutions and networks at the regional and national levels, especially in particularly vulnerable developing countries, to enhance the implementation of relevant approaches to addressing loss and damage in a manner that is country-driven, encourages cooperation and coordination between relevant stakeholders and improves the flow of information;

14. *Requests* developed country Parties to provide developing country Parties with finance, technology and capacity-building, in accordance with decision 1/CP.16 and other

relevant decisions of the Conference of the Parties;

15. *Decides* to review the Warsaw international mechanism, including its structure, mandate and effectiveness, at the twenty-second session of the Conference of the Parties, with a view to adopting an appropriate decision on the outcome of this review;

16. *Takes* note of the budgetary implications of the activities to be undertaken by the secretariat pursuant to the provisions contained in this decision;

17. *Requests* that the actions of the secretariat called for in this decision be undertaken subject to the availability of financial resources.

DECISION 2/CP.20

COMPOSITION AND FUNCTIONS OF THE EXECUTIVE COMMITTEE

WARSAW INTERNATIONAL MECHANISM FOR LOSS AND DAMAGE ASSOCIATED WITH CLIMATE CHANGE IMPACTS

THE CONFERENCE OF THE PARTIES,

(...)

1. *Approves* the initial two-year workplan of the Executive Committee of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts;

2. *Notes* the useful inputs provided by Parties, observers and other organizations as part of the transparent, inclusive and participatory process of developing the initial two-year workplan of the Executive Committee;

3. *Reaffirms* the establishment of the Executive Committee of

the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts, under the guidance of, and accountable to, the Conference of the Parties, to guide the implementation of the functions of the Warsaw International Mechanism referred to in decision 2/CP.19, paragraph 5;

4. *Also reaffirms* the request to the Executive Committee to report annually to the Conference of the Parties through the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation and make recommendations, as appropriate;

5. *Decides* that the Executive Committee shall be composed of the following, taking into account the goal of gender balance pursuant to decision 23/CP.18:

a) Ten members from Parties included in Annex I to the Convention (Annex I Parties);

(b) Ten members from Parties not included in Annex I to the Convention (non-Annex I Parties), comprising two members each from the African, Asia-Pacific, and the Latin American and Caribbean States, one member from small island developing States, one member from least developed country Parties, and two additional members from non-Annex I Parties;

6. *Encourages* Parties to nominate to the Executive Committee experts with the diversity of experience and knowledge relevant to loss and damage associated with climate change impacts;

7. *Decides* that members shall serve for a term of two years and shall be eligible to serve a maximum of two consecutive terms of office, and that the following rules shall apply:

(a) Half of the members shall be elected initially for a term of three years and half of the members shall be elected for a term of two years;

(b) Thereafter, the Conference of the Parties shall elect

members for a term of two years;

(c) The members shall remain in office until their successors have been elected;

8. *Also decides* that the Executive Committee may establish expert groups, subcommittees, panels, thematic advisory groups or task-focused ad hoc working groups to help execute the work of the Executive Committee in guiding the implementation of the Warsaw International Mechanism, as appropriate, in an advisory role, and that report to the Executive Committee;

9. *Further decides* that decisions of the Executive Committee shall be taken by consensus;

10. *Decides* that the Executive Committee shall elect annually Co-Chairs from among its members to serve for a term of one year, with one being a member from an Annex I Party and the other being a member from a non-Annex I Party;

11. *Also decides* on other related provisions including:

(a) If one or both Co-Chairs are absent from a particular meeting, any other member designated by the Executive Committee shall temporarily serve as the Co-Chair or Chair of that meeting;

(b) If a Co-Chair is unable to complete the term of office, the Executive Committee shall elect a replacement to complete that term of office;

11. *Further decides* that the Executive Committee shall meet at least twice per year, while retaining its flexibility to adjust the number of meetings, as appropriate;

12. *Decides* that the Executive Committee shall convene its first meeting as soon as practical following the election of its members commencing at the twentieth session of the Conference of the Parties but no later than March 2015, and at its first meeting shall adopt its rules of procedure and begin

implementing its workplan;

13. *Also decides* that the meetings of the Executive Committee shall be open to attendance by admitted observer organizations, except where otherwise decided by the Executive Committee, with a view to encouraging a balanced regional representation of observers;

14. *Further decides* that the decisions and outputs of the Executive Committee shall be made publicly available on the UNFCCC website unless decided otherwise by the Executive Committee;

15. *Decides* that English shall be the working language of the Executive Committee;

16. *Also decides* that the secretariat shall support and facilitate the work of the Executive Committee, subject to the availability of resources.

