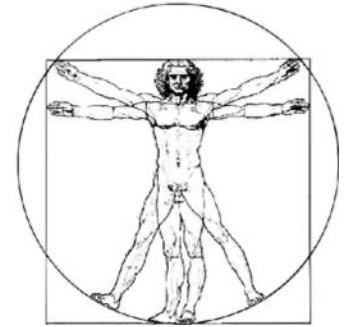


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Loss and Damage and Loss and Damage finance

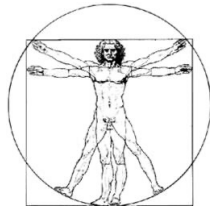
Issues under negotiations

Professor Benito Müller

Director ecbi

for sustained capacity building in support of international climate change negotiations
pour un renforcement durable des capacités en appui aux négociations internationales
sur les changements climatiques

The Spectre of Liability



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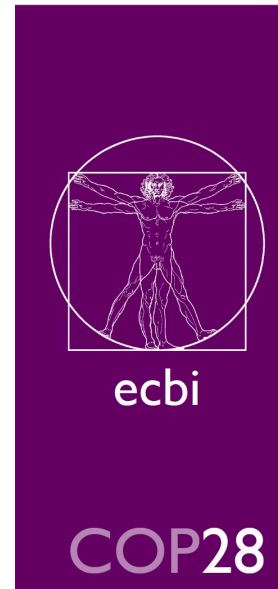
Nomen est Omen!

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“Loss and Damage”: the liability spectre

Benito Müller

blog.oxfordclimatepolicy.org



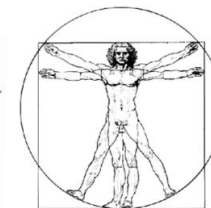
KEY OUTCOMES

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1991 The AOSIS Insurance Mechanism

A/AC.237/WG.II/CRP.8
17 December 1991

ORIGINAL: ENGLISH



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INTERGOVERNMENTAL NEGOTIATING COMMITTEE FOR
A FRAMEWORK CONVENTION ON CLIMATE CHANGE
WORKING GROUP II
Fourth session
Geneva, 9–20 December 1991
Agenda Item 2(b)

NEGOTIATION OF A FRAMEWORK CONVENTION ON CLIMATE CHANGE

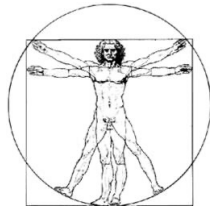
Elements related to mechanisms

Vanuatu:* draft annex relating to Article 23 (Insurance) for inclusion in the revised single text on elements relating to mechanisms (A/AC.237/WG.II/Misc.13) submitted by the Co-Chairmen of Working Group II)

The mechanism included an **International Insurance Pool** to provide financial insurance “to **compensate** the most vulnerable small island and low-lying coastal developing countries for loss and damage resulting from sea level rise.”[para 1.5]

The pool was meant to be funded by “industrialised developed countries” according to a formula involving GNP and country emission figures “modelled on the 1963 Brussels Supplementary Convention on **Third Party Liability** in the field of Nuclear Energy”[para. 4]

2007 Bali Action Plan



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Decision 1/CP.13

Bali Action Plan

- 1 (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;

2010 The Cancun Agreements

FCCC/CP/2010/7/Add.1

26. *Decides* to hereby establish a work programme in order to **consider** [...] **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 1/CP.16

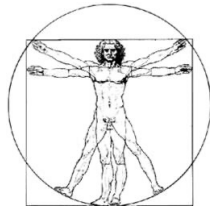
The Cancun Agreements: Outcome of the work of the Ad Hoc Working Group on Long-term Cooperative Action under the Convention

2013 The WIM

Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts.



PARIS2015
UN CLIMATE CHANGE CONFERENCE
COP21·CMP11



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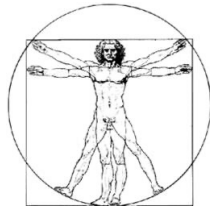
In Paris the negotiating text initially contained an option from developing countries that included liability and compensation, and another from the Umbrella Group – including the US – that deletes all mentions of L&D altogether.

L&D got its stand-alone Art. 8, yet its formulation was somewhat retrograde: While the WIM is solely about “**addressing**” L&D, Art. 8 recognizes “the importance of **averting, minimizing and addressing** loss and damage associated with the adverse effects of climate change” thus referring implicitly also to mitigation (averting) and adaptation (minimizing).

