



**STANDING IN SOLIDARITY
WITH THOSE ON THE
FRONTLINES OF THE
CLIMATE CRISIS:
A LOSS AND DAMAGE
PACKAGE FOR COP 28**

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SUPPORTING MESSAGES

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The scientific evidence is crystal clear that urgent and transformative action to address loss and damage is long overdue. Just and ambitious outcomes on loss and damage at COP 28 are critical to ease the heavy burdens that are being shouldered by vulnerable countries and communities that are least responsible for climate impacts. The immoral delaying tactics that have been used to block progress on loss and damage for decades must end. At a minimum, operationalization of the loss and damage fund and funding arrangements must be adopted, recognizing that this is just one step in a long process to deliver finance and support to those who need it the most. Developed countries must recognize their oversized role in causing loss and damage, and make immediate contributions to the Loss and Damage fund that are separate and additional to existing inadequate climate finance.”



Adelle Thomas
Senior Scientist,
Loss and Damage Lead
at Climate Analytics

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The loss and damage fund is still empty. We need to see it start to be filled in 2023.”



Vanessa Nakate,
Rise Up Movement

“

The Loss and Damage Fund must be operationalised at COP 28, a critical measure of success or failure. The scale of funds must be commensurate with the needs, and come from every possible source imaginable. And the Fund must be institutionalised in a way that really works for, and delivers to, the Pacific small island developing states. Funding our holistic national programmes, using our national systems, and with real direct access so that we are in control of our destiny.”



**The Honourable
Ralph Regenvanu,**
Minister of Climate Change,
Republic of Vanuatu

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The agreement reached at TC5 in Abu Dhabi in early November on recommendations to operationalise the Loss and Damage Fund is fragile—a delicate compromise around eligibility, scope and responsibility. Loss and Damage exceeds \$150bn per year already, and most of this is being met by the poorest, most vulnerable countries, often through unsustainable debt. The purpose of this Fund is to help break that climate-debt nexus. It’s good that it’s starting after a long wait. Time will tell whether it will be sufficient size, pace and accessibility.”



Avinash D. Persaud,
Chair,
CARICOM Commission on the
Economy and Emeritus Professor
of Gresham College

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After decades of difficult negotiations, the UN process has put in place a framework for mobilising support to assist vulnerable countries in addressing climate-induced loss and damage. The Transition Committee has successfully reached agreements on recommendations regarding the operationalization of the Loss and Damage Fund. While this is not perfect and does not encompass all the expectations of developing countries, this however marks a significant milestone in addressing loss and damage and supporting vulnerable countries and communities. As the fund takes shape, prioritising grant-based assistance for countries severely affected by loss and damage becomes crucial. The fund must operate in an unconventional manner compared to existing funds, tailor itself to the needs of developing countries impacted by loss and damage, and ensure direct support reaching vulnerable countries and communities.”



Manjeet Dhakal,
Head of LDC Support Team
and South Asia Director,
Climate Analytics.
Advisor to the Chair
of the Least Developed
Countries (LDC) Group.
TC member, Nepal.

ACKNOWLEDGMENTS

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This brief is dedicated to the memory of Professor Saleemul Huq. An inspiration and mentor to so many in the Loss and Damage community. We shall miss your vision, your leadership, your friendship. You gave so many the inspiration to start on this journey, and will give us the inspiration to go on.