DECISION 1/CP.21

DECISION ON THE ADOPTION OF THE PARIS AGREEMENT

LOSS AND DAMAGE

47. *Decides* on the continuation of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts, following the review in 2016;

48. *Requests* the Executive Committee of the Warsaw International Mechanism to establish a clearing house for risk transfer that serves as a repository for information on insurance and risk transfer, in order to facilitate the efforts of Parties to develop and implement comprehensive risk management strategies;

49. *Also requests* the Executive Committee of the Warsaw

International Mechanism to establish, according to its procedures and mandate, a task force to complement, draw upon the work of and involve, as appropriate, existing bodies and expert groups under the Convention including the Adaptation Committee and the Least Developed Countries Expert Group, as well as relevant organizations and expert bodies outside the Convention, to develop recommendations for integrated approaches to avert, minimize and address displacement related to the adverse impacts of climate change;

50. *Further requests* the Executive Committee of the Warsaw International Mechanism to initiate its work, at its next meeting, to operationalize the provisions referred to in paragraphs 48 and 49 above, and to report on progress thereon in its annual report;

51. *Agrees* that Article 8 of the Agreement does not involve or provide a basis for any liability or compensation;

DECISION 1/CP.21

PARIS AGREEMENT

ARTICLE 8

1. Parties recognize the importance of averting, minimizing and addressing loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events, and the role of sustainable development in reducing the risk of loss and damage.

2. The Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts shall be subject to the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to this Agreement and may be enhanced and strengthened, as determined by the

Conference of the Parties serving as the meeting of the Parties to this Agreement.

3. Parties should enhance understanding, action and support, including through the Warsaw International Mechanism, as appropriate, on a cooperative and facilitative basis with respect to loss and damage associated with the adverse effects of climate change.

4. Accordingly, areas of cooperation and facilitation to enhance understanding, action and support may include:

- (a) Early warning systems;
- (b) Emergency preparedness;
- (c) Slow onset events;
- (d) Events that may involve irreversible and permanent loss and damage;
- (e) Comprehensive risk assessment and management;
- (f) Risk insurance facilities, climate risk pooling and other insurance solutions;
- (g) Non-economic losses; and
- (h) Resilience of communities, livelihoods and ecosystems.

5. The Warsaw International Mechanism shall collaborate with existing bodies and expert groups under the Agreement, as well as relevant organizations and expert bodies outside the Agreement.

DECISION 4/CP.22

REVIEW OF THE WARSAW INTERNATIONAL MECHANISM

THE CONFERENCE OF THE PARTIES,

(...)

1. *Recommends* further guidance relevant to enhancing and strengthening the Warsaw International Mechanism for Loss

and Damage associated with Climate Change Impacts, having considered the mandate, structure and effectiveness of the Warsaw International Mechanism at the twenty-second session of the Conference of the Parties, as referred to in paragraphs 2–5 below;

2. *Also recommends* that:

- (a) There be a process to periodically review the Warsaw International Mechanism and that reviews take place no more than five years apart;
- (b) The next review be held in 2019, and that the periodicity of future reviews be decided at that time;
- (c) Future reviews of the Warsaw International Mechanism should consider, inter alia, progress on the implementation of the workplan of the Executive Committee of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts as well as its long-term vision that guides ways in which the Warsaw International Mechanism may be enhanced and strengthened, as appropriate;
- (d) The subsidiary bodies finalize terms of reference for each review of the Warsaw International Mechanism at least six months prior to the review being undertaken;
- (e) The subsidiary bodies take into consideration inputs and submissions from Parties and relevant organizations, as appropriate, when developing the terms of reference referred to in paragraph 2(d) above;
- (f) As an input to the review in 2019, a technical paper be prepared by the secretariat elaborating the sources of financial support, as provided through the Financial Mechanism, for addressing loss and damage as described in relevant decisions, as well as modalities for accessing such support;
- (g) The technical paper referred to in paragraph 2(f) above include an elaboration of finance available for addressing loss

and damage as described in relevant decisions, outside the Financial Mechanism, as well as the modalities for accessing it;

(h) The secretariat be assisted by the Executive Committee of the Warsaw International Mechanism in determining the scope of the technical paper referred to in paragraph 2(f) above, with a view to making the paper available to Parties by the fiftieth sessions of the subsidiary bodies (June 2019) for consideration in the review of the Warsaw International Mechanism;

