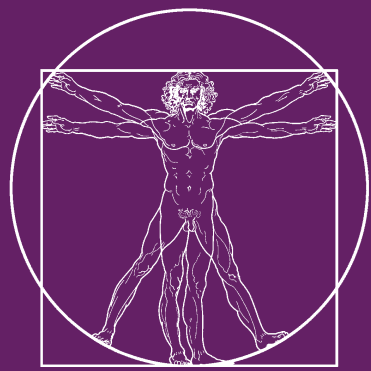


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UNDER THE UNFCCC



ecbi

2023 EDITION

# POCKET GUIDE ON LOSS AND DAMAGE

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UNDER THE UNFCCC

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## FOREWORD

For over 15 years, ecbi has adopted a two-pronged strategy to create a more level playing field for developing countries in the intergovernmental climate change process under the UN Framework Convention on Climate Change (UNFCCC), namely: training for new negotiators; and opportunities for senior negotiators from developing countries and European countries 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. ecbi also organises seminars in Oxford before the annual meetings of the Conference of the Parties (COPs) to the UNFCCC, as well as in Bonn during the meetings of the Subsidiary Bodies, both of which focus on topics being discussed in the climate negotiations.

Importantly, we help negotiators build their analytical capacities through our publications, which are authored by experts on the issues the publications are addressing. These include pocket guides, policy briefs, and discussion notes.

ecbi published its first Pocket Guide on the Paris Agreement, following its adoption in 2015. It proved to be so popular with both novice and seasoned negotiators that we decided to develop a series of thematic guides. The guides aim to provide negotiators with: a brief history of the negotiations on the relevant topic; a reference to the key decisions; and a brief analysis of outstanding issues from a developing country perspective. The guides are updated regularly, with online versions that include hyperlinks to help the reader access the referenced materials quickly.

This Pocket Guide on Loss and Damage updates the previous guide that was published in 2018, discussing developments in the negotiations

since then, including the historic decision taken at COP 27 in Sharm el-Sheikh to establish a fund and funding arrangements for loss and damage; and the formal establishment of the fund at COP 28 in Dubai. The fund has already garnered pledges from a range of countries. We hope you will find this Pocket Guide useful and include it in your armoury of information to help advance on the issue of Loss and Damage.

Benito Müller  
Director, ecbi

## WHAT IS LOSS AND DAMAGE?

While loss and damage related to climate change has not been formally defined under the United Nations Framework Convention on Climate Change (UNFCCC),<sup>1</sup> loss and damage is most often conceptualised as climate change impacts that are not or cannot be avoided through mitigation and adaptation: irreversible or residual impacts where adaptation is no longer possible.<sup>2</sup>

Loss and damage occurs as a result of both slow onset events and extreme weather events. Slow onset events include sea level rise, increasing temperatures, ocean acidification, glacial retreat and related impacts, salinisation, land and forest degradation, biodiversity loss, and desertification.<sup>3</sup> Extreme weather events include tropical cyclones, heavy rainfall, heatwaves, drought and associated wildfires, and coastal flooding.<sup>4</sup>

Loss and damage refers to both economic and non-economic losses, which refer to a range of harmful impacts that are not easily quantified, particularly in financial terms.<sup>5,6</sup> Examples of **economic loss and damage** include the destruction of property like buildings and cars, loss of livelihood assets like crops and livestock, and the economic impact of lost productivity due to damaged infrastructure such as roads and power systems.

**Non-economic loss and damage** (NELD) is more difficult to measure and includes loss of life, health, territory, cultural heritage, sense of place, agency, identity, Indigenous and local knowledge, and biodiversity and ecosystem services.<sup>7</sup> It also includes psychological and mental health issues associated with climate change.<sup>8</sup>

Distinctions have also been made between:

- loss and damage that is avoided (avoided loss and damage);
- loss and damage that is not, but could have been, avoided through greater mitigation and adaptation efforts (unavoided avoidable loss and damage); and

- loss and damage which cannot be avoided (unavoided unavoidable loss and damage).<sup>9</sup>

This framing highlights the fact that significant potential exists to avoid loss and damage by increasing mitigation ambition and enhancing adaptation efforts. Loss and damage is, therefore, sometimes also referred to as the “residual impacts” or “residual costs” of climate change not avoided by mitigation and adaptation.<sup>10</sup>

The [Synthesis Report of the Intergovernmental Panel on Climate Change’s Sixth Assessment Report \(IPCC AR6\)](#) defines loss and damage as “the political debate under the UNFCCC to address loss and damage associated with climate change impacts, including extreme events and slow onset climatic processes, in developing countries that are particularly vulnerable to the adverse effects of climate change”.<sup>11</sup>

The question of how the international community should deal with loss and damage is, therefore, fundamental for developing countries, especially as the science is clear that manmade climate change and its impacts are accelerating faster than anticipated.



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

The main venue for addressing loss and damage at the international level is under the **UNFCCC**, which has the overarching objective of stabilising 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”.<sup>12</sup> Mitigation efforts are the primary way of avoiding loss and damage, while adaptation efforts help minimise it: the lower the mitigation ambition and adaptation efforts, the greater the risk of loss and damage. Increasing mitigation ambition will not only avoid and minimise loss and damage in the long run, but it will also reduce the cost of adaptation. Monitoring loss and damage, therefore, provides a measure of the overall effectiveness of global climate action.

In the **Paris Agreement**, Parties agreed to undertake collective efforts to keep global average temperature rise to below 2°C and to do their utmost to limit the increase in global average temperature to 1.5°C.<sup>13</sup> However, the most recent **IPCC report** warns that the world is not on track to fulfil these objectives. It underscores the urgent need for rapid, deep, and sustained mitigation and adaptation measures to address escalating global warming. Failure to do so, it warns, will result in continuing and disproportionate loss and damage, particularly impacting the poorest and most vulnerable communities. That said, the IPCC maintains that even with mitigation and adaptation, there will still be “residual impacts” or loss and damage.<sup>14</sup> Developing countries succeeded in including a stand-alone article on loss and damage associated with the adverse effects of climate change in the Paris Agreement, thus formally distinguishing the issue from adaptation.

In addition to mitigation and adaptation efforts, support to enhance such efforts in developing countries, including finance, technology transfer, and capacity building, is crucial. Climate change is already responsible for USD 143 billion in costs associated with extreme events every year.<sup>15</sup> As the effects of climate change intensify, the numbers are likely to increase, with a minimum of USD 400 billion per year likely needed to address loss and damage.<sup>16</sup>

Examples of climate impacts in recent years abound. In 2017, 41 million people **lost their homes** in Bangladesh, India, and Nepal when floods hit South Asia.<sup>17</sup> That same year, the **Caribbean region was ravaged** by no less than ten hurricanes, inflicting significant damage on islands – for instance, 99% of buildings were destroyed in Barbuda and 60% of the population became homeless in the wake of Hurricane Irma.<sup>18</sup> A week later, a second Category 5 hurricane devastated Dominica, claiming over 25 lives and severely damaging more than 80% of the housing sector.<sup>19</sup> This was only two years after losses and damages from **tropical storm Erika** were estimated to be 90% of Dominica's GDP.

From 2015-2017, **countries in the Pacific suffered from a shortage of water** due to a lack of rainfall.<sup>20</sup> Food security was threatened in the Solomon Islands, when crops were hit by floods, drought, and cyclones.<sup>21</sup> Meanwhile, in the Horn of Africa, **severe drought** has rendered millions of people food insecure (including 8.5 million in Ethiopia alone) and displacing two million people.<sup>22</sup>

More recently, in 2019, **Cyclone Idai struck southern Africa**, damaging over 100,000 homes, displacing 146,000 people, and destroying more than one million acres of crops. The damage to infrastructure was estimated at USD 1 billion. Malawi faced **Tropical Storm Ana** in early 2022, followed by **Tropical Cyclone Freddy** in March 2023, with the latter causing estimated production losses equivalent to USD 36.4 million (about 0.5% of Malawi's GDP).<sup>23</sup> In April 2022, significant loss and damage was incurred when heavy rainfall hit **South Africa**, leading to an estimated USD 28 million in economic damages.

In 2022, Pakistan faced severe flooding due to heavy monsoon rains, affecting more than 33 million people, submerging one-third of the country, and incurring damages worth USD 14.9 billion and economic losses of USD 15.2 billion. In 2023, Northern Libya experienced severe devastation due to flooding caused by heavy rainfall, resulting in the loss of over 4000 lives and significant economic damage. Scientists have reported that the likelihood of such a flood occurring is up to 50 times higher in a world affected by human-caused climate change compared to a world without it. And the list goes on.

While some of these losses and damages could have been averted and minimised through mitigation and adaptation, the limits of adaptation are already being reached in some parts of the world.<sup>24</sup> The IPCC AR6 differentiates between soft limits to adaptation, where adaptation options are currently not available but may become available in the future, and hard limits, where adaptation is no longer possible. Evidence of reaching hard adaptation limits has, for example, 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. A study in the region found that the loss in rice yields due to salinisation in three villages alone was estimated to be USD 1.9 million for 2009-2011. Some of the poorest households lost 74% of their income during that period.<sup>25</sup> 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.<sup>26</sup>

Loss and damage is also linked to development issues. A study in Kenya found that when faced with loss and damage, many households adopt erosive coping strategies, which means selling assets for short-term gains and, in turn, making them more vulnerable to future climate impacts.<sup>27</sup> Loss and damage compromises developing countries' development gains

and also constrains the capacity of countries and households to respond to loss and damage.

The economic loss and damage that vulnerable countries have experienced continues to increase. Several estimates exist on potential future costs of loss and damage, although they vary considerably. In 2015, a [UNEP report](#) estimated that the annual costs of loss and damage for Africa alone would reach USD 100 billion per year by 2050 with a below 2°C warming scenario, even with cost-effective adaptation, and double that with warming of 4°C.<sup>28</sup> A [2019 report](#) published by the International Institute for Environment and Development (IIED) revealed that rural households in Bangladesh spend almost USD 2 billion annually on measures aimed at repairing and preventing climate change damage.<sup>29</sup>

Another report, commissioned by the [Climate Action Tracker](#), estimated that the cost of economic damage from climate change in developing countries could reach USD 428 billion annually by 2030 and USD 1.67 trillion by 2050 if average global temperatures rise by 3°C.<sup>30</sup> If temperatures rise by 2°C, annual costs could be USD 399 million by 2030, and USD 1.07 trillion by 2050.<sup>31</sup> The estimated costs for each decade from 2020 range from 116 to 435 billion USD in 2020, and are projected to increase to between: USD 290 and USD 580 billion by 2030, USD 551 and USD 1,016 billion in 2040, and USD 1,132 and USD 1,741 billion in 2050.<sup>32</sup> However, this does not account for NELD..<sup>33</sup>

Permanent and irreversible loss and damage is particularly concerning for small island developing states (SIDS),<sup>34</sup> which could, in some cases, lose their entire territory due to sea level rise. For example, residents of seven atolls in the Carteret Islands in Papua New Guinea have already lost 50% of their land since 1994, forcing some families to move to Bougainville Island some 80 km away. Other SIDS, such as Tuvalu, Nauru, and Kiribati, have been similarly affected.<sup>35</sup> With respect to the latter, a rise of just one metre in sea level could inundate two-thirds of the country and force communities to relocate.<sup>36</sup> To address this risk, the Government of Kiribati [purchased land](#) on Vanua Levu, Fiji's second largest island, in 2014

at a cost of USD 8.77 million in anticipation that its entire population of 100,00, spread over 33 islands, may need to relocate due to impacts of sea level rise.<sup>37</sup> 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 be unable to bear on its own.

As described above, developing countries face debilitating losses from climate impacts and addressing the loss of ecosystems, livelihoods, and statehood, among other impacts,<sup>38</sup> which they cannot possibly bear on their own. Thus, more mitigation and increased support for adaptation are needed to ensure loss and damage is avoided and minimised to the greatest extent possible. In addition, approaches are needed to help them address unavoidable loss and damage.