Saleemul Huq called for concrete outcomes at COP 28 “if all you can say at the end of COP 28 is that “progress” has been made on the issue of funding loss and damage, that will be the kiss of death.”¹

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KEY RECOMMENDATIONS

COP 28 has the opportunity to redress the long term imbalance of the climate negotiations away from technocratic solutions that serve polluters and the powerful and to instead focus on addressing the needs and serving the interests of those on the frontlines of the climate crisis. The international climate architecture should and can be an instrument of climate justice that works for the people and countries on the front line of climate impacts. Key to that will be:

- The Global Stocktake (GST) recognises that three pillars of the Paris Agreement – mitigation, adaptation and Loss and Damage² – are falling radically short of what is needed. That each element is linked and also acknowledges the loss and damage already occurring in a stand-alone element, with a roadmap to address the gaps in addressing Loss and Damage, including each of the elements below.
- Ensuring the Santiago Network on Loss and Damage (Santiago network) is able to immediately start supporting developing countries by providing technical assistance to respond to loss and damage, by selecting the network host, electing Advisory Board members and putting in place an independent secretariat. Funding must be provided to the Santiago network – both immediately from developed country commitments and longer term by linking it to the Loss and Damage Fund – so technical advice can be provided to developing countries immediately, and ramped up when funding is provided through the Loss and Damage Fund.
- Operationalisation of a fair, fully funded and fit for purpose Loss and Damage Fund that is directly accessible to developing countries and communities, meeting their needs now, and able to scale up over time. Developed countries should make immediate contributions to setting up the Loss and Damage Fund and make long term commitments to the Fund. Both should be above and beyond existing climate finance and ODA. New, fair and polluter pays sources of funding should be included in the future work program of the Fund.
- Ensuring that the New Collective Quantified Goal (NCQG) hosts a dialogue in 2024 to establish a sub-goal for loss and damage finance, including for the Loss and Damage Fund. NCQG discussions should acknowledge that loss and damage in developing countries is already greater than 400 billion USD per year and expected to grow.

A COP 28 outcome incorporating these four elements will fill the missing gap in the international climate architecture and enable the UNFCCC and Paris Agreement to deliver on addressing loss and damage and support people on the front line of climate impacts.

INTRODUCTION

The history of climate change Loss and Damage negotiations dates back more than thirty years. In 1991, Vanuatu, as the chair of the Alliance of the Small Island States (AOSIS), made the first proposal to address loss and damage³. In the decades since, an average of 189 million people each year have been affected by extreme weather-related events in developing countries.⁴

Across those three decades developed countries have used a multi pronged approach to block progress on loss and damage. They have delayed by:

- Redirecting responsibility, including back onto climate-vulnerable countries;
- Pushing non-transformative solutions, such as insurance and humanitarian response;
- Emphasising downsides, including pitting Loss and Damage against other climate efforts;
- Surrendering and claiming the task is too big financially and politically.⁵

Despite this continual blocking from developed countries, incremental progress has been made. In 2013 at COP 19 in Warsaw, Poland in the shadow of Typhoon Haiyan's destructive path in the Philippines the Warsaw International Mechanism (WIM) was established 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"⁶. Regardless of the clear WIM mandate⁷ developed countries have blocked the WIM undertaking any meaningful work to provide funding.⁸ However, the WIM recognised the need to provide technical support to enable developing countries to address loss and damage, and established the Santiago network in 2020, with board, host and secretariat to be finalised at COP 28.

In 2015 at COP 21 the Paris Agreement made a relative breakthrough in recognising Loss and Damage as the third pillar of climate action, alongside mitigation and adaptation.⁹ Efforts since then, at COP 23 and COP 26, where developing countries have called for new and additional finance for Loss and Damage¹⁰ have met relentless objections from developed countries. Reaching perhaps a new nadir when at COP 26 developing countries' proposal for a Loss and Damage finance facility was once again rejected in favour

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of a series of discussions, the Glasgow Dialogue, without any indication they would result in a concrete outcome¹¹.

However, a beacon of hope was lit at COP 27 in Egypt. In the shadow of catastrophic flooding in Pakistan, international finance for Loss and Damage was placed on the COP agenda for the first time. Due to intense pressure by developing countries, civil society and the public, at COP 27 countries decided to establish long-awaited new funding arrangements, including a fund, to respond to Loss and Damage and assist in mobilising new and additional resources. The details of who will pay for the fund and how it will work will be one of the key outcomes from COP 28.