3. *Recognizes* that the Executive Committee may enhance its effectiveness by prioritizing activities in thematic areas for further work;

4. *Recommends* that the following may advance the work of the Executive Committee:

(a) Enhancing collaboration, cooperation and partnerships with bodies, entities and work programmes, including the Paris Committee on Capacity-building, within and outside the Convention;

(b) Considering the establishment of, as appropriate, additional expert groups, subcommittees, panels, thematic advisory groups or focused working groups to assist it in conducting its work and supporting its efforts to enhance action and support for loss and damage as provided for in decision 2/CP.19, paragraph 5(c)(i–iii);

(c) Improving access to, and interaction with, relevant scientific and technical panels, bodies and expertise available to the Warsaw International Mechanism, its Executive Committee and substructures over time, including by, inter alia, inviting relevant organizations at all levels and scientific research organizations with expertise in science relevant to loss and damage to ensure that the best available science is highlighted in the work of the Warsaw International Mechanism;

(d) Inviting interested Parties to establish a loss and damage

contact point through their respective UNFCCC national focal point, with a view to enhancing the implementation of approaches to address loss and damage associated with the adverse impacts of climate change at the national level;

5. *Invites* the Paris Committee on Capacity-building, within the scope of its workplan, to consider a future theme on addressing loss and damage;

6. *Requests* that the actions of the secretariat called for in this decision be undertaken subject to the availability of financial resources.

DECISION 5/CP.23

FURTHER GUIDANCE TO THE EXECUTIVE COMMITTEE

WARSAW INTERNATIONAL MECHANISM FOR LOSS AND DAMAGE ASSOCIATED WITH CLIMATE CHANGE IMPACTS

THE CONFERENCE OF THE PARTIES,
(...)

Noting the concerns raised by Parties on the increasing frequency and severity of climate-related disasters that have affected many countries, including heatwaves, drought, floods, tropical cyclones, dust storms and other extreme weather events, as well as the increasing impacts associated with slow onset events, and the urgent need to avert, minimize and address these impacts through comprehensive risk management approaches: inter alia, through early warning systems, measures to enhance recovery and rehabilitation and build back and forward better, social protection instruments,

including social safety nets, and transformational approaches,

1. *Welcomes* the report of the Executive Committee of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts;

2. *Also welcomes* the progress made by the Executive Committee in implementing its initial two-year workplan and operationalizing the clearing house for risk transfer and the task force on displacement pursuant to decision 1/CP.21, paragraphs 48 and 49;

3. *Expresses* its appreciation to Parties, bodies and organizations for supporting the work of the Executive Committee, including through partnerships and collaboration, and encourages them to enhance their efforts in this regard;

4. *Notes* the flexible five-year rolling workplan of the Executive Committee, which enables the timely consideration of cross-cutting issues and current, urgent and emerging needs;

5. *Also notes* that the Executive Committee will evaluate progress made towards implementing its five-year rolling workplan in 2020 and at regular intervals at subsequent meetings of the Executive Committee;

6. *Requests* the Executive Committee to include in its annual reports, as appropriate, more detailed information on the work undertaken by its expert groups, subcommittees, panels, thematic advisory groups and task-focused ad hoc working groups on, to the extent possible, issues of relevance to the regional and national context as identified by Parties in their submissions;²

7. *Welcomes* the plan of the task force on displacement referred to in paragraph 2 above to convene a meeting in May 2018 on all areas of its work, which will include wide consultations with stakeholders to ensure regional coverage;

8. *Invites* the task force on displacement referred to in paragraph

2 above to take into consideration both cross-border and internal displacement, in accordance with its mandate, when developing recommendations for integrated approaches to averting, minimizing and addressing displacement related to the adverse impacts of climate change;³

9. *Requests* the secretariat, under the guidance of the Executive Committee and the Chair of the Subsidiary Body for Implementation, to organize, in conjunction with the forty-eighth sessions of the subsidiary bodies (April–May 2018), an expert dialogue to explore a wide range of information, inputs and views on ways for facilitating the mobilization and securing of expertise, and enhancement of support, including finance, technology and capacity-building, for averting, minimizing and addressing loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events, with a view to informing the preparation of the technical paper referred to in paragraph 2(f) of decision 4/CP.22;

10. *Invites* Parties, observers and other stakeholders to submit, by 15 February 2018, their views in the context of activity 1(a) of strategic workstream (e) of the five-year rolling workplan of the Executive Committee;