Moreover, in the Paris cover decision the COP “**agrees that Article 8 of the Agreement does not involve or provide a basis for any liability or compensation**” demonstrating that the spectre of liability was perceived by some, particularly the US, as a live and active problem.

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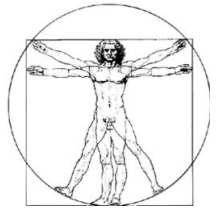


2022 The time is ripe ... for serious discussions on finance to address and indeed respond to L&D through a dedicated pilot fund

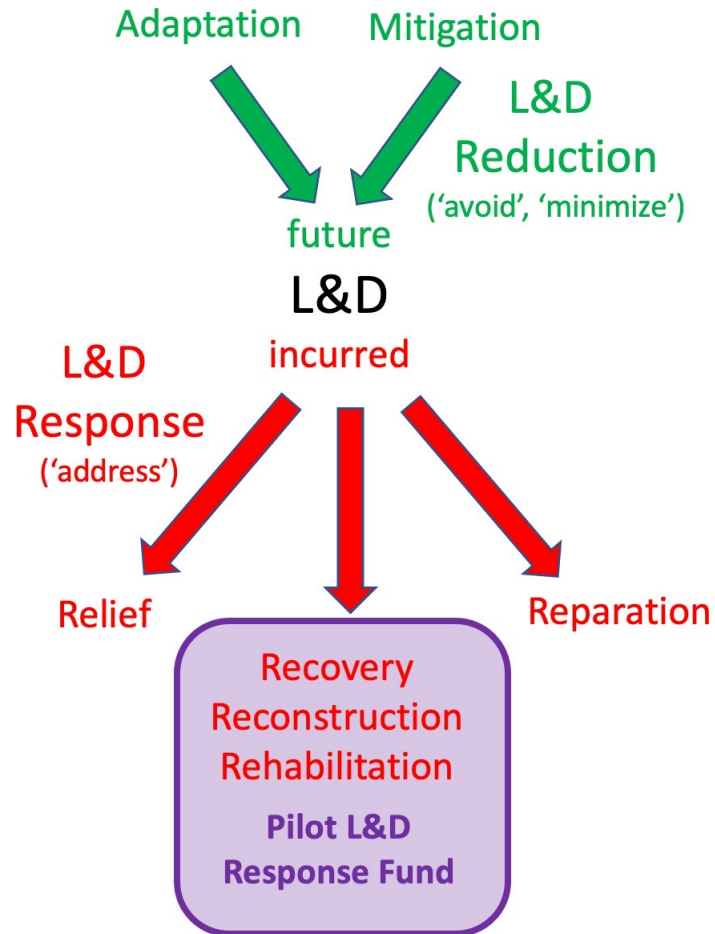
Elements of a Pilot Loss and Damage Response Fund

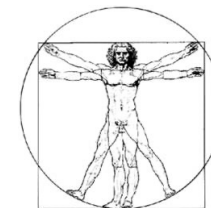
Benito Müller^[1] with contributions^[2] by **Diann Black-Layne**,^[3] **Kishan Kumarsingh**,^[4]

2022 Elements of a Pilot Loss and Damage Response Fund



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[News](#) > COP27 Reaches Breakthrough Agreement on New “Loss and Damage” Fund for Vulnerable Countries

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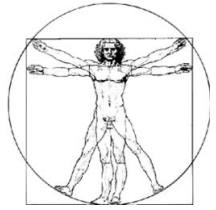
COP27 Reaches Breakthrough Agreement on New “Loss and Damage” Fund for Vulnerable Countries

20 November 2022

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Acknowledgment of the “urgent and immediate need” for financial resources to assist particularly vulnerable developing countries “in **responding** to loss and damage associated with the adverse effects of climate change ... **in the context of ongoing and ex post (including rehabilitation, recovery and reconstruction) action**”

Decision to “establish a **fund for responding to loss and damage** whose mandate includes a focus on addressing loss and damage”