COP 28 has the opportunity to redress the long term imbalance of the climate negotiations - and ensure that the international climate architecture works for the people and countries on the front line of climate impacts. Key to that will be:

- The GST providing a clear idea of the loss and damage occurring already, and the pathways forward to address the gaps.
- Ensuring the Santiago network has the tools it needs to immediately start supporting developing countries to develop their approaches to addressing loss and damage so that changes on the ground can be implemented immediately, and ramped up when funding is provided through the Loss and Damage Fund.
- Agreeing a fair and fit for purpose Loss and Damage Fund that is directly accessible to developing countries and communities at the scale of their needs now, and able to scale up over time.
- Ensuring that the NCQG is well placed to provide a goal or guide for loss and damage finance, including through the Loss and Damage Fund.

A COP 28 outcome incorporating these four elements will fill the missing gap in the international climate architecture and enable the UNFCCC and Paris Agreement to deliver on addressing loss and damage and support people on the front line of climate impacts.

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COMPLETE LOSS AND DAMAGE PACKAGE

In the real world Loss and Damage is inextricably linked to mitigation, adaptation and finance. The less we mitigate and adapt, and the less finance there is to enable both, the more loss and damage there will be. The less Loss and Damage finance is provided, the more suffering there will be. Even at current warming levels, the frequency and magnitude of loss and damage is having existential impacts on vulnerable developing countries and awful consequences for impacted communities. For too long developed countries have pushed Loss and Damage off the negotiation agenda - whilst losses and damages mounted in the real world. COP 28 is an opportunity to address loss and damage holistically – across the gamut of agenda items.

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2.1 THE GLOBAL STOCKTAKE

KEY MESSAGES

The decision on the GST must include a roadmap for how the gaps and needs on Loss and Damage will be addressed including:

- Recognising the importance of the NCOG, and the need for a sub-goal of at least 400 billion USD a year to be mobilised to address loss and damage; the importance of operationalising the Loss and Damage Fund as the central finance body, with firm commitments from developed countries to provide new and additional grants-based finance and a commitment to new, fair, polluter pays sources of finance; and, acknowledging the need for debt restructuring in the face of loss and damage;
- A commitment to the full operationalisation of the Santiago network and to providing it with the resources needed to provide technical assistance and for the independent secretariat to undertake its day to day operations.

The Paris Agreement was visionary in establishing a goal of 1.5°C, and in acknowledging that loss and damage was already occurring and recognising Loss and Damage as the third pillar of climate action alongside mitigation and adaptation. In an acknowledgment that ambition on climate action was not high enough, the Paris Agreement established the GST: a ratcheting-up mechanism to raise climate ambition every five years.

At COP 28 the first GST will conclude - the culmination of two years of work across three phases. This first GST comes at a time when the devastating consequences of the climate crisis, at only 1.2°C warming, are being felt by all communities, especially those in developing countries. It comes at a time when the pathway to limit global warming to 1.5°C is very difficult and will remain open only with transformational change.¹²

The outcome from the GST must represent the on the ground realities of a world with escalating climate impacts. A world where addressing loss and damage is on equal footing with undertaking mitigation and adaptation, as is reflected in the Paris Agreement. To fulfil its mandate of assessing progress towards achieving the purpose and global goals of the Paris Agreement it is essential to include Loss and Damage as both a standalone and a cross-cutting issue within the GST.

At the technical assessment phase of the GST many participants stressed the need for the GST to both recognise and respond to the scale of the needs and the urgency of addressing loss and damage at all levels, particularly for the most vulnerable groups and communities.¹³ However, disappointingly Loss and Damage is only present in the GST technical report as an element of adaptation¹⁴ - a result of a consistent tactic of developed countries to conflate adaptation with loss and damage, to diminish the urgent needs for new and additional finance at scale for both crucial adaptation actions and for addressing loss and damage.