## HOW HAS LOSS AND DAMAGE EVOLVED UNDER THE UNFCCC?

Discussions on loss and damage emerged as far back as the negotiations that resulted in the adoption of the UNFCCC in 1992. In 1991, 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.<sup>39</sup> 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 of the Convention**:

*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 ...*<sup>40</sup>

Following the adoption of the UNFCCC, negotiations initially focused on mitigation and led to the adoption of the Kyoto Protocol in 1997. In 2001, at **COP 7** in Marrakech, insurance came up again, when the COP 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.*”<sup>41</sup> However, while no decision was adopted on insurance at COP 8 in Delhi in 2002, **two workshops** explored the issue in 2003 and a **background paper** considered insurance-related actions and risk assessment in the context of the UNFCCC.<sup>42</sup> In subsequent years, calls were made to further explore the idea of an insurance mechanism, with at least one call for compensation

for the impacts of climate change; however, again, nothing substantial arose from these requests.<sup>43</sup>

It was not until **COP 13** in Bali, in 2007, that the term “loss and damage” explicitly appeared in a COP decision. It was in the context of calls for enhanced action on adaptation:

*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.*<sup>44</sup>

In response to a call for submissions on implementation of the **Bali Action Plan** that was adopted at COP 13, AOSIS submitted a **proposal** for a multi-window mechanism to address loss and damage from the adverse impacts of climate change.<sup>45</sup> The proposed mechanism consisted of three inter-dependent components:

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

AOSIS tabled this proposal during negotiations for a legally binding agreement that was expected to be agreed at COP 15 in Copenhagen in 2009. The African Group of Negotiators also addressed loss and damage in its proposal.<sup>46</sup> However, COP 15 failed to adopt a legally binding agreement.

In the wake of the failure of the Copenhagen conference to deliver a successful outcome, the next opportunity to address loss and damage came in 2010 at **COP 16** in Cancún, where Parties agreed to establish a work programme to consider approaches to address loss and damage in developing countries particularly vulnerable to the impacts of climate change.<sup>47</sup> 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:<sup>48</sup>

- 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; and
- The role of the UNFCCC in enhancing the implementation of approaches to address loss and damage.

At COP 17 in Durban, Parties agreed that an international mechanism was a possible modality for addressing loss and damage. In 2012, at COP18 in Doha, discussions focused on the UNFCCC's role in addressing loss and damage, which Parties eventually agreed was to:<sup>49</sup>

- 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.

In addition, it was decided that institutional arrangements – including an international mechanism – would be established at COP 19 to help the UNFCCC carry out these functions.<sup>50</sup>



## ► WARSAW INTERNATIONAL MECHANISM

One of the key issues discussed at COP 19, which convened in Warsaw in 2013, was whether loss and damage was part of adaptation or beyond adaptation. In the end, Parties reached a compromise that recognises the synergies with adaptation but acknowledges that loss and damage involves more than adaptation can address.<sup>51</sup>

Following two weeks of intense negotiations, the *Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts* (WIM) was established with the mandate to “*address loss and damage associated with the impacts of climate change in developing countries particularly vulnerable to the adverse effects of climate change, in a comprehensive, integrated and coherent manner.*”

The WIM is overseen by an *Executive Committee* or ExCom, whose official mandate is to guide implementation of the WIM. The Committee is comprised of 20 members: ten from Annex I (developed) countries and ten from non-Annex II (developing) countries. The ExCom meets twice a year to discuss implementation of its workplan.

The WIM, whose functions are elaborated in Box 1, is periodically reviewed and has, thus far, been reviewed twice: once in 2016 and again in 2019. In the context of the *first review*, developing countries called for more focus on its third function: enhancing action and support. In the outcome of the review, Parties recommended, among others: strengthening collaboration with other bodies and entities both within and outside the UNFCCC; and including a strategic workstream on enhancing action and support in the ExCom’s initial *five-year rolling workplan*.<sup>52</sup>

Parties also agreed that the implementation of activities, which were not concluded under the ExCom’s initial two-year workplan, would be taken up in its subsequent *five-year rolling workplan*.<sup>53</sup> This workplan featured five strategic workstreams:

- Slow onset events;
- Non-economic losses;

**BOX 1: Functions of the WIM**

The functions of the WIM, as laid out in [Decision 2/CP.19](#), are:

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 undertaking 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, 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.<sup>106</sup>

- Comprehensive risk management approaches (including assessment, reduction, transfer, and retention);
- Human mobility, including migration, displacement, and planned relocation; and
- Action and support, including finance, technology, and capacity building, to address climate-related loss and damage.

The **five-year workplan**, endorsed by Parties at COP 23 in 2017, identified concrete activities to be implemented in 2018 and 2019 and outlined priority activities to be implemented from 2019 to 2021. A COP 23 decision also gave the ExCom the flexibility to prioritise activities, include emerging issues, and enable the consideration of timely issues and emerging and urgent needs.<sup>54</sup>

In addition, the ExCom has the mandate to develop expert groups, sub-committees, panels, thematic advisory groups, and task-focused ad hoc working groups to help guide implementation of the WIM.<sup>55</sup> These include:

- an Expert Group on Slow Onset Events;
- an Expert Group on Non-economic Losses;
- an Expert Group on Action and Support;
- a Task Force on Displacement; and
- a Technical Expert Group on Comprehensive Risk Management.

The ExCom also established a clearing house for risk transfer, which COP 21 requested and which was launched as the **Fiji Clearing House for Risk Transfer** at COP 23 to serve as “a repository for information on insurance and risk transfer, to facilitate the efforts of Parties to develop and implement comprehensive risk management strategies.”

The **second WIM review** took place at COP 25 in 2019 in Madrid where, once again, developing countries called for **more focus on enhancing action and support**. The outcome of this review included several provisions to strengthen the WIM and its capacity to deliver on on

its mandate and requested the ExCom to collaborate more effectively with the Standing Committee on Finance (SCF).<sup>56</sup>

An analysis of the ExCom's work found that progress has been made in various thematic areas. However, the research also identified a delay in implementing the activities outlined in the initial two-year and five-year workplans.<sup>57</sup> At COP 27 in 2022, a second five-year rolling workplan was approved to be implemented between 2023 and 2027. The three primary functions will continue to serve as the overarching foundation for the ExCom's work and its five thematic expert groups.<sup>58</sup>

At COP 28, Parties adopted a [report of the ExCom](#)<sup>59</sup>, which provides details on its activities between October 2022 and August 2023. It covers, for example, organisational and procedural matters, including meetings and events related to the ExCom and its thematic expert groups. The report additionally highlights a number of recommendations for the ExCom to carry out its work going forward, including by “considering ways to collaborate with the entities that form part of the funding arrangements, including a fund, established in paragraphs 2–3 of decisions 2/CP.27 and 2/CMA.4 and to report on the outcomes of that consideration in its annual reports”. In the lead up to and at COP 29, Parties are expected to consider issues related to the WIM governance.

## ► A STAND-ALONE ARTICLE IN THE PARIS AGREEMENT

In the run up to COP 21 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 believed the agreement needed to explicitly address loss and damage. In the end and, for the first time, loss and damage was treated separately from adaptation and featured in 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.

While the *Paris Agreement* does not include provisions for *support for loss and damage*, developing countries pointed out that relying on adaptation finance to respond to loss and damage would further deplete an already meagre adaptation pot. Thus Article 8.3 of the Agreement does recognise the importance of enhancing action and support.

In addition, 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 COP serving as the meeting of the Parties to the Paris Agreement (CMA). The entry into force of the Paris Agreement opened up the question of whether guidance from the CMA or the COP would take precedence in the governance of the WIM. In the absence of an agreed approach, decisions on the WIM are to be adopted with the understanding that they do not prejudice outcomes on matters related to the WIM's governance.

## ► SANTIAGO NETWORK ON LOSS AND DAMAGE

The second review of the WIM in 2019 also led to the establishment of the *Santiago Network on Loss and Damage* to catalyse the technical assistance of relevant organisations, bodies, networks and experts (OBNEs) for the implementation of relevant approaches for averting, minimising, and addressing loss and damage at the local, national, and regional levels in developing countries that are particularly vulnerable to the adverse effects of climate change.<sup>60</sup> This was partly in response to developing countries' call for more focus on the third function of the WIM: enhancing action and support, including finance, technology, and capacity building. The Santiago Network was dubbed by some as the technical implementation arm of the WIM.

In 2021, at COP 26, Parties agreed on the *functions of the Santiago Network* (see Box 2).

## Box 2: Functions of the Santiago Network

The functions of the Santiago Network, detailed in Decision 19/CMA.3, are as follows:

- a. Contributing to the effective implementation of the functions of the WIM, in line with the provisions in paragraph 7 of decision 2/CP.19 and Article 8 of the Paris Agreement, by catalysing the technical assistance of organizations, bodies, networks and experts;
- b. Catalysing demand-driven technical assistance including of relevant OBNEs, for the implementation of relevant approaches to averting, minimizing and addressing loss and damage in developing countries that are particularly vulnerable to the adverse effects of climate change by assisting in:
  - i. Identifying, prioritizing and communicating technical assistance needs and priorities;
  - ii. Identifying types of relevant technical assistance;
  - iii. Actively connecting those seeking technical assistance with best suited organizations, bodies, networks and experts; and
  - iv. Accessing technical assistance available including from such organizations, bodies, networks and experts;
- c. Facilitating the consideration of a wide range of topics relevant to averting, minimizing and addressing loss and damage approaches, including but not limited to current and future impacts, priorities, and actions related to averting, minimizing, and addressing loss and damage pursuant to decisions 3/CP.18, and 2/CP.19, the areas referred to in Article 8, paragraph 4, of the Paris Agreement and the strategic workstreams of the five-year rolling workplan of the Executive Committee;
- d. Facilitating and catalysing collaboration, coordination, coherence and synergies to accelerate action by organizations, bodies, networks and experts, across communities of practices, and for them to deliver effective and efficient technical assistance to developing countries;
- e. Facilitating the development, provision and dissemination of, and access to, knowledge and information on averting, minimizing and addressing loss and damage, including comprehensive risk management approaches, at the regional, national and local level; and
- f. Facilitating, through catalysing technical assistance, of organizations, bodies, networks and experts, access to action and support (finance, technology and capacity building) under and outside the Convention and the Paris Agreement, relevant to averting, minimising and addressing loss and damage associated with the adverse effects of climate change, including urgent and timely responses to the impacts of climate change.

At COP 27/CMA 4, Parties agreed on the following structure for the Network:

- a hosted secretariat to facilitate the Network's work, with the host to provide the necessary administrative and infrastructure support for its effective functioning;
- an advisory board to provide guidance and oversight to the Network; and
- a network of member OBNEs covering a wide range of topics relevant to averting, minimising, and addressing loss and damage.

Parties also set out the roles and responsibilities of the Network's secretariat and advisory board and other details, including the criteria to be used to select the host of the secretariat and the advisory board members.

In response to the call for proposals to host the Network's secretariat, the Caribbean Development Bank, as well as a consortium of the United Nations Office for Disaster Risk Reduction (UNDRR) and the United Nations Office for Project Services (UNOPS), expressed their interest. Both proposals were found satisfactory according to the evaluation criteria, although the [evaluation report](#) highlighted that each proposal had its own distinct strengths and weaknesses. At SB 58 in June 2023, Parties could not agree on recommending a host, leading discussions to continue at COP 28 in December 2023 in Dubai.<sup>61</sup>

At COP 28, Parties selected UNDRR and UNOPS to jointly host the secretariat of the Santiago Network for an initial five-year term, with five-year renewal periods thereafter. The decision to establish and select the host of the Network's secretariat was a crucial step in providing the technical assistance needed to address loss and damage in those developing countries that are on the frontlines of climate change. Parties also agreed on a Memorandum of Understanding between the COP and the CMA and UNDRR/UNOPS, as joint host of the secretariat.

Going forward, the Santiago Network is expected to choose the headquarters for its secretariat, select members of its Advisory Board,

secure more finance for its operations and delivery of much-needed technical assistance, and ensure that a diverse range of OBNES at the local, national, and regional levels actively participate and contribute to its work.

## ► LOSS AND DAMAGE FINANCE

At COP 26 in Glasgow, AOSIS, supported by the G-77 and China, the largest intergovernmental coalition in the UN system consisting of 134 developing countries, proposed establishing a “loss and damage finance facility,” which would have a mandate to provide finance for vulnerable developing countries to address loss and damage. However, there was no agreement on this due to push back from developed countries.