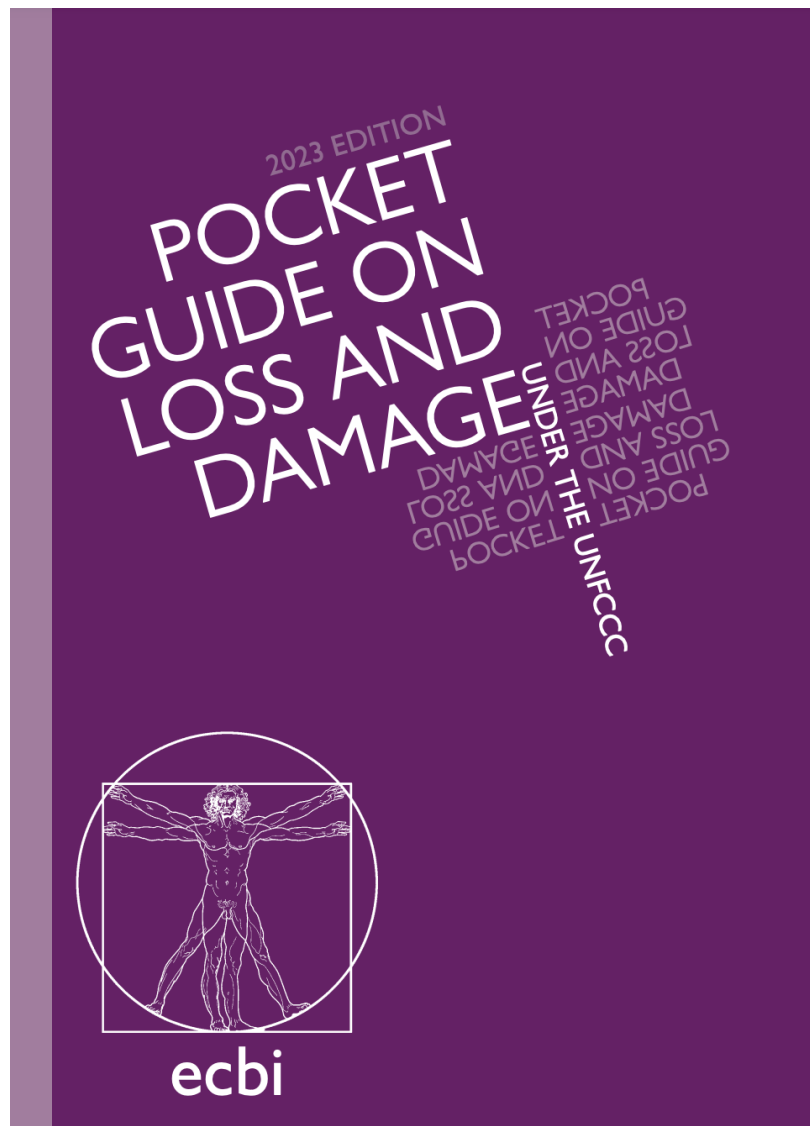
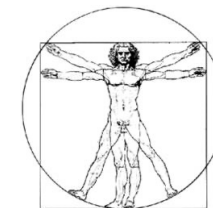


Decision 1/CP.28

Operationalization 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 board will also be tasked with giving the fund a name. This came as the US – which for decades resisted the entire concept of “loss and damage” – pushed back against references to a “loss and damage fund”. Instead, US climate envoy John Kerry repeatedly referred to the “**climate impact response**” fund. The US State Department declined to comment on the reasoning behind this to Carbon Brief.”*

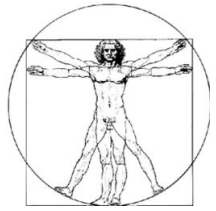


POCKET GUIDE ON LOSS AND DAMAGE UNDER THE UNFCCC

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CLIMATE SOLIDARITY ALLIANCE: THE WAY FORWARD?



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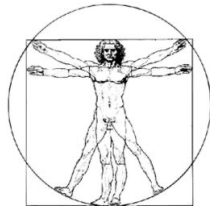
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[Founding the Climate Solidarity Alliance: Possible Next Steps](#)

Benito Müller



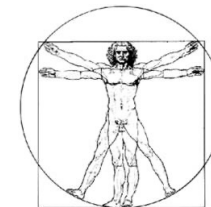
PRECEDENTS: THE FRENCH SOLIDARITY TAX 2006



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- On 1 July 2006, France started to collect a **solidarity tax on airplane tickets** (*taxe de solidarité sur les billets d'avion*) as a way to help finance the fight against HIV/AIDS, tuberculosis and malaria in severely affected countries through UNITAID.
- The tax was initially proposed by Presidents Jacques Chirac of France and ***Luiz Inácio Lula da Silva*** of Brazil in Paris in September 2005.
- The levy was a surcharge of €1 on economy class flights within Europe, €4 on long-haul economy class, €10 on business class within Europe and €40 on long-haul business class.
- The levy is collected by the *Directorate General for Civil Aviation* which transfers it *not* to the general budget, but to a dedicated '**Solidarity Fund for Development**' managed by the French Development Agency.
- In 2023 the French tax raised around EUR 370 million, EUR 210m of which channelled towards UNITAID. According to the French government, “no impact has been observed on French air traffic or on tourism following the establishment of the airline-ticket levy.”