11. *Requests* the secretariat to prepare a report on the expert dialogue referred to in paragraph 9 above for consideration by the Executive Committee at its second meeting in 2018;

12. *Invites* Parties, relevant organizations and other stakeholders to submit to the secretariat, by 1 February 2019, their views and inputs on possible elements to be included in the terms of reference for the review of the Warsaw International Mechanism referred to in decision 4/CP.22, paragraph 2(d), taking into account the outcomes of the implementation of the work of the Executive Committee, for consideration by the

subsidiary bodies at their sessions to be held in June 2019;

13. *Encourages* Parties to actively engage in the work and to disseminate, promote and make use of the products of the Warsaw International Mechanism and its Executive Committee, including by:

(a) Establishing a loss and damage contact point through their respective UNFCCC national focal point referred to in decision 4/CP.22, paragraph 4(d);

(b) Participating in the meetings of the Executive Committee as observers, recognizing the constraints of time and resources;

(c) Incorporating or continuing to incorporate the consideration of extreme weather events and slow onset events, non-economic losses, climate change impacts on human mobility, including migration, displacement and planned relocation, and comprehensive risk management into relevant policy, planning and action, as appropriate, and encouraging relevant bilateral and multilateral entities to support such efforts;

14. *Reiterates* its invitation to constituted bodies under the Convention, as appropriate, to continue to integrate into their work efforts to avert, minimize and address loss and damage associated with the adverse effects of climate change in developing countries that are particularly vulnerable to the adverse effects of climate change, vulnerable populations and the ecosystems that they depend on;

15. *Invites* United Nations and other relevant institutions, specialized agencies and other entities, the research community, civil society and the private sector, as appropriate, to strengthen cooperation and collaboration, including through partnerships, with the Executive Committee on topics related to averting, minimizing and addressing loss and damage associated with the adverse effects of climate change,

including extreme weather events and slow onset events;

16. *Also invites* relevant research institutions and organizations to share, as appropriate, their data and key findings on slow onset events with the Executive Committee, including at events organized by the Executive Committee, with a view to enhancing knowledge and understanding of slow onset events;

17. *Reaffirms* that the Executive Committee may enhance its effectiveness by prioritizing activities in thematic areas for further work;

18. *Encourages* the Executive Committee to seek further ways to enhance its responsiveness, effectiveness and performance by improving the planning and organization of its work, including in the context of operations of its expert groups, subcommittees, panels, thematic advisory groups and task-focused ad hoc working groups, such as appropriate balanced representation, expertise of membership in accordance with the tasks, and the duration of the mandates of those expert groups, subcommittees, panels, thematic advisory groups and task-focused ad hoc working groups;

19. *Requests* the Executive Committee, in accordance with its mandate⁵ and the report referred to in paragraph 1 above:

(a) To consider, when updating its five-year rolling workplan, cross-cutting issues and current, urgent and emerging needs related to extreme weather events and slow onset events, including but not limited to drought and floods, in developing countries that are particularly vulnerable to the adverse effects of climate change, vulnerable populations and the ecosystems that they depend on;

(b) To enhance its efforts in ensuring that information generated from its work is converted into user-friendly products, such as tools and methods, and material for training modules, with a view to enhancing the coherence and

effectiveness of relevant efforts undertaken at the regional and national levels, as appropriate;

(c) To consider, through collaboration and partnerships, the development and the dissemination at all levels of user-friendly information and communication products on averting, minimizing and addressing loss and damage issues of relevance to the regional and national context;

20. *Encourages* the Executive Committee to collaborate with other bodies under the Convention and the Paris Agreement within the scope of their respective mandates and to continue considering ways for facilitating the mobilization and securing of expertise, and enhancement of support, including finance, technology and capacity-building, including its work on enhancing action and support, and when considering the composition and mandates of its expert groups and those it may establish;

21. *Reiterates* its encouragement to Parties to make available sufficient resources for the successful and timely implementation of the work of the Executive Committee and its expert groups, subcommittees, panels, thematic advisory groups and task-focused ad hoc working groups;

22. *Invites* relevant organizations, as appropriate, to further mobilize resources, including expertise and tools, through a wide variety of instruments, channels and partnerships, for actions related to averting, minimizing and addressing loss and damage associated with climate change impacts;

23. *Takes note* of the estimated budgetary implications of the activities to be undertaken by the secretariat pursuant to the provisions contained in paragraphs 4–20 above;

24. *Requests* that the actions of the secretariat called for in this decision be undertaken subject to the availability of financial resources.

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