As a compromise, Parties decided to establish the “Glasgow Dialogue on loss and damage” to bring Parties, relevant organisations, and stakeholders together to discuss funding arrangements for activities to address loss and damage.<sup>62</sup> During the [first session of the Dialogue in June 2022](#), participants shared their experiences, good practices, challenges, and lessons learned from existing climate finance arrangements and funds to better comprehend and analyse how support is and can be responsive to the implementation of strategies to address loss and damage in developing countries.

Prior to COP 27, developed countries had been advocating for a “financial arm” for the WIM, possibly by establishing a “loss and damage window” under the Green Climate Fund (GCF), which, they argued, already provided support for projects related to loss and damage. This also raised the concern that calls for establishing other specialised windows would ensue.

At COP 27 in Sharm el-Sheikh, Parties adopted the historic decision to establish a dedicated fund and new funding arrangements for loss and damage. The decision is broadly viewed as the key outcome of the conference and developing countries consider it a long-overdue step, following many years of advocacy on the issue.



To provide recommendations on operationalising the fund and funding arrangements, a **Transitional Committee** was established with a mandate to consider, among others:

- Establishing institutional arrangements, modalities, structure, governance and terms of reference for the fund;
- Defining the elements of the new funding arrangements;
- Identifying and expanding sources of funding; and
- Ensuring coordination and complementarity with existing funding arrangements.

Another **decision** stated that the second Glasgow dialogue in June 2023, would focus on operationalisation of the new funding arrangements and fund and inform the work of the Transitional Committee.<sup>63</sup>

The Transitional Committee convened throughout 2023, with a tight deadline for completing its work by COP 28. Composed of 24 members from both developing and developed countries, the Committee received assistance from a Technical Support Unit, comprised of technical experts from the UNFCCC Secretariat and international organisations, to effectively carry out its responsibilities. Additionally, in September 2023, **ministerial consultations** convened at UN Headquarters to discuss financing arrangements for addressing loss and damage, with the objective of gathering political backing for the further exploration and comprehension of potential outcomes at COP 28 in Dubai.

As the Transitional Committee could not agree on recommendations by the end of its fourth meeting, an additional meeting was scheduled in early November 2023 to iron out remaining unresolved issues ahead of COP 28, where the modalities for the fund and funding arrangements were expected to be adopted. Key contentious issues throughout the discussions related to: who pays into the fund; who would host the fund; and who would be eligible to receive support.

Eventually, a compromise was struck to recommend, among others:

- urging developed countries to continue to provide support and encouraging other Parties to provide, or continue to provide support, on a voluntary basis, for activities to address loss and damage;
- inviting financial contributions with developed countries continuing to take the lead;
- ensuring that the fund can receive contributions from a wide variety of sources;
- that the fund be hosted by the World Bank on an interim basis;
- ensuring that Parties which are not members of the World Bank are able to access the fund without requiring decisions or waivers from the World Bank Board of Directors;
- that developing countries that are particularly vulnerable to the adverse effects of climate change are eligible to receive resources from the fund; and
- that the fund's board will develop and operate a dynamic resource allocation system, considering, among others, the scale of impacts, safeguards against overconcentration of support, and a minimum percentage allocation floor for least developed countries and SIDS.<sup>64</sup>

Following months of intense talks throughout 2023 among Transitional Committee members and other participants including observers, the Committee's recommendations were forwarded to COP 28/CMA 5 in Dubai and were adopted on the first day of the meeting. Several countries also committed a total of USD 661.39 million to fill the fund.

At COP 28, many participants, particularly those from developing countries and civil society organisations, stressed that though these pledges are welcome, they were insufficient compared to what is needed to address both economic and non-economic loss and damage on the ground. For example, considering the suggestion made by some researchers in 2022, they emphasised the need for at least USD 400 billion per year to address loss and damage. Also through the discussions during the many negotiations that took place in 2023 and particularly at COP 28, developed

countries stressed their understanding that all support for addressing loss and damage and funding was to be made on a purely voluntary basis.

Furthermore, in the decision, Parties agreed to nominate the **board members** before the end of January 2024. The board of the Loss and Damage Fund is expected to convene its first meeting by end of January 2024. Another next step is to create the institutional arrangements of the Fund to begin delivering finance to developing countries to implement their projects to address loss and damage on the ground. In addition, more pledges are needed to ensure that the Fund has the hundreds of billions instead of millions required to ensure the availability of adequate finance that meets the needs of vulnerable communities.

## ► OTHER ISSUES UNDER THE UNFCCC OF RELEVANCE TO LOSS AND DAMAGE

### ***Global Stocktake***

COP 28 concluded the first-ever Global Stocktake (GST), which was established to take stock of collective progress toward achieving the goals of the Paris Agreement every five years, including, among others, the goal of limiting global temperature rise to 1.5°C. Initially, the GST was focused on mitigation, adaptation, and means of implementation and support. However, at COP 24, Parties decided to expand its scope to include considerations of social and economic consequences, impacts of response measures, and actions needed to avert, minimise, and address loss and damage.

A **technical dialogue** (TD) of the first GST included three meetings in the lead up to COP 28, which were intended to develop a shared understanding of the latest information on implementation of the Paris Agreement and progress towards achieving its goals, based on the best available scientific information. During this TD process, a range of stakeholders including civil society organisations and several developing countries called for including loss and damage in the first GST as a third pillar of climate action alongside mitigation and adaptation

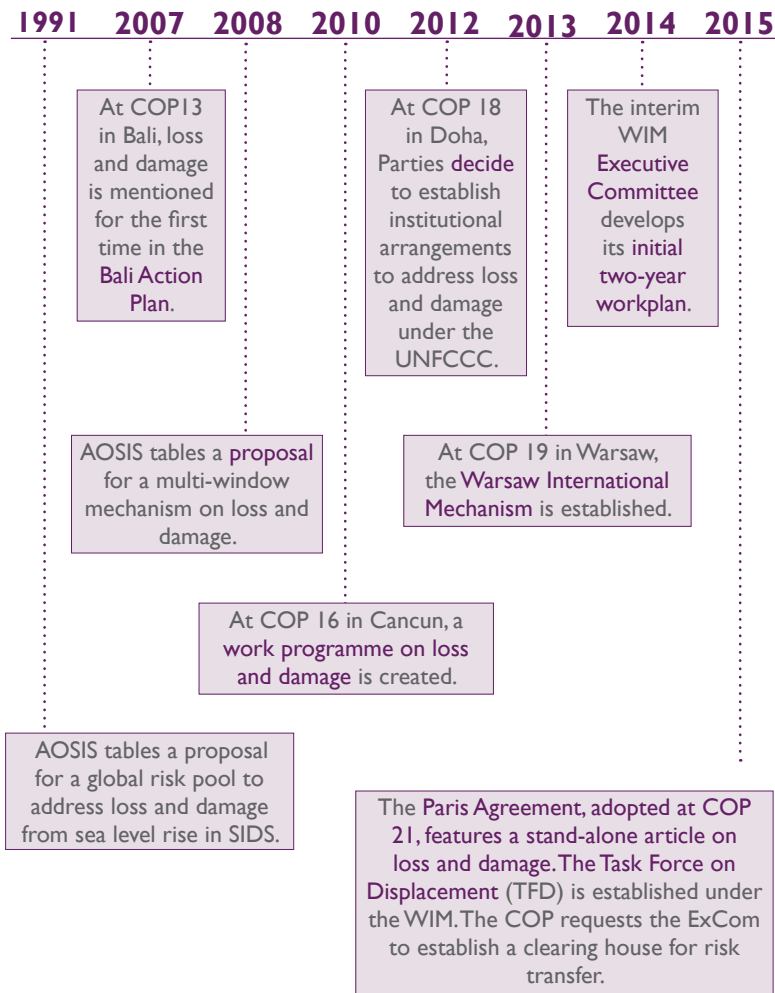
Following the TD meetings, in September 2023, one of the key findings from the synthesis report on progress towards each of the three main goals of mitigation, adaptation, and means of implementation, was the urgent need to scale up adaptation finance, including arrangements for addressing loss and damage. While the GST outcome at COP 28 does include reference to loss and damage in the decision, it was not recognised as the third pillar of climate action to the dismay of many. Instead, it was treated as an option rather than an essential element of an integrated response to climate change.

### ***New collective quantified goal on climate finance***

Another issue with relevance to loss and damage is the new collective quantified goal on climate finance (NCQG), which was decided at COP 26 in 2021 that it would replace, by 2025, the 2009 climate finance commitment of mobilising USD 100 billion per year by 2020 for climate action in developing countries. However, developed countries unfortunately failed to meet this goal, with financial flows mobilised to date being far from what developing countries need to support their climate efforts. Thus, Parties agreed to establish an ad hoc work programme on the NCQG that would work off the basis that USD 100 billion per year would be a floor for the NCQG, thus ensuring an increase in the new goal compared to the current commitment.

During Technical Experts Dialogues (TEDs) on a range of thematic issues related to climate finance, several developing countries have been calling for the inclusion of loss and damage as a subgoal alongside mitigation and adaptation within the new climate finance goal. Three more TEDs and three more meetings of the ad hoc work programme are planned in 2024 to support the ability of the work programme co-chairs to issue a framework for negotiating text draft in advance of COP 29 in Azerbaijan in November 2024.

## TIMELINE OF LOSS AND DAMAGE UNDER THE UNFCCC



**2016**    **2017**    **2018**    **2019**    **2021**    **2022**    **2023**

At COP 22 in Marrakech, the first review of the WIM takes place.

An expert dialogue on finance for loss and damage is held in Bonn.

At COP 23 in Bonn, the five-year rolling workplan of the ExCom is approved. Fiji Clearing House for Risk Transfer is launched under the WIM.

**2021:** At COP 26 in Glasgow, Parties agree on the functions of the Santiago Network, establish the Glasgow Dialogue to discuss funding arrangements for loss and damage, and approve the second five-year rolling workplan of the WIM ExCom (2023-2027).

At COP 25 in Madrid, the second review of the WIM takes place and the Santiago Network for Loss and Damage is established.

At COP 27 in Sham el-Sheikh, Egypt, Parties agree to establish funding arrangements and a fund for loss and damage, and a Transitional Committee to make recommendations for consideration by the COP.

At COP 28 in Dubai, Parties operationalise the Loss and Damage Fund, agree on the host of the secretariat of the Santiago Network, and conclude the first-ever Global Stocktake.

## WHAT ARE THE PROSPECTS FOR FINANCE FOR LOSS AND DAMAGE GOING FORWARD?

As explained, finance for loss and damage has been a contentious issue in the negotiations for many years, and a primary focus of discussions in recent years. For decades, developing countries severely affected by climate change have been urgently calling for financial assistance. At COP 27, the historic establishment of a loss and damage fund was finally agreed. Being more explicit both about responsibility and goals for raising finance for loss and damage will be necessary, particularly given current emission trajectories and warming scenarios.

Key takeaways on loss and damage finance highlighted by the [2016 annual forum of the Standing Committee on Finance](#) still hold true today:

- 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, as a consequence, the data needed to develop appropriate financial instruments.
- A range of financial instruments are needed to address the risk of loss and damage, but no “one-size-fits-all” approach exists and no one instrument can address loss and damage on its own.
- Complementary approaches are needed – such as a combination of instruments to suit the context and enabling policies to facilitate comprehensive risk management.
- Significant gaps exist on financing approaches, particularly to address slow onset events as most approaches target extreme weather and rapid-onset events. The insurance sector can support the development of new tools for slow onset events.

- Policies and regulatory frameworks can and should be strengthened to incentivise public and private stakeholders (and partnerships) to avert, minimise, and address loss.
- More discussions are needed on the sustainability, affordability, and accessibility of financial instruments, particularly for the most vulnerable.

Recent discussions featured an increasing focus on sources of finance, emphasising, for example, the importance of both public and private funding sources, including contributions from developed and developing countries, sovereign wealth funds, philanthropies, taxes, and levies, as well as support from international organisations like the International Monetary Fund and World Bank (see ecbi's recent publication on [L&D Pilot Funding Arrangements](#)).<sup>65</sup> Suggestions for innovative sources of finance include:

- a fossil fuel extraction levy, also known as [Climate Damages Tax](#), determined by a uniform rate that is applied globally, taking into account the amount of carbon dioxide equivalent (CO<sub>2</sub>e) emissions associated with each fuel;<sup>66</sup>
- a windfall tax of 10% on oil and gas profits; and
- international shipping levies and/or aviation levies that could be imposed at the national level (see OCP's recent blog post on [Climate Solidarity Levies](#)).