PRECEDENTS: THE FIJI CLIMATE RELOCATION OF COMMUNITIES TRUST FUND 2019



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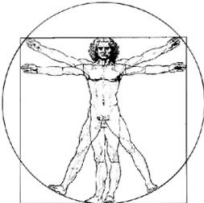
Table 3. Services that will be subject to Environment & Climate Adaptation Levy are as follows:

No	Service provider	Services subject to ECAL
1	Licensed hotels	Accommodation, refreshments, and <i>any other</i> services.
2	Tourist vessels operating within Fiji waters	Accommodation, refreshments, and <i>any other</i> services provided on board.
3	Licensed bars	Meals, beverages, and any other services provided in a licensed bar. This includes licensed bars located, for example, in private clubs.
4	Licensed Nightclub	Services such as music, dancing or other entertainment including other services
5	Inbound tour operators	Travel, tour and sight-seeing services.
6	Organizers of entertainment programs /product exhibitions	Entry fees to the events venue.
7	Recreational Activity operators	Recreational activities provided by these operators e.g. Skydiving
8	Cinema Operators	Entry fees and all services provided within the cinema premises.
9	Licensed Rental/hire car operators	With effect from 01/01/15 any hire of chauffeur driven motor vehicles
10	Bistros and coffee shops	Meals, beverages, and other services.
11	Licensed Restaurants	Meals, beverages, and other services.
12	Aircraft operators	This applies to charter flight services except for charter flights for medical or natural disaster relief evacuations services are not subject to STT and ECAL.
13	Water sports operators	All water sports activities including river safaris.
14	Home stay operators	Accommodation and other services provided in a private residence or property that accommodates tourists, international students or overseas visitors who are paying guests. It does not apply to hostels/accommodation operated by public educational institutions.
15	Unlicensed service operators	If a service provider is not licensed but meets the registration requirements and, it will be required to register and charge ECAL on the services provided.

- Funding facilities
- The revenue from the Climate Act (2020) will be used to fund different projects
- One of the projects which will be funded (listed in the table)
- While the total amount is 3.6m, to be required

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CLIMATE SOLIDARITY LEVIES

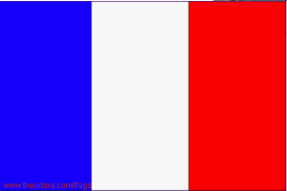


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Domestic Levies for National Trust Funds



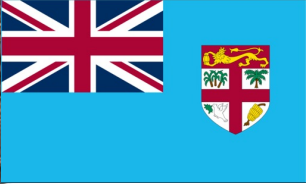
Solidarity tax on airplane tickets



Solidarity Fund for Development
(and Loss & Damage)



Environment and Climate Adaptation (and L&D) Levy



Climate Relocation of Communities
Trust Fund

CSA SOLIDARITY MECHANISM

Fund for responding to Loss and Damage.

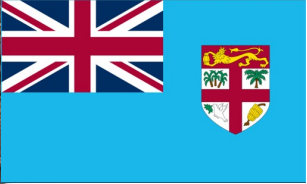
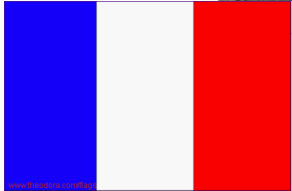
Multilateral expectation

Voluntary/discretionary

CSA expectation

Solidarity Payback & Bonus

⊕



(Solidarity Fund for Development)

Climate Relocation of Communities Trust Fund

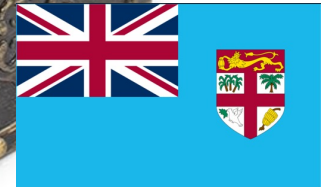
CSA SOUTH-SOUTH COOPERATION

Voluntary/discretionary

Fund for responding to Loss and Damage.

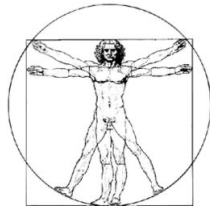
Solidarity Payback & Bonus

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Climate Relocation of Communities
Trust Fund

CLIMATE SOLIDARITY ALLIANCE: BELEM?



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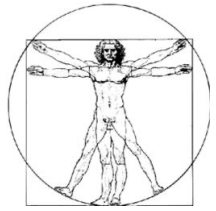
Paris
September 2005



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PARIS 2015
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COP30 PARA AMAZONIA
BELEM BRASIL
2 0 2 5



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THANK YOU!