This last phase of the GST is expected to yield a summary of political messages¹⁵ which Parties will translate into an outcome for the GST. The president designate of COP 28 has articulated a vision that the outcome of the GST would include a negotiated outcome, an action agenda to identify “real world solutions” and a call to action with clear messages for how Parties and non-state actors can contribute to getting the world back on track towards the world envisioned by the Paris Agreement.

Alongside outlining a road map for scaling up ambition on mitigation, adaptation and Loss and Damage the GST must also include a roadmap to limit global average warming to 1.5°C, including a commitment to a full, fast and fair phase-out of all fossil fuels to avoid harms from loss and damage; and addressing the impacts of climate change through both adaptation and addressing loss and

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damage comprehensively and holistically so that all have the resources they need to thrive in the midst of climate change.

For more information see the recent [Loss and Damage Collaboration briefing on the GST](#).

2.2 SANTIAGO NETWORK FOR LOSS AND DAMAGE

KEY MESSAGES

The Santiago network will enable countries to gain insights into their specific needs related to Loss and Damage and assist in devising effective strategies to address them, including through a sound Loss and Damage needs assessment. Its work must be enabled to begin immediately in 2024, including by:

- Ensuring existing finance commitments are fully delivered, and sufficient short term finance is provided by developed countries to get the Santiago network up and running;
- Clarifying that the Loss and Damage Fund will provide finance to the Santiago network in order to provide technical support to developing countries;
- Selecting the network's secretariat host organisation and members of the Advisory Board.

The Santiago network was established at COP 25 in Madrid, with COPs since then refining the mandate and modes of work. The Santiago network's mandate is to catalyse demand-driven technical assistance by assisting in identifying, prioritising and communicating technical assistance needs and priorities¹⁶ and facilitating technical assistance from relevant organisations, bodies, networks and experts (OBNEs). The institutional arrangements of the Santiago network are an Advisory Board to provide guidance and oversight; a hosted secretariat to facilitate its work; and a network of member OBNEs covering a wide range of topics relevant to averting, minimising and addressing loss and damage¹⁷.

At COP 26 developed countries were urged to provide funds for the operation of the Santiago network and the provision of technical assistance.¹⁸ Pledges to date exceed 50 million € (some intended to cover up to five years) from Germany, Austria, Canada, United Kingdom, Luxembourg, Spain, European Union; only 30 million € has been received.¹⁹

At SB 58, held in June 2023, Parties were to choose a host organisation for the secretariat of the Santiago network. Two proposals were received: the United Nations Office

for Disaster Risk Reduction - United Nations Office for Project Services (UNDRR-UNOPS) consortium²⁰; and the Caribbean Development Bank (CDB)²¹. According to the report from the panel charged with evaluating bids²², both host proponents satisfied the evaluation criteria, although they each had varied strengths and weaknesses. However, Parties failed to reach consensus on a host for the Santiago network secretariat. The intention is to reach a formal agreement at COP 28 in Dubai. Additionally, the selection process for Advisory Board members is mandated to occur at COP 28, which would enable the Santiago network to begin its work in early 2024.

At COP 28 Parties should also discuss and agree the role of the UNFCCC secretariat in supporting the work of the Santiago network, including in the short term, in improving the process of identifying technical assistance needs, enhancing the role and capacity of national contact points, expanding the membership of OBNEs, and addressing other matters that the secretariat and advisory board will handle as the Santiago network becomes fully operational.

The Santiago network's activities require finance which is new, additional, predictable and adequate to facilitate the effective implementation of its functions, particularly for developing countries that require technical assistance to address loss and damage in their unique national contexts.

The Santiago network has a valuable role to play in facilitating the provision of support to developing countries. The Santiago network will enable countries to gain insights into their specific needs related to Loss and Damage and assist in devising effective strategies to address them, including through a sound Loss and Damage needs assessment. Hence the Santiago network must be included in consideration of the Loss and Damage Fund. Both as an acknowledgement of the need for operational funding for the Santiago network and, importantly, as a channel for funding to support technical assistance to enable countries to better understand and articulate their needs and develop strategies that could go on to be presented to the Loss and Damage Fund Board in order to be funded.