## WHAT CHALLENGES DO THE LOSS AND DAMAGE NEGOTIATIONS FACE GOING FORWARD?

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. 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; and potential synergies with the Sendai Framework on Disaster Risk Reduction (SFDRR) and the Sustainable Development Goals (SDGs).

The most significant challenge is that acknowledging that loss and damage is already materialising amounts to a sense of failure of the Convention in achieving its ultimate objective. It can be construed as a failure not only to mitigate climate change, but also to adequately enable adaptation. Such acknowledgement raises uncomfortable questions related to responsibility and liability, which historic and current high emitters remain reluctant to face. The magnitude of existing and (projected) future needs to address climate-related loss and damage is daunting. The issue of compensation aside, the uncertainty of the potential cost of addressing loss and damage has had, until the most recent decision on a new fund and funding arrangements, a significant effect on the willingness of developed countries to agree to actions beyond those of enhancing understanding and coordination on loss and damage.

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 had argued that loss and damage was part of adaptation, while

developing countries emphasised that loss and damage was “beyond adaptation.” In the wake of COP19 in Warsaw, developing country negotiators also underscored that this debate has little practical value.<sup>67</sup> While linkages and synergies between addressing adaptation and loss and damage have long been recognised, the UNFCCC has also acknowledged that while adaptation has a contribution to make, loss and damage results from climate change impacts that cannot be averted or minimised by adaptation.<sup>68</sup> The inclusion of a stand-alone article on loss and damage in the Paris Agreement contributed somewhat to settling this debate.

The scientific and legal challenges of attributing loss and damage to climate change also raised questions, but much progress has been made in this regard and as described in the next section.

The overlapping mandates within global policy agendas is another challenge, the most obvious perhaps being with the SFDRR and the SDGs. While both have important roles to play in fostering resilience to the adverse impacts of climate change, sustainable development approaches will not suffice in cases where climate change impacts overwhelm development efforts and result in permanent loss and damage.<sup>69</sup> Moreover, according to estimates prior to the publication of the 2018 edition of this guide, implementing the SDGs will require an estimated USD 1 trillion in concessional international public finance, which is 750% more than what is currently provided for development through overseas development assistance.<sup>70</sup> Furthermore, under the SFDRR and the SDGs, states are individually responsible for implementing actions, with a very limited role for global cooperation, contrary to the UNFCCC, which builds on the principle of common but differentiated responsibilities and respective capabilities.

## WHEN CAN LOSS AND DAMAGE BE ATTRIBUTED TO CLIMATE CHANGE?

The fact that anthropogenic climate change is taking place has been well established by scientists, as reconfirmed by the latest [IPCC report](#), which reiterated that the increase in global temperatures is exacerbated by greenhouse gases emissions from human activities and that these emissions have had varying historical and ongoing contributions to the climate. As a result, weather and climate extremes are being observed in all regions worldwide.<sup>71</sup> Studies have also linked the rise in anthropogenic emissions to the rise in regional temperatures and global sea levels.<sup>72</sup> But can loss and damage caused by individual slow onset or extreme events be attributed to climate change?

In theory, doing so requires building a causal chain from emissions to impacts, or losses and damages; then the individual event must be linked to anthropogenic climate change.<sup>73</sup> In practice, however, this is easier said than done, as there could be many drivers of risk.<sup>74</sup> Some slow onset events, such as increasing temperatures, sea level rise and glacial retreat, can be more easily attributed to anthropogenic climate change.<sup>75</sup> Others, such as salinisation and the loss of biodiversity, are more difficult to attribute. Attributing extreme weather events, such as heatwaves, droughts and floods, to anthropogenic climate change is even more complex.<sup>76</sup> This is the case even though the IPCC agrees that it is causing extreme weather events to increase in both magnitude and frequency.<sup>77</sup>

Nevertheless, recent years showed significant progress in the field of climate attribution science, which increasingly is able to indicate the extent to which anthropogenic climate change increased the probability of an event, referred to as probabilistic attribution.<sup>78</sup> Scientists are better able to determine the extent to which some events, such as heatwaves and precipitation-related events, have increased in likelihood due

to anthropogenic climate change more than others.<sup>79</sup> Probabilistic attribution is still difficult to establish for hurricanes, however. That said, attribution science is quickly evolving.<sup>80</sup> A 2016 study found that, with 95% probability, at least half of the flooding that occurred within the US during the previous ten years would not have occurred without anthropogenic climate change.<sup>81</sup> Moreover, the *IPCC Sixth Assessment Report* confirms that human-caused climate change is attributable to the impacts on ecosystems caused by slow onset processes. The report further stresses that approximately 50% of coastal wetlands have been lost in the past century due to a combination of factors including localised human activities, rising sea levels, warming temperatures, and extreme climate events. Another study revealed that the costs of extreme events amounting to USD 143 billion per year is attributed to climate change.<sup>82</sup>

Many challenges remain, however, even with observing changes in extreme events, such as increased frequency or greater magnitude. The availability and quality of data varies, and significant data gaps exist.<sup>83</sup> Unsurprisingly, more data is available for impacts in developed than developing countries,<sup>84</sup> both with regard to economic losses and damages and NELD.<sup>85</sup> Recent studies, in particular, have stressed the inadequacy of data that is accessible to conduct a comprehensive evaluation of the risk posed by extreme weather events to crop production and infrastructure.<sup>86</sup>

At the same time, both moral and legal questions about the need to establish attribution have been raised over the past 10-15 years. It has been argued that attribution of climate-related hazards to anthropogenic climate change should not be a prerequisite for global action to ensure that developing countries have support to address loss and damage.<sup>87</sup> Many contend that the international community is ethically obliged to help developing countries build resilience to climate change, including to build capacity to address climate change.<sup>88</sup> As such, support should be provided to help vulnerable countries and communities address loss and damage regardless of whether those losses and damages can be attributed to anthropogenic climate change.<sup>89</sup> 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 thus it follows that attribution should not be a necessary precondition for international cooperation.<sup>90</sup>

## WHAT IS COMPREHENSIVE RISK MANAGEMENT IN ADDRESSING LOSS AND DAMAGE?

Another issue is comprehensive risk management in the context of addressing loss and damage, which consists of addressing the entire gamut of possibilities to both reduce loss and damage before it occurs, and address loss and damage that cannot be avoided.<sup>91</sup>

As discussed earlier, mitigation is the best way to reduce loss and damage before it occurs, while adaptation is the best alternative once some degree of climate change impacts is inevitable. In addition, risk reduction efforts play a role in both averting and minimising loss and damage.

To address loss and damage that cannot be avoided, 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. The UNFCCC Secretariat for example prepared a [compendium](#) of existing comprehensive risk management approaches.<sup>92</sup> From this, the WIM ExCom synthesised best practices, challenges, and lessons learned from existing financial instruments that address the risk of loss and damage.<sup>93</sup> However, a number of gaps exist on institutional arrangements to deal with loss and damage.<sup>94</sup>

In recent years, there has been an increasing focus on risk transfer approaches, particularly climate risk insurance. In 2017, the [InsuResilience Global Partnership for Climate and Disaster Risk Finance](#) was launched at COP 23, bringing together V20 and G20+ countries, civil society, international organisations, the private sector, and academia. Since the launch, more than 120 partners have joined the Partnership with a collective goal of helping countries respond more readily to disasters and better prepare 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, African Risk Capacity, and the Caribbean Catastrophe Risk Insurance Facility.

While insurance is an important tool in comprehensive risk management, some are of the view that there has been undue focus on this approach in UNFCCC discussions. For developing countries, other measures are also important components of comprehensive risk management strategies to address loss and damage. These include social protection measures as well as recovery, reconstruction, and rehabilitation to limit economic and non-economic loss and damage 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 avoid re-creating the original conditions and levels of vulnerability. Focus is also needed on *rehabilitating livelihoods*, particularly in cases where agriculture, an important source of livelihood for the poor, becomes unviable.<sup>95</sup>

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

On the contentious issue of compensation and liability, 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 SIDS and others in calling for a system of compensation and liability*.<sup>96</sup> Several proposals for compensation frameworks have been put forth since COP 21.<sup>97</sup> Some have argued that the exclusion clause is contained in a COP decision, and that it would have to have been put forth by the CMA in order to apply to the Paris Agreement.<sup>98</sup>

Compensation could also be sought within other international legal frameworks. The governments of Nauru, the Marshall Islands, and Tuvalu have declared that, in agreeing to Decision 1/CP.21, they do not renounce their rights under others laws, including international laws.<sup>99</sup> The argument has also been raised that under the no-harm rule, widely recognised under international law, *states are obligated to prevent loss and damage* and minimise its risk to other states.<sup>100</sup>

While legal aspects concerning loss and damage within the international climate regime, such as those involving liability, compensation, and concepts related to vulnerability, have garnered much debate, several legal cases have been brought to the courts, one of which occurred in early 2015. In this particular case, Saul Luciano Lliuya, a Peruvian farmer, filed a lawsuit against Germany’s largest utility company, Rheinisch-Westfälisches Elektrizitätswerk Aktiengesellschaft (RWE AG). The farmer sought USD 21,000 in compensation, which represents a portion of the expenses required to safeguard his village from flooding caused by the overflow of glacial lakes.<sup>101</sup> In December 2016, the district



court initially dismissed Luciano Lliuya's requests, noting that RWE AG is not a sole contributor to climate change. However, in November 2017, a German court rendered a decision affirming the validity of the case, allowing it to proceed accordingly.<sup>102</sup> In mid-2022, the court conducted a site visit to assess whether a flood wave from the glacial lake posed a threat to Lliuya's house. The court plans to assign an additional specialist to assess the extent to which emissions from RWE AG led to the plaintiff's flooding incident. The court will subsequently render a decision based on the evidentiary outcomes presented.<sup>103</sup>

Legal actions have been initiated against states as well. In 2015, Urgenda, a Dutch NGO, along with 900 Dutch citizens, filed a lawsuit against the Dutch government. The court's ruling acknowledged a direct connection between Dutch emissions, global climate change, and the resulting impacts. Consequently, the government of the Netherlands was mandated to take additional measures to prevent and mitigate the adverse effects of climate change.<sup>104</sup>

In March 2023, the UN General Assembly adopted a resolution requesting an advisory opinion from the International Court of Justice, seeking clarification on the obligations of states regarding climate change. The initiative was spearheaded by the government of Vanuatu, which collaborated with other countries to develop a draft resolution.

## WHAT'S NEXT IN THE NEGOTIATIONS?

While the negotiations on issues related to loss and damage have progressed slowly, significant advances have been made, the most prominent being the decision to establish a loss and damage fund, a worthy milestone to celebrate. COP 28 provided a better sense of where things stand, both with regards to the operationalisation of the fund and funding arrangements and the operationalisation of the Santiago Network.

Additionally, Parties concluded the first-ever [Global Stocktake \(GST\)](#), which aims to monitor collective progress towards the goals of the Paris Agreement, including mitigation, adaptation, and means of implementation. [Parties at CMA 1](#) decided that the GST will also consider efforts to avert, minimise, and address loss and damage associated with the adverse effects of climate change.<sup>105</sup> Thus, the first GST sought to incorporate a distinct element on loss and damage. Discussions are also continuing on the new collective quantified goal on climate finance, which is expected to be agreed on in 2024, including with a possible sub-goal on loss and damage. COP 29 in Azerbaijan at the end of 2024 will represent an opportunity to see assess how far recent efforts on loss and damage, including on finance, have come and where significant efforts should be directed going forward.

## **ANNEX I: KEY DECISIONS RELATED TO LOSS AND DAMAGE**

### **DECISION 1/CP.13 BALI ACTION PLAN**

THE CONFERENCE OF 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 1/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**

### **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;
6. *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;
7. *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;
8. *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;
  9. *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;
  12. *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;
  13. *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;
  14. *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;
  15. *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;
  16. *Decides* that English shall be the working language of the Executive Committee;
  17. *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**

### **ARTICLE 8 OF THE PARIS AGREEMENT**

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 3/CP.22**

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

THE CONFERENCE OF THE PARTIES,

(...)