For more information see the recent [Loss and Damage Collaboration Briefing on the Santiago network](#).

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“**The Santiago network must be included in consideration of the Loss and Damage Fund. Both as an acknowledgement of the need for operational funding for the Santiago network and, importantly, as a channel for funding to support technical assistance to enable countries to better understand and articulate their needs and develop strategies that could go on to be presented to the Loss and Damage Fund Board in order to be funded.**”

2.3 NEW COLLECTIVE QUANTIFIED GOAL (NCQG)

KEY MESSAGES

- The NCQG is an opportunity to redress the overall scale of climate finance provided to developing countries, ensuring there is a substantial financing commitment from developed countries across all three pillars of the Paris Agreement, including a sub-goal of at least 400 US billion a year for loss and damage.
- This will require at least one dedicated NCQG dialogue on Loss and Damage to be held in 2024, to bring together NCQG negotiators, Loss and Damage negotiators, civil society, communities, other stakeholders and advisors to discuss the quality and quantity of a sub-goal in the NCQG focused on Loss and Damage.
- Discussions should be held on the relationship between a NCQG sub-goal and the Loss and Damage Fund capitalisation and replenishment. A sub-goal in the NCQG should establish a formal requirement to the Loss and Damage Fund.

The NCQG was established as part of the Paris Agreement. Designed to replace the inadequate 100 billion USD a year goal agreed in 2009, which only focused on mitigation and adaptation. The NCQG process, due to conclude in 2024, should establish a target taking into account the needs and priorities of developing countries.

Despite being inadequate, developed countries have consistently failed to meet their commitment to provide 100 billion USD in new and additional climate finance. In 2020, developed countries report they have provided just 83.3 billion USD, yet the real value of financial support specifically aimed at climate action was at best 24.5 billion USD.²³ Equally worrying is that 93 percent of the climate finance reported by wealthy countries between 2011 and 2020 was redirected development aid, undermining other pressing priorities.²⁴

The NCQG must incorporate a greater deal of transparency and granularity and be established at the scale of needs of developing countries - for mitigation, adaptation and Loss and Damage.

For mitigation, the IPCC assesses the expenditure needed in developing countries to be more than 1.4 trillion to 2.8 trillion USD per year, with other estimates indicating that up to 50% of the finance would need to come from public sources in regions with low levels of market maturity and where the cost of credit is particularly high.²⁵

“**The NCQG must incorporate a greater deal of transparency and granularity and be established at the scale of needs of developing countries - for mitigation, adaptation and Loss and Damage.**”

For adaptation, the United Nations Environment Programme estimates total adaptation finance needs for all developing countries in the range of 79 billion USD to 612 billion USD per year with a median estimate of 202 billion USD for the 2021–2030 period. Making the annual adaptation finance gap five to ten times greater than the 28.6 billion USD international adaptation finance provided in 2020.²⁶

The financial cost of loss and damage in developing countries is already significant and expected to rise. We consider that developing countries need at least 400 billion USD each year to address loss and damage, based on a number of estimates including:

- Economic loss from major climate and weather extreme events in developing countries in 2022 as more than 109 billion USD. Noting this does not include slow onset events, nor non-economic cost.²⁷
- Modelling for loss and damage in developing countries undertaken by Markandya and González-Eguino, and updated to 2023 USD values, shows midpoint estimates of 425 USD billion for 2020 and 670 billion USD for 2030.²⁸ These modelled estimates do not include non-economic loss and damage.

The NCQG is an opportunity to redress the overall scale of climate finance provided to developing countries, ensuring there is a substantial financing commitment from developed countries across all three pillars of the Paris Agreement, addressing the omission of Loss and Damage from global climate finance goals.