1. *Welcomes* the report of the Executive Committee of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts,<sup>1</sup> and progress made in implementing its initial two-year workplan, including in enhancing understanding, action and support, in particular the establishment of the expert group on non-economic losses, the technical expert group on comprehensive risk management and transformational approaches and the task force on displacement, and in outreach and information sharing;
2. *Requests* the Executive Committee to continue to implement activities from its initial two-year workplan;<sup>2</sup>
3. *Approves* the indicative framework for the five-year rolling workplan of the Executive Committee<sup>3</sup> as the basis for developing corresponding activities, starting at the first meeting of the Executive Committee in 2017, taking into account relevant inputs provided by Parties and relevant organizations;
4. *Requests* the Executive Committee to include in its five-year rolling workplan a strategic workstream to guide the implementation of the Warsaw International Mechanism's function of enhancing action and support, including finance, technology and capacity-building,

- to address loss and damage associated with the adverse effects of climate change, as provided for in decision 2/CP.19;
5. *Invites* Parties and relevant organizations to submit views and relevant inputs on possible activities under each strategic workstream as contained in the indicative framework for the five-year rolling workplan of the Executive Committee, with a focus on workstreams (e), (f) and (g), by 28 February 2017;4
  6. *Requests* the Executive Committee to include in its five-year rolling workplan relevant work for advancing the operationalization of the mandates ensuing from decision 1/CP.21, paragraphs 48 and 49;
  7. *Notes* that the Executive Committee will evaluate progress towards implementing its five-year rolling workplan on an interim basis, as appropriate;
  8. *Invites* constituted bodies under the Convention, as appropriate, as those bodies undertake their work, to continue or to initiate, as appropriate, the integration of efforts to avert, minimize and address loss and damage associated with the adverse effects of climate change in particularly vulnerable developing countries, vulnerable populations and the ecosystems that they depend on;
  9. *Encourages* Parties to incorporate or continue to incorporate the consideration of extreme events and slow onset events, non-economic losses, displacement, migration and human mobility, and comprehensive risk management into relevant planning and action, as appropriate, and to encourage bilateral and multilateral entities to support such efforts;
  10. *Invites* United Nations and other relevant institutions, specialized agencies and entities, the research community and the private sector, as appropriate, to strengthen cooperation and collaboration, including through partnerships, with the Executive Committee on topics relevant to addressing loss and damage associated with the adverse effects of climate change, including extreme events and slow onset events;

11. *Reiterates* its encouragement to Parties to make available sufficient resources for the successful and timely implementation of the work of the Executive Committee.

## **DECISION 4/CP.22**

### **REVIEW OF THE WARSAW INTERNATIONAL MECHANISM FOR LOSS AND DAMAGE ASSOCIATED WITH CLIMATE CHANGE IMPACTS**

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;<sup>2</sup>
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;<sup>3</sup>
  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 mandate 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.

## **DECISION 10/CP.24**

### **REPORT OF THE EXECUTIVE COMMITTEE OF THE WARSAW INTERNATIONAL MECHANISM FOR LOSS AND DAMAGE ASSOCIATED WITH CLIMATE CHANGE IMPACTS**

THE CONFERENCE OF THE PARTIES,

(...)

1. *Welcomes:*
  - (a) The annual report of the Executive Committee of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts;
  - (b) The progress made by the Executive Committee in implementing its five-year rolling workplan;
  - (c) The report of the task force on displacement and its comprehensive assessment of broader issues of displacement related to climate change in response to decision 1/CP.21, paragraph 49;
  - (d) The report of the Suva expert dialogue, noting the role of the dialogue in informing the preparation of the technical paper referred to in decision 4/CP.22, paragraph 2(f);
2. *Notes* with appreciation the work undertaken by the organizations comprising the task force on displacement in response to decision 1/CP.21, paragraph 49;
3. *Invites* Parties, bodies under the Convention and the Paris Agreement, United Nations agencies and relevant stakeholders to consider the recommendations contained in the annex when undertaking relevant work, as appropriate;
4. *Welcomes* the decision of the Executive Committee to extend the mandate of the task force on displacement in accordance with terms of reference to be elaborated by the Executive Committee at its next meeting;

5. *Encourages* the Executive Committee:
  - (a) To seek ways to continue enhancing its responsiveness, effectiveness and performance in implementing activities in its five-year rolling workplan, particularly those under workstream (e);
  - (b) To continue its work on human mobility under strategic workstream (d) of its five-year rolling workplan, including by considering the activities set out in paragraphs 38 and 39 of its report referred to in paragraph 1(a) above;
  - (c) To draw upon the work, information and expertise of bodies under the Convention and the Paris Agreement, as well as international processes, such as the 2030 Agenda for Sustainable Development and the Sendai Framework for Disaster Risk Reduction 2015–2030, including when executing its work through the technical expert group on comprehensive risk management established under workstream (c) of the five-year rolling workplan;
  - (d) To continue consideration of scientific information needs and knowledge gaps with the Intergovernmental Panel on Climate Change and other scientific organizations;
  - (e) To increase its consideration of groups vulnerable to the adverse impacts of climate change when implementing its five-year rolling workplan;
6. *Also encourages* Parties and invites relevant organizations to make available sufficient resources for the successful and timely implementation of the five-year rolling workplan of the Executive Committee, including, as applicable, the associated expert groups, subcommittees, panels, thematic advisory groups and task-focused ad hoc working groups;
7. *Expresses* its appreciation to the organizers of and participants in the Suva expert dialogue, held during the first part of the forty-eighth sessions of the subsidiary bodies under the guidance of the

Executive Committee and the Chair of the Subsidiary Body for Implementation;

8. *Invites* relevant organizations and other stakeholders to collaborate with the Executive Committee, including through partnerships, in developing and disseminating products that support national focal points, loss and damage contact points and other relevant entities in raising awareness of averting, minimizing and addressing loss and damage;
9. *Takes* note of the assistance provided by the Executive Committee to the secretariat in determining the scope of the technical paper referred to in decision 4/CP.22, paragraph 2(f);
10. *Invites* Parties:
  - (a) To consider developing policies, plans and strategies, as appropriate, and to facilitate coordinated action and the monitoring of progress, where applicable, in their efforts to avert, minimize and address loss and damage;
  - (b) To take into consideration future climate risks when developing and implementing their relevant national plans and strategies that seek to avert, minimize and address loss and damage and reduce disaster risks, as appropriate;
  - (c) Takes note of the estimated budgetary implications of the activities to be undertaken by the secretariat referred to in this decision;
11. *Requests* that the actions of the secretariat called for in this decision be undertaken subject to the availability of financial resources.

## **DECISION 2/CP.25**

### **WARSAW INTERNATIONAL MECHANISM FOR LOSS AND DAMAGE ASSOCIATED WITH CLIMATE CHANGE IMPACTS AND ITS 2019 REVIEW**

*THE CONFERENCE OF THE PARTIES,*

(...)

1. *Notes decision 2/CMA.2*, on the outcome of the review of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts and the report of its Executive Committee;
2. Also *notes* that considerations related to the governance of the Warsaw International Mechanism will continue at its twenty-sixth session (November 2020).

## **DECISION 6/CP.26**

### **GLASGOW CLIMATE PACT**

*THE CONFERENCE OF THE PARTIES,*

(...)

37. *Acknowledges* that climate change has already caused and will increasingly cause loss and damage and that, as temperatures rise, impacts from climate and weather extremes, as well as slow onset events, will pose an ever-greater social, economic and environmental threat;
38. Also *acknowledges* the important role of a broad range of stakeholders at the local, national and regional level, including indigenous peoples and local communities, in averting, minimizing and addressing loss and damage associated with the adverse effects of climate change;



39. *Reiterates* the urgency of scaling up action and support, as appropriate, including finance, technology transfer and capacity-building, for implementing approaches to averting, minimizing and addressing loss and damage associated with the adverse effects of climate change in developing country Parties that are particularly vulnerable to these effects;
40. *Urges* developed country Parties, the operating entities of the Financial Mechanism, United Nations entities and intergovernmental organizations and other bilateral and multilateral institutions, including non-governmental organizations and private sources, to provide enhanced and additional support for activities addressing loss and damage associated with the adverse effects of climate change;
41. *Recognizes* the importance of demand-driven technical assistance in building capacity to implement approaches to averting, minimizing and addressing loss and damage associated with the adverse effects of climate change;
42. *Welcomes* the further operationalization of the Santiago network for averting, minimizing and addressing loss and damage associated with the adverse effects of climate change, including the agreement on its functions and process for further developing its institutional arrangements;
43. *Endorses* paragraphs 67–70 and 73–74 of decision -/CMA.3;
44. *Acknowledges* the importance of coherent action to respond to the scale of needs caused by the adverse impacts of climate change;
45. *Resolves* to strengthen partnerships between developing and developed countries, funds, technical agencies, civil society and communities to enhance understanding of how approaches to averting, minimizing and addressing loss and damage can be improved;

## **DECISION 2/CP.27**

### **FUNDING ARRANGEMENTS FOR RESPONDING TO LOSS AND DAMAGE ASSOCIATED WITH THE ADVERSE EFFECTS OF CLIMATE CHANGE, INCLUDING A FOCUS ON ADDRESSING LOSS AND DAMAGE**

THE CONFERENCE OF THE PARTIES AND THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE PARIS AGREEMENT,

(...)

1. *Acknowledge* the urgent and immediate need for new, additional, predictable and adequate financial resources to assist developing countries that are particularly vulnerable to the adverse effects of climate change in responding to economic and non-economic loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events, especially in the context of ongoing and ex post (including rehabilitation, recovery and reconstruction) action;
2. *Decide* to establish new funding arrangements for assisting developing countries that are particularly vulnerable to the adverse effects of climate change, in responding to loss and damage, including with a focus on addressing loss and damage by providing and assisting in mobilizing new and additional resources, and that these new arrangements complement and include sources, funds, processes and initiatives under and outside the Convention and the Paris Agreement;
3. *Also decide*, in the context of establishing the new funding arrangements referred to in paragraph 2 above, to establish a fund for responding to loss and damage whose mandate includes a focus on addressing loss and damage;
4. *Establish* a transitional committee on the operationalization of the new funding arrangements for responding to loss and damage

and the fund established in paragraph 3 above (hereinafter referred to as the Transitional Committee), in accordance with the terms of reference contained in the annex, to make recommendations based on, inter alia, elements for operationalization included in paragraph 5 below, for consideration and adoption by the Conference of the Parties at its twenty-eighth session (November–December 2023) and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its fifth session (November–December 2023) with a view to operationalizing the funding arrangements referred to in paragraph 2 above, including the fund referred to in paragraph 3 above;

5. *Agree* that the recommendations to operationalize the funding arrangements and the fund referred to in paragraphs 2–3 above respectively shall consider, inter alia:
  - (a) Establishing institutional arrangements, modalities, structure, governance and terms of reference for the fund referred to in paragraph 3 above;
  - (b) Defining the elements of the new funding arrangements referred to in paragraph 2 above;
  - (c) Identifying and expanding sources of funding;
  - (d) Ensuring coordination and complementarity with existing funding arrangements;
6. *Decide* that the Transitional Committee referred to in paragraph 4 above will be informed by the following, inter alia:
  - (a) The current landscape of institutions, including global, regional and national, that are funding activities related to addressing loss and damage, and ways in which coherence, coordination and synergies among them can be enhanced;
  - (b) The gaps within that current landscape, including the types of gap, such as relating to speed, eligibility, adequacy and access to finance, noting that these may vary depending on the challenge, such as climate-related emergencies, sea

- level rise, displacement, relocation, migration, insufficient climate information and data, or the need for climate-resilient reconstruction and recovery;
- (c) The priority gaps for which solutions should be explored;
  - (d) The most effective ways in which to address the gaps, especially for the most vulnerable populations and the ecosystems on which they depend;
  - (e) Potential sources of funding, recognizing the need for support from a wide of variety of sources, including innovative sources;
7. *Also decide* to undertake the following activities for informing the recommendations referred to in paragraphs 4–5 above:
- (a) Request the secretariat to conduct two workshops in 2023, with the participation of a diversity of institutions, relevant to addressing loss and damage associated with climate change impacts;
  - (b) Request the secretariat to prepare a synthesis report on existing funding arrangements and innovative sources relevant to addressing loss and damage associated with the adverse effects of climate change;
  - (c) Invite Parties and relevant organizations to submit via the submission portal by 15 February 2023 views on topics for and the structure of the 2nd Glasgow Dialogue and the workshops referred to in paragraph 7(a) above;
  - (d) Invite United Nations agencies, intergovernmental organizations, and bilateral, multilateral and international financial institutions to submit inputs on how they might enhance access to and/or the speed, scope and scale of availability of finance for activities relevant to addressing loss and damage, including potential limitations and barriers and options for addressing them;
8. *Further decide* that the activities and considerations referred to in this decision will be undertaken taking into account the discussions

- at the 2<sup>nd</sup> and 3<sup>rd</sup> Glasgow Dialogues, to take place at the fifty-eighth (June 2023) and sixtieth (June 2024) sessions of the Subsidiary Body for Implementation respectively;
9. *Decide* that the 2<sup>nd</sup> and 3<sup>rd</sup> Glasgow Dialogues will build on the 1st Glasgow Dialogue, held at the fifty-sixth session of the Subsidiary Body for Implementation, and that the 2<sup>nd</sup> Dialogue shall focus on the operationalization of the new funding arrangements established in paragraph 2 above and the fund established in paragraph 3 above as well as on maximizing support from existing funding arrangements relevant for, inter alia, responding to economic and non-economic losses, slow onset events and extreme weather events, and that they will inform the work of the Transitional Committee;
  10. *Request* the Chair of the Subsidiary Body for Implementation to provide a summary report on each Glasgow Dialogue no later than four weeks thereafter;
  11. *Invite* the United Nations Secretary-General to convene the principals of international financial institutions and other relevant entities with a view to identifying the most effective ways to provide funding to respond to needs related to addressing loss and damage associated with the adverse effects of climate change;
  12. Also *invite* international financial institutions to consider, at the 2023 Spring Meetings of the World Bank Group and the International Monetary Fund, the potential for such institutions to contribute to funding arrangements, including new and innovative approaches, responding to loss and damage associated with the adverse effects of climate change;
  13. *Reiterate* decision 1/CMA.3, paragraph 64, in which developed country Parties, the operating entities of the Financial Mechanism, United Nations entities and intergovernmental organizations and other bilateral and multilateral institutions, including non-governmental organizations and private sources, are urged to provide enhanced and additional support for activities addressing

- loss and damage associated with the adverse effects of climate change;
14. *Request* the President of the Conference of the Parties at its twenty-seventh session, in collaboration with the incoming President of the Conference of the Parties at its twenty-eighth session, to convene ministerial consultations prior to the twenty-eighth session of the Conference of the Parties and the fifth session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement to advance consideration and understanding of a possible outcome on this matter at that session;
  15. *Also request* the secretariat to prepare a synthesis report on the outcomes of the activities and deliverables referred to in paragraphs 7(b), 11, 12 and 14 above to inform the recommendations to be developed by the Transitional Committee;
  16. *Decide* that the secretariat shall support and facilitate the work of the Transitional Committee;
  17. *Take note* of the estimated budgetary implications of the activities to be undertaken by the secretariat referred to in paragraphs 2–16 above;
  18. *Request* that the actions of the secretariat called for in this decision be undertaken subject to the availability of financial resources.

## **DECISION 11/CP.27**

### **SANTIAGO NETWORK FOR AVERTING, MINIMIZING AND ADDRESSING LOSS AND DAMAGE ASSOCIATED WITH THE ADVERSE EFFECTS OF CLIMATE CHANGE UNDER THE WARSAW INTERNATIONAL MECHANISM FOR LOSS AND DAMAGE ASSOCIATED WITH CLIMATE CHANGE IMPACTS**

THE CONFERENCE OF THE PARTIES AND THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE PARIS AGREEMENT,

(...)

1. *Endorses* decision 12/CMA.4, on the Santiago network for averting, minimizing and addressing loss and damage under the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts, which provides as follows:
  - “1. Recalls that the Santiago network for averting, minimizing and addressing loss and damage associated with the adverse effects of climate change was established to catalyse the technical assistance of relevant organizations, bodies, networks and experts for the implementation of relevant approaches for averting, minimizing and addressing loss and damage associated with the adverse effects of climate change at the local, national and regional level in developing countries that are particularly vulnerable to the adverse effects of climate change;
  - “2. Expresses its appreciation to the Government of Denmark for hosting the technical workshop on institutional arrangements of the Santiago network from 4 to 6 May 2022, including for making the necessary logistical and financial arrangements therefor;
  - “3. Decides that the Santiago network will have the following structure:
    - (a) A hosted secretariat that will facilitate its work, to be known as the Santiago network secretariat;
    - (b) An Advisory Board to provide guidance and oversight to the Santiago network secretariat on the effective implementation of the functions of the network;
    - (c) A network of member organizations, bodies, networks and experts covering a wide range of topics relevant to averting, minimizing and addressing loss and damage;
  - “4. Recalls decision 1/CMA.3, paragraph 67, in which it was decided that the Santiago network will be provided with funds

- to support technical assistance for the implementation of relevant approaches to averting, minimizing and addressing loss and damage associated with the adverse effects of climate change in developing countries in support of the functions set out in paragraph 9 of decision 19/CMA.3;
- “5. Also recalls decision 1/CMA.3, paragraph 70, which urges developed country Parties to provide funds for the operation of the Santiago network and for the provision of technical assistance as set out in paragraph 67 of the same decision;
  - “6. Encourages others to provide support for the operation of the Santiago network and technical assistance;
  - “7. Welcomes the pledges that have already been made to the Santiago network;
  - “8. Adopts the terms of reference of the Santiago network contained in annex I;
  - “9. Decides to establish the Advisory Board of the Santiago network as part of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts, which will be under the authority and guidance of and accountable to the appropriate governing body or bodies and have the roles and responsibilities outlined in annex I;
  - “10. Also decides that the members of the Advisory Board will be elected at the next session of the governing body or bodies (November–December 2023) and encourages Parties to nominate experts with a diversity of technical experience and knowledge relevant to, inter alia, averting, minimizing and addressing loss and damage associated with the adverse effects of climate change, as well as the roles and responsibilities of the Advisory Board referred to in annex I, taking into account the need for gender balance, in accordance with decisions 36/CP.7, 23/CP.18, and 3/CP.25, and the composition of the Advisory Board outlined in annex I;



- “11. Further decides that the members elected to the Advisory Board shall serve a term of two years and shall be eligible to serve a maximum of two consecutive terms of office;
- “12. Decides that half of the members elected in 2023 shall serve a term of three years and half of the members shall serve a term of two years, after which time the governing body or bodies shall elect half of the members every year for a term of two years;
- “13. Also decides that the members of the Advisory Board shall remain in office until their successors are elected;
- “14. Requests the Advisory Board to develop draft rules of procedure with a view to recommending them to the governing body or bodies through the subsidiary bodies for consideration and adoption at the sixty-first sessions of the subsidiary bodies (November 2024);
- “15. Also requests the secretariat to continue providing support for developing countries that are particularly vulnerable to the adverse effects of climate change that may seek or wish to benefit from the technical assistance available from organizations, bodies, networks and experts under the Santiago network, until the Santiago network secretariat is operational;
- “16. Decides that the Santiago network secretariat will be accountable to and operate under the guidance of the governing body or bodies through the Advisory Board and hosted by an organization or a consortium of organizations able to provide the necessary administrative and infrastructural support for its effective functioning;
- “17. Also decides that the Santiago network secretariat shall, once it is operational, elaborate modalities and procedures for the Santiago network under the guidance of and by approval of the Advisory Board on the basis of the terms of reference contained in annex I, and taking into account

decision 19/CMA.3, paragraph 9, endorsed in decision 17/CP.26, and decision 1/CMA.3, paragraph 67, including:

- (a) Developing guidelines for the designation of organizations, bodies, networks and experts as members of the Santiago network;
- (b) Developing guidelines and procedures for responding to requests for technical assistance, including considering the development of procedures for those that require an urgent response;
- (c) Developing guidelines for managing funding provided for technical assistance, including to ensure that technical assistance funded directly by the Santiago network is made available to communities particularly vulnerable to the adverse effects of climate change, including through levels of minimum percentage of technical assistance funded directly by the Santiago network directed to communities particularly vulnerable to the adverse effects of climate change;

“18. Further decides that the selection process for the host of the Santiago network secretariat shall be launched upon the conclusion of the twenty-seventh session of the Conference of the Parties and the fourth session of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement in order to select the host by 2023 and be conducted in an open, transparent, fair and neutral manner in accordance with the process outlined in paragraphs 19–23 below, informed by United Nations practices and standards;

“19. Requests the secretariat, under the guidance of the Chairs of the subsidiary bodies, to:

- (a) Prepare and issue a call for proposals to host the Santiago network secretariat by 31 December 2022, making it widely and publicly available, including

- preparing a proposal template, and invite interested organizations, including consortiums of organizations, to submit their proposals in response to the call by 31 March 2023;
- (b) Provide responses to enquiries from interested organizations, as appropriate;
  - (c) Compile the executive summaries contained in the submitted proposals and make them available on the UNFCCC website by 7 April 2023;
  - (d) Convene an evaluation panel by 7 April 2023 and support the panel in the preparation of an evaluation report, as referred to in paragraph 22 below;
  - (e) Ensure that it does not have a potential conflict of interest in the selection process, including by applying appropriate safeguards and procedures;
- “20. Invites the Executive Committee to designate four of its members, the Climate Technology Centre and Network Advisory Board and the Paris Committee on Capacity-building to designate two members each to serve as members on the evaluation panel referred to in paragraph 19(d) above, to consider the proposals, ensuring that there is a balanced representation of developed and developing country Parties;
- “21. Also invites the panel to consult, as appropriate, with other constituted bodies with relevant expertise, including in particular the Adaptation Committee and the Facilitative Working Group of the Local Communities and Indigenous Peoples Platform;
- “22. Requests the evaluation panel to prepare an evaluation report with a shortlist of up to three proposals that meet the criteria referred to in annex II, including information on how the evaluation criteria have been applied to these proposals, and

- make the evaluation report available for consideration by the subsidiary bodies at their fifty-eighth sessions (June 2023);
- “23. Also requests the subsidiary bodies to recommend at their fifty-eighth sessions a draft decision with one proposal to host the Santiago network secretariat that best meets the criteria set out in annex II for consideration and adoption by the governing body or bodies at their session(s) to be held in November–December 2023;
- “24. Further requests the secretariat, under the guidance of the Chairs of the subsidiary bodies, to develop a draft host agreement (memorandum of understanding) with the proposer recommended by the subsidiary bodies at their fifty-eighth sessions with a view to recommending it for consideration and approval by the governing body or bodies at their session(s) to be held in November–December 2023;
- “25. Invites Parties to inform the Santiago network secretariat of their liaison to the Santiago network secretariat, as appropriate for their national circumstances, to support alignment of technical assistance through the Santiago network with national priorities;
- “26. Affirms that technical assistance provided through the Santiago network in a demand-driven manner will be developed through an inclusive and country process, taking into account the needs of vulnerable people, indigenous peoples and local communities;
- “27. Also affirms that, when technical assistance is provided by the Santiago network, it should take into consideration the cross-cutting issues referred to in the eleventh preambular paragraph of the Paris Agreement;
- “28. Notes that considerations related to the governance of the Warsaw International Mechanism will continue at its fifth session (November–December 2023);

- “29. Takes note of the estimated budgetary implications of the activities to be undertaken by the secretariat referred to in this decision;
- “30. Requests that the actions of the secretariat called for in this decision be undertaken subject to the availability of financial resources.”
2. *Notes* that considerations related to the governance of the Warsaw International Mechanism will continue at its twenty-eighth session (November–December 2023).

### **DECISION -/CP.28:**

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

##### **Santiago network for averting, minimizing and addressing loss and damage under the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts**

*THE CONFERENCE OF THE PARTIES,*

(...)