This will require at least one additional dialogue (preferably hybrid) to be held in 2024, to bring together NCQG negotiators, Loss and Damage negotiators, civil society, communities, other stakeholders and advisors to discuss the quality and quantity of a sub-goal in the NCQG focused on Loss and Damage.

Reciprocally, discussions should be held on the relationship between a NCQG sub-goal and the Loss and Damage Fund capitalisation and replenishment. A sub-goal in the NCQG should establish a formal UNFCCC requirement and relationship between the Loss and Damage Fund and UNFCCC's global mandates. It is likely not all finance will be channelled through the Loss and Damage Fund, as there will be bilateral and multilateral financial flows as well. Nonetheless, a sub-goal in NCQG will help ensure the Loss and Damage Fund can fulfil its mandate with more agility and autonomy.²⁹

The NCQG and Loss and Damage Fund must both include robust transparency frameworks to track finance to address loss and damage to ensure additionality and identify funding gaps using innovative, flexible and adaptive approaches. This transparency framework should enable regular reviews of the NCQG sub-goal on Loss and Damage

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to be undertaken to evaluate progress and feed into the UNFCCC's Standing Committee on Finance's Biennial Assessment and Overview of Climate Finance Flows reports, to ensure that the NCQG is able to address the evolving needs of communities, including children, youth, women, Indigenous Peoples, the elderly, people with disabilities, in developing countries. These reviews should also feed into the development of an annual loss and damage gap report to help inform Parties during replenishment cycles of needs, finance provided and shortfalls.

For more information see the recent Loss and Damage Collaboration [briefing on the NCQG](#).

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LOSS AND DAMAGE FUND: FAIR, FIT FOR PURPOSE AND FULLY FUNDED

KEY MESSAGES

At COP 28 in Dubai countries must operationalise a fair and fit for purpose Loss and Damage Fund that is directly accessible to developing countries and communities and able to meet their needs now, as well as being capable of scaling up to meet future needs. This means a Loss and Damage Fund that is operationalised as:

- The central Fund to address Loss and Damage as a stand-alone operating entity of the financial mechanism of the Convention, and under the guidance of and accountable to the COP and CMA. It should have a coordinating role across other Loss and Damage funding arrangements.
- The Fund must provide direct access for all developing countries, with modalities to provide direct access to impacted communities, Indigenous Peoples, local government, and civil society.
- The Fund Board should ensure an equitable allocation, aligned with the priorities of affected countries, across thematic areas such as disaster response, reconstruction and rebuilding, slow-onset, and non-economic loss.
- Acknowledging that a minimum of 400 billion USD a year reflects the current needs of developing countries and that this is expected to rise, the Loss and Damage Fund should establish a floor of funds to be raised and disbursed each year.

- Developed countries must commit to providing grant funding, other countries should be invited to contribute and pathways for new sources of funding that are polluter pays and equitably implemented - such as a tax on the fossil fuel industry, a frequent flyer levy, a tax on international shipping fuel, a global wealth tax or financial transaction tax should be laid out at COP 28.
- Developed countries should make contributions at COP 28 to enable the Loss and Damage Fund to be set up - above and beyond existing climate finance and ODA.
- The Loss and Damage Fund must provide funds as grants, and not exacerbate the existing debt crisis amongst vulnerable countries.
- The Board should be composed with equitable representation, with a majority of seats for developing countries, with gender balance, and should give voice and vote to representatives from affected communities and civil society organisations as full board members.
- The Fund governing instrument must enshrine a human rights-based and gender-responsive approach and ensure the meaningful and effective participation of affected communities, including women, children, youth, Indigenous Peoples, and civil society organisations. The Loss and Damage Fund must take into account Indigenous, traditional and local knowledge and act at the most local level possible.
- A criteria should be established in order for finance to count as Loss and Damage finance - inside the Loss and Damage Fund and outside in the funding arrangements - with transparency and regular reporting adding up to a regular Loss and Damage gap report.