1. *Endorses* decision -/CMA.5, on the Santiago network for averting, minimizing and addressing loss and damage under the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts, which provides as follows:
- “1. *Recalls* that the Santiago network for averting, minimizing and addressing loss and damage associated with the adverse effects of climate change was established to catalyse the technical assistance of relevant organizations, bodies, networks and experts for the implementation of relevant approaches

- for averting, minimizing and addressing loss and damage associated with the adverse effects of climate change at the local, national and regional level in developing countries that are particularly vulnerable to the adverse effects of climate change;
- “2. *Also recalls* the request for the UNFCCC secretariat, under the guidance of the Chairs of the subsidiary bodies, to develop a draft host agreement (memorandum of understanding) with the host of the Santiago network secretariat recommended by the subsidiary bodies at their fifty-eighth sessions with a view to it being recommended for consideration and adoption by the governing body or bodies at the session(s) to be held in November–December 2023;
  - “3. *Expresses* appreciation to Canada, Japan, Spain, Switzerland and the United States of America for their financial contributions to the work of the Santiago network;
  - “4. *Recalls* decision 12/CMA.4, endorsed by decision 11/CP.27, which establishes the institutional arrangements of the Santiago network to enable its full operationalization, including to support its mandated role in catalysing technical assistance for the implementation of the relevant approaches at the local, national and regional level in developing countries that are particularly vulnerable to the adverse effects of climate change;
  - “5. *Also recalls* paragraph 16 of decision 12/CMA.4, which states that the Santiago network secretariat will be accountable to and operate under the guidance of the governing body or bodies through the Advisory Board of the Santiago network and hosted by an organization or a consortium of organizations able to provide the necessary administrative and infrastructural support for its effective functioning;

- “6. *Welcomes* the report on the hosting of the secretariat of the Santiago network prepared by the evaluation panel;
- “7. *Notes* that two proposals were received in response to the call for proposals to host the Santiago network secretariat, the executive summaries of which are available on the UNFCCC website;
- “8. *Welcomes* the efforts of the proponents in responding to the call for proposals to host the Santiago network secretariat, of the evaluation panel in assessing the proposals and preparing the report referred to in paragraph 6 above and of the UNFCCC secretariat in providing support for the host selection process, all within a limited time frame;
- “9. *Notes* with appreciation the completion of the selection process for the host of the secretariat of the Santiago network, which was supported by an evaluation panel comprising four members of the Executive Committee of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts, two members of the Advisory Board of the Climate Technology Centre and Network, and two members of the Paris Committee on Capacity-building and involved the participation of the two proponents that responded to the call for proposals for hosting the Santiago network secretariat;
- “10. *Expresses* appreciation to both proponents that submitted proposals for hosting the Santiago network secretariat;
- “11. *Selects* the joint proposal submitted by the consortium of the United Nations Office for Disaster Risk Reduction and the United Nations Office for Project Services for the hosting of the Santiago network secretariat for an initial term of five years, with five-year renewal periods;
- “12. *Encourages* the consortium, as host of the Santiago network secretariat, to consider exploring areas for collaboration with

- the Caribbean Development Bank, which also submitted a proposal for hosting, where appropriate;
- “13. *Authorizes* the Executive Secretary to sign, on behalf of the governing body or bodies, the agreement between the governing body or bodies and the consortium regarding the hosting of the Santiago network secretariat;
- “14. *Requests* the consortium, as host of the Santiago network secretariat, to ensure that the necessary arrangements are in place for the meetings of the Advisory Board of the Santiago network, including privileges and immunities for members of the Board in line with existing practice;
- “15. *Also requests* the consortium, as host of the Santiago network secretariat, to undertake, by the end of January 2024, an analysis of the cost-effectiveness, including a cost–benefit analysis, of various locations around the world as options for the location of the head office of the Santiago network secretariat from a pool of potential locations that can provide the privileges and immunities referred to in paragraph 14 above, and to provide to the Advisory Board of the Santiago network the results of the analysis with its recommendation on which location would be the most costeffective and suitable in the light of the roles and responsibilities and the organizational structure of the Santiago network secretariat as detailed in annex I to decision 12/CMA.4 for consideration and decision by the Advisory Board at its 1st meeting, to be held in 2024;
- “16. *Encourages* the consortium, as host of the Santiago network secretariat, to make the necessary arrangements to promptly launch work under the Santiago network upon conclusion of the November–December 2023 session(s) of the governing body or bodies, including the appointment of a director of the secretariat through a merit-based, open and transparent process, who will facilitate the timely recruitment of the staff



- of the secretariat in line with the terms of reference of the Santiago network;
- “17. *Requests* the Santiago network secretariat, to facilitate the 1st meeting of the Advisory Board of the Santiago Network, to take place in 2024;
- “18. *Also requests* the Santiago network secretariat, to start managing, as soon as possible, the day-to-day operations of the secretariat, in line with its role and responsibilities;
- “19. *Adopts* the memorandum of understanding between the Conference of the Parties and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement, on the one hand, and the United Nations Office for Disaster Risk Reduction and the United Nations Office for Project Services, on the other, regarding the hosting of the Santiago network secretariat, as contained in the annex;
- “20. *Reaffirms* that technical assistance provided under the Santiago network in a demand-driven manner will be developed through an inclusive, country-driven process, taking into account the needs of vulnerable people, Indigenous Peoples and local communities;
- “21. *Also reaffirms* that, when technical assistance is provided under the Santiago network, it should take into consideration the cross-cutting issues referred to in the eleventh preambular paragraph of the Paris Agreement;
- “22. *Reiterates* the request to the UNFCCC secretariat to continue providing support for developing countries that are particularly vulnerable to the adverse effects of climate change that may seek or wish to benefit from the technical assistance available from organizations, bodies, networks and experts under the Santiago network, until the Santiago network secretariat is operational;

- “23. *Requests* the UNFCCC secretariat to develop draft guidelines on preventing potential and addressing actual and perceived conflicts of interest in relation to the Santiago network, including any conflicts of interest that may arise when organizations, bodies, networks and experts are engaged in providing technical support to the Santiago network secretariat while responding to technical assistance requests, or when the host of the Santiago network secretariat is responding as an organization, body, network or expert to technical assistance requests, for review and approval by the Advisory Board of the Santiago network at its 1st meeting;
- “24. *Also requests* the Santiago network secretariat to:
- (a) Adhere to the mandate of the Santiago network and its functions, including facilitating the consideration of a wide range of topics relevant to averting, minimizing and addressing loss and damage, including but not limited to current and future impacts, priorities and actions related to averting, minimizing and addressing loss and damage pursuant to decisions 3/CP.18 and 2/CP.19; the areas referred to in Article 8, paragraph 4, of the Paris Agreement; and the strategic workstreams of the five-year rolling workplan of the Executive Committee of the Warsaw International Mechanism;
  - (b) Assume its roles and responsibilities, including that it shall be accountable to and operate under the guidance of the Advisory Board of the Santiago network, recognizing the different mandates of the host and the Santiago network, and that the Advisory Board will provide guidance and oversight to the Santiago network secretariat on the effective implementation of the functions of the network;
  - (c) Report annually to the Advisory Board of the Santiago network information on the in-kind and other support

- provided by its host that has contributed to its ability to assume its roles and responsibilities, as set out in the terms of reference of the Santiago network;
- (d) Make use of regional and subregional United Nations offices in all United Nations geographical regions, as appropriate, to serve as designated units to provide relevant services and support for catalysing effective and timely technical assistance in developing countries particularly vulnerable to the adverse effects of climate change;
  - (e) Include in its annual report to the Advisory Board of the Santiago network information on the inclusive, balanced and equitable nature of the technical assistance catalysed across all regions with developing countries particularly vulnerable to the adverse effects of climate change and take action, as appropriate;
  - (f) Have a lean, cost-efficient organizational structure;
  - (g) Make provisions for discussion on further arrangements for the implementation of the host agreement (memorandum of understanding) in line with future decisions of the governing body or bodies;
  - (h) Carry out financial management, auditing and reporting functions and implement a robust accountability system, sound financial systems of international standard, and a fiduciary record that ensures the correct, impartial administering and disbursement of funds;
- “25. *Further requests* the Advisory Board of the Santiago network to develop its draft rules of procedure with a view to recommending them, through the subsidiary bodies at their sixty-first sessions (November 2024), for consideration and adoption by the governing body or bodies at the session(s) to be held in November 2024;

- “26. *Invites* the Advisory Board of the Santiago network to consider and take appropriate action to catalyse technical assistance of relevant organizations, bodies, networks and experts at the local, national and regional level in developing countries particularly vulnerable to the adverse effects of climate change, including through the provision of guidance for the development by the Santiago network secretariat of guidelines and procedures for ensuring the demand-driven nature of all requests for technical assistance submitted under the Santiago network, and to safeguard against conflicts of interest in, or, as appropriate, the overconcentration of, the provision and delivery of technical assistance through or by specific organizations, bodies, networks and experts;
- “27. *Also invites* the Advisory Board of the Santiago network to provide guidance to the Santiago network secretariat to develop guidelines and procedures for enabling access to and assisting in preparing requests for technical assistance that recognize the significant capacity constraints of the least developed countries and small island developing States;
- “28. *Requests* the host of the Santiago network secretariat to ensure that the Santiago network and its secretariat are able to receive the required financial and other support from a wide variety of sources through all parts of the consortium to implement the terms of reference of the Santiago network;
- “29. *Recalls* paragraph 67 of decision 1/CMA.3, in which it was decided that the Santiago network will be provided with funds to support technical assistance for the implementation of relevant approaches to avert, minimize and address loss and damage associated with the adverse effects of climate change in developing countries in support of the functions set out in paragraph 9 of decision 19/CMA.3;

- “30. *Also recalls* paragraph 70 of decision 1/CMA.3, which urged developed country Parties to provide funds for the operation of the Santiago network and for the provision of technical assistance as set out in paragraph 67 of the same decision;
- “31. *Further recalls* paragraph 6 of decision 12/CMA.4, endorsed by decision 11/CP.27, which encouraged others to provide support for the operation of the Santiago network and for the provision of technical assistance under the network;
- “32. *Welcomes* the pledges made to the Santiago network as at 6 December 2023 by the European Union and its member States Denmark, Germany, Ireland and Luxembourg, and by Switzerland and the United Kingdom of Great Britain and Northern Ireland, amounting to approximately USD 40.7 million;
- “33. *Recalls* paragraph 69 of decision 1/CMA.3, which states that the Santiago network secretariat will administer the funds referred to in paragraph 67 of the same decision;
- “34. *Welcomes* decisions -/CP.28 and -/CMA.5 on the operationalization of the new funding arrangements, including a fund, for assisting developing countries particularly vulnerable to the adverse effects of climate change, in responding to loss and damage referred to in paragraphs 2–3 of decisions 2/CP.27 and 2/CMA.4, taking note of the parts of those decisions that relate to the Santiago network;
- “35. *Requests* the Advisory Board of the Santiago network to designate a representative or two representatives to take part in the annual high-level dialogue on coordination and complementarity with representatives of the main entities forming part of the new funding arrangements, referred to in paragraph 2 of decisions 2/CP.27 and 2/CMA.4, pursuant to paragraphs 11–16 of annex II to decisions -/CP.28 and - / CMA.5;19

- “36. *Invites* the Santiago network secretariat to coordinate with the secretariat of the fund referred to in paragraph 3 of decisions 2/CP.27 and 2/CMA.4 in supporting developing countries particularly vulnerable to the adverse effects of climate change in seeking to access the fund through technical assistance and to contribute to coherence and complementarity with the fund by aligning the technical assistance it catalyses under the Santiago network to build capacity and support programmatic approaches of the funding arrangements, including a fund, referred to in paragraphs 2–3 of decisions 2/CP.27 and 2/CMA.4, as appropriate;
- “37. *Decides* that once the outstanding nominations for the Advisory Board of the Santiago network have been received by the UNFCCC secretariat, the nominees will be deemed elected at this session or these sessions of the governing body or bodies, in accordance with established practice;
- “38. *Notes* that considerations related to the governance of the Warsaw International Mechanism will continue at its sixth session (November 2024);
- “39. *Takes note* of the estimated budgetary implications of the activities to be undertaken by the UNFCCC secretariat referred to in paragraphs 22 and 23 above;
- “40. Requests that the actions of the UNFCCC secretariat called for in this decision be undertaken subject to the availability of financial resources.”