COP 27 in Sharm el Sheikh in 2022 made a breakthrough in establishing a fund, and funding arrangements, for Loss and Damage. A Transitional Committee (TC) was set up to meet throughout 2023 and make recommendations to COP 28 on how to operationalise the fund, with their recommendations to consider:

- a.** Establishing institutional arrangements, modalities, structure, governance and terms of reference for the new fund;
- b.** Defining the elements of the new funding arrangements;
- c.** Identifying and expanding sources of funding, including innovative sources;
- d.** Ensuring coordination and complementarity with existing funding arrangements.³⁰

Across this year developed countries have consistently made arguments for outcomes that would minimise their responsibility to pay for loss and damage and that would maximise decision making power in the hands of contributors. On the other hand, developing countries have

taken the view that the Fund should be central and address Loss and Damage from a comprehensive perspective, and have argued for decision making that centres affected countries.

As Minister Schuster of Samoa said on behalf of AOSIS at the pre-COP on October 31:

“we have allowed ourselves to slip back into our well-worn political narratives, losing sight of the fact that we have been given an opportunity to chart a new path. This is bitterly disappointing for me as one who represents extremely vulnerable peoples and communities in countries that have been battered by significant climate-related impacts with the prospect of things getting worse, not better – bitterly disappointing because we have been counting on what can be a positive, proactive and problem-solving international process for our continued existence. I know that we can do better than this.”³¹

The culmination of a year of TC meetings, workshops, dialogues, and ministerials is a set of close-fought recommendations for countries to consider at COP 28, including a governing instrument for the Loss and Damage Fund.³² These recommendations may be adopted as a package at COP 28, or they may be opened up for further negotiation and, one would hope, improvement to ensure the Loss and Damage Fund more closely meets the needs of developing countries, not retrograde steps.

The full operationalisation of the Loss and Damage Fund must be a cornerstone outcome of COP 28, with agreement on the central tenets of the Fund. Anything less will further damage trust in the UNFCCC process, and result in greater harm to people who have been made vulnerable through historic marginalisation, and who are facing the impacts of climate change. These people deserve a fair Loss and Damage Fund that can meet their needs.

A summary of the key elements in agreeing a fair Loss and Damage Fund that meets the needs of developing countries is sketched out below.³³

“**The full operationalisation of the Loss and Damage Fund must be a cornerstone outcome of COP 28, with agreement on the central tenets of the Fund. Anything less will further damage trust in the UNFCCC process, and result in greater harm to people who have been made vulnerable through historic marginalisation, and who are facing the impacts of climate change.**”

3.1 SCOPE

L&DC view	The Loss and Damage Fund should address the full spectrum of Loss and Damage impacts, including extreme events, slow onset events, economic and non-economic loss and damage.
Developing country view	The Loss and Damage Fund should address the full spectrum of Loss and Damage impacts, including extreme events, slow onset events, economic and non-economic loss and damage, for both ongoing and ex-post (including rehabilitation, recovery, and reconstruction) action.
Developed country view	The Loss and Damage Fund should focus on the biggest gaps in existing response which are non-economic loss and damage and slow onset events. The humanitarian sector, the multilateral development banks (MDBs) and bodies such as the Global Shield are already addressing loss and damage and the Fund should not duplicate.
Co-Chairs Proposal from TC5	<p>The draft governing instrument³⁴ identifies that the Loss and Damage Fund will provide support for responding to economic and non-economic loss and damage. This may include funding complementary to humanitarian actions taken immediately after an extreme event; intermediate or long-term recovery, reconstruction, or rehabilitation actions; and actions to address slow onset events.</p> <p>Activities that are specifically identified to receive funding include “climate-related emergencies, sea level rise, displacement, relocation, migration, insufficient climate information and data, and the need for climate-resilient reconstruction and recovery”, further activities that may be supported are identified as “development of national response plans; addressing insufficient climate information and data, and promoting equitable, safe and dignified human mobility”.</p> <p>However, it is identified that the “Fund will focus on priority gaps within the current landscape of institutions” and “will provide complementary and additional support”, it’s not clear whether this may be used to limit work of the Fund.</p>