**DECISION -/CP.28**

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

**Report of the Executive Committee of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts.**

THE CONFERENCE OF THE PARTIES,

(...)

1. *Endorses* decision -/CMA.4, on the Report of the Executive Committee of the Warsaw International Mechanism for Loss and Damage associated with Climate change Impacts, and the report of the Executive Committee, which provides as follows:
  - “1. *Welcomes* the 2023 report of the Executive Committee of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts and *endorses* the recommendations in the report;
  - “2. *Notes* with appreciation the work of the Executive Committee and its thematic expert groups (three expert groups, a technical expert group and a task force), to date, including their progress in advancing the development of technical guides informed by the best available science, and the efforts of the Executive Committee to organize activities to commemorate the tenth anniversary of the establishment of the Warsaw International Mechanism;
  - “3. *Expresses* its appreciation to the organizations, experts and relevant stakeholders that contributed to the work reported in the document referred to in paragraph 1 above, including in relation to:

- (a) The achievements of the thematic expert groups of the Executive Committee;
  - (b) The submission of information pursuant to paragraph 44 of decision 2/CMA.2, which is noted in decision 2/CP.25, relevant to the Santiago network for averting, minimizing and addressing loss and damage associated with the adverse effects of climate change;
  - (c) Activities related to the tenth anniversary of the establishment of the Warsaw International Mechanism, such as the submission of photographs for the photography exhibition;
- “4. *Also expresses* its appreciation to the Government of the Philippines for hosting the 18th meeting of the Executive Committee and invites other Parties to offer to host future meetings of the Committee, as appropriate, with a view to broadening the range of stakeholders involved, and facilitating active engagement of Parties, in the work of the Committee across regions;
- “5. *Encourages* relevant organizations and experts to continue to contribute as referred to in paragraph 3(a–b) above;
- “6. *Also encourages* the Executive Committee to continue to strengthen dialogue, coordination, coherence and synergies with relevant bodies and organizations under and outside the Convention and the Paris Agreement;
- “7. *Requests* the Executive Committee, in implementing its functions, 5 to:
- (a) Consider ways to collaborate with the entities that form part of the funding arrangements, including a fund, established in paragraphs 2–3 of decisions 2/CP.27 and 2/CMA.4, and to report on the outcomes of that consideration in its annual reports;



- (b) Engage actively in the work under the Santiago network and collaborate with the Advisory Board of the Santiago network through the representation of the Executive Committee on the Board as provided for in decision 12/CMA.4 and endorsed in decision 11/CP.27;
  - (c) Promote the use of the technical guides and knowledge products developed by the Executive Committee and its thematic expert groups, at the regional and national level, including for undertaking activities under the Santiago network and during dedicated virtual meetings, as appropriate;
  - (d) Consider translating, as appropriate, relevant outputs of the work of the Executive Committee and its expert groups into all official United Nations languages so as to maximize their added value and promote their dissemination;
  - (e) Continue to develop, as appropriate and in collaboration with its thematic expert groups, technical guides on relevant topics under all the strategic workstreams of its five-year rolling workplan;
- “8. *Notes* that considerations related to the governance of the Warsaw International Mechanism will continue at its sixth session (November 2024);
- “9. *Takes note* of the estimated budgetary implications of the activities to be undertaken by the secretariat referred to in paragraphs 1 and 7 above;
- “10. *Requests* that the actions of the secretariat called for in this decision be undertaken subject to the availability of financial resources.”
2. *Notes* that considerations related to the governance of the Warsaw International Mechanism will continue at its twenty-ninth session (November 2024).

## **DECISION -/CP.28 -/CMA.5**

### **OPERATIONIZATION OF THE NEW FUNDING ARRANGEMENTS, INCLUDING A FUND, FOR RESPONDING TO LOSS AND DAMAGE REFERRED TO IN PARAGRAPHS 2-3 OF DECISIONS 2/CP.27 AND 2/CMA.4**

THE CONFERENCE OF THE PARTIES AND THE CONFERENCE OF THE PARTIES SERVING AS THE MEETING OF THE PARTIES TO THE PARIS AGREEMENT,

(...)

1. *Welcome* the report of the Transitional Committee containing recommendations on the operationalization of the funding arrangements for responding to loss and damage referred to in paragraph 2 of decisions 2/CP.27 and 2/CMA.4, including the fund referred to in paragraph 3 of the same decisions (hereinafter referred to as the Fund), and take note with appreciation of the work of the Transitional Committee in responding to its mandate;
2. *Approve* the Governing Instrument of the Fund, as contained in annex I;
3. *Decide* that the Fund will be serviced by a new, dedicated and independent secretariat;
4. *Also decide* that the Fund will be governed and supervised by a Board;
5. *Further decide* to designate the Fund as an entity entrusted with the operation of the Financial Mechanism of the Convention, also serving the Paris Agreement, which will be accountable to and function under the guidance of the Conference of the Parties and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement;
6. *Decide* that arrangements with the Fund, consistent with the Governing Instrument of the Fund and to ensure that the Fund is accountable to and functions under the guidance of the Conference

- of the Parties and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement, are to be approved by the Conference of the Parties at its twenty-ninth session (November 2024) and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its sixth session (November 2024);
7. *Request* the Standing Committee on Finance to develop the arrangements referred to in paragraph 6 above, to be concluded between the Conference of the Parties, the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement and the Board of the Fund, consistently with the Governing Instrument of the Fund, for consideration and approval by the Board and subsequent consideration and approval by the Conference of the Parties at its twenty-ninth session (November 2024) and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its sixth session (November 2024);
  8. *Invite* Parties, through their regional groups and constituencies, to submit nominations of representatives for membership of the Board of the Fund to the UNFCCC secretariat as soon as possible;
  9. *Decide* that the alternate member for the seat on the Board of the Fund referred to in annex I, paragraph 17(g), will rotate among the developing country Parties in the regional groups and constituencies listed in annex I, paragraph 17(b–f);
  10. *Request* the UNFCCC secretariat to initiate arrangements for convening the first meeting of the Board of the Fund once all voting member nominations have been submitted, but no later than 31 January 2024, and to convene subsequent meetings until the secretariat of the Fund is operational;
  11. *Urge* the Board of the Fund to promptly select the Executive Director of the Fund through a merit-based, open and transparent process;

12. *Also urge* developed country Parties to continue to provide support and encourage other Parties to provide, or continue to provide support, on a voluntary basis, for activities to address loss and damage;
13. *Invite* financial contributions with developed country Parties continuing to take the lead to provide financial resources for commencing the operationalization of the Fund;
14. *Welcome* the offers of XXX to contribute to the Fund;
15. *Decide* that the Board of the Fund will be conferred with legal personality and the legal capacity as necessary for discharging its roles and functions, in particular the legal capacity to negotiate, conclude and enter into a hosting arrangement with the World Bank as interim trustee and host of the Fund's secretariat;
16. *Request* the Board of the Fund to select the host country of the Board through an open, transparent and competitive process, with the host country of the Board conferring to the Board the legal personality and the legal capacity as necessary for discharging its roles and functions;
17. *Invite* the World Bank, subject to paragraphs 20–24 below, to operationalize the Fund as a World Bank hosted financial intermediary fund for an interim period of four years, starting from the sessions of Conference of the Parties and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at which the Board of the Fund confirms that the conditions referred to in paragraph 20 below can be met, with the Fund to be serviced by a new, dedicated and independent secretariat hosted by the World Bank;
18. *Confirm* their expectation that, as a financial intermediary fund, the Fund will operate through the legal personality and legal capacity of the World Bank, and the privileges and immunities accorded to the World Bank will apply to the officials, property, assets, archives, income, operations and transactions of the Fund;

19. *Invite* the World Bank to take the steps necessary to promptly operationalize the Fund as a financial intermediary fund and to submit to the Board of the Fund by no later than eight months after the conclusion of the twenty-eighth session of the Conference of the Parties the relevant financial intermediary fund documentation, approved by the World Bank Board of Directors, including a hosting agreement between the Board of the Fund and the World Bank based on consultations with and guidance from the Board of the Fund, as elaborated in paragraph 25 below;
20. Decide that, as further elaborated in paragraphs 21–24 below, the continued operationalization of the Fund during the interim period will be conditional on the World Bank hosting the Fund as a financial intermediary fund in a manner that:
  - (a) Is fully consistent with the Governing Instrument of the Fund;
  - (b) Ensures the full autonomy of the Board of the Fund to select the Executive Director of the Fund at a level of seniority set by the Board, in line with relevant World Bank human resources policies;
  - (c) Enables the Fund to establish and apply its own eligibility criteria, including on the basis of guidance from the Conference of the Parties and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement;
  - (d) Ensures that the Governing Instrument of the Fund supersedes, where appropriate, the policies of the World Bank in instances where they differ;
  - (e) Allows all developing countries to directly access resources from the Fund, including through subnational, national and regional entities and through small grant funding for communities, consistent with the policies and procedures to be established by the Board of the Fund and applicable safeguards and fiduciary standards;

- (f) Allows for the use of implementing entities other than multilateral development banks, the International Monetary Fund and United Nations agencies, consistent with the policies and procedures to be established by the Board of the Fund and applicable safeguards and fiduciary standards;
  - (g) Ensures that Parties to the Convention and the Paris Agreement that are not member countries of the World Bank are able to access the Fund without requiring decisions or waivers from the World Bank Board of Directors on individual funding requests;
  - (h) Permits the World Bank, in its role as trustee, to invest contributions to the Fund on the capital markets to preserve capital and general investment income, in line with due diligence considerations;
  - (i) Ensures that the Fund can receive contributions from a wide variety of sources, in line with due diligence considerations;
  - (j) Confirms that the Fund's assets and its secretariat have the necessary privileges and immunities;
  - (k) Ensures a cost recovery methodology that is reasonable and appropriate;
21. *Also decide*, notwithstanding the invitation referred to in paragraph 17 above, that if the World Bank has not confirmed that it is willing and able to meet the conditions set out in paragraph 20 above within six months after the conclusion of the twenty-eighth session of the Conference of the Parties, the Board will launch the selection process for the host country of the Fund and the Conference of the Parties at its twenty-ninth session and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its sixth session will approve the necessary amendments to the Governing Instrument of the Fund;
22. *Further decide* that, if the Board of the Fund determines that the relevant financial intermediary fund documentation referred to

in paragraph 19 above, approved by the World Bank Board of Directors, does not ensure that the conditions set out in paragraph 20 above can be met during the interim period, the Conference of the Parties and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement, on a recommendation of the Board of the Fund, will take the necessary steps to operationalize the Fund as an independent stand-alone institution, including approving the necessary amendments to the Governing Instrument of the Fund and providing guidance to the Board with respect to the selection process for the host country of the Fund, or the Conference of the Parties and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement may take any other course of action deemed appropriate;

23. *Decide* that, if the conditions set out in paragraph 20 above have not been met, as determined by the Board of the Fund following an independent assessment of the performance of the World Bank as host of the Fund's secretariat, the Conference of the Parties and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement will take steps at the end of the interim period referred to in paragraph 17 above to establish the Fund as an independent stand-alone institution, including with respect to any necessary amendments to the Governing Instrument of the Fund and providing guidance to the Board with respect to the selection process for the host country of the Fund, or take any other course of action deemed appropriate;
24. *Also decide* that, if the conditions set out in paragraph 20 above have been met, as determined by the Board of the Fund following an independent assessment of the performance of the World Bank as host of the Fund's secretariat, the Conference of the Parties and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement will take steps at the end of the interim period referred to in paragraph 17 above to invite the World Bank to

- continue operationalizing the Fund as a financial intermediary fund, with or without conditions, as appropriate;
25. *Further decide* that, prior to the establishment of the financial intermediary fund, the Board of the Fund will provide guidance to the World Bank as it takes the necessary steps to establish the Fund as a financial intermediary fund;
  26. *Decide* to establish an interim secretariat for the Fund to provide support, including administrative support, to the Board of the Fund during the transitional period until the establishment of the independent secretariat referred to in paragraph 3 above and request the secretariats of the UNFCCC and the Green Climate Fund and invite the United Nations Development Programme to jointly form this secretariat;
  27. *Welcome and confirm* the recommendations of the Transitional Committee in relation to the funding arrangements contained in annex II.



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