The COP 27 decision very clearly envisions a Fund that is broad in scope: in the context of “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” countries established “a fund for responding for loss and damage whose mandate includes a focus on addressing loss and damage”.³⁵

However, developed countries have sought to narrowly (re-)define the “priority gaps for which solutions should be explored”³⁶ as the gaps of non-economic loss and damage and slow onset events. Whilst it’s clear that these areas are enormous gaps in the current Loss and Damage funding landscape, they are not the only gaps by a long way. In fact, the COP 27 decision foreshadows: “The gaps within that current landscape ... relat(e) 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.”³⁷ By “issue narrowing” and focusing only on what they (re-) define as gaps in order to stymie progress, developed countries are using a long standing negotiation tactic.³⁸

Selectively taking forward COP decisions is another long standing negotiation tactic of developed countries. For example, the Warsaw International Mechanism for Loss and Damage (WIM) was agreed in 2013 as a body that would provide “support” (UNFCCC language for finance). However, developed countries have consistently blocked any meaningful discussion of finance in the WIM in the decade since its establishment.

Developing countries seek to create a fund that meets needs, by using an inclusive conceptualisation of support for addressing economic and non-economic loss and damage on human and natural systems, such as: income, physical assets, individuals, society, and/or the environment. They specify that support might be for action such as: recovery, reconstruction, restoration, rehabilitation; replacement, instituting alternatives, recognition; and ensuring equitable, safe and dignified mobility, in cases of temporary or permanent loss.³⁹

3.2 SCALE OF FUNDS

L&DC view	400 billion USD per year should be used as a floor for Loss and Damage finance, acknowledging this will increase over time. The majority of Loss and Damage finance should be channelled through the Loss and Damage Fund.
Developing country view	The Loss and Damage Fund should be able to program at least 100 billion USD per year as a minimum commitment, scaling up over time with the rising trajectory of losses and damages. ⁴⁰
Developed country view	No explicit target, some developed countries have objected to including a target at all. ⁴¹
Co-Chairs Proposal from TC5	There is nothing in the draft decision and governing instrument to provide guidance as to scale for the Loss and Damage Fund, nor for loss and damage finance needs more broadly.

The financial cost of loss and damage in developing countries is already significant and expected to rise. Loss and damage needs are directly related to how much mitigation is undertaken, and how much funding is provided to enable adaptation. Based on current loss and damage estimates (see NCQG section) we recommend that at least 400 billion USD a year needs to be provided for Loss and Damage in developing countries, and that the majority of that funding should be channelled through the Loss and

Damage Fund as the purpose built fund guided by the principles of the UNFCCC and the Paris Agreement.

3.3 SOURCE OF FUNDS

<p>L&DC view</p>	<p>Developed countries must live up to their historical responsibility and commit to funding the Loss and Damage Fund.</p> <p>New sources of funding that are in line with the polluter pays principle and equitably implemented - such as a tax on the fossil fuel industry, a frequent flyer levy, a tax on international shipping fuel, a global wealth tax or financial transaction tax should make a valuable contribution to the Loss and Damage Fund in a fair way that helps to reduce emissions.</p>
<p>Developing country view</p>	<p>The Fund shall receive financial inputs from developed countries, and may also receive voluntary financial contributions from other countries.⁴²</p> <p>The Fund may also receive finance from new and alternative sources of finance that meet the principles of the Convention and the Paris Agreement.⁴³</p>
<p>Developed country view</p>	<p>Contributions to the Fund are voluntary; no obligation for developed countries to contribute.⁴⁴</p> <p>Innovative sources, identified as the voluntary carbon market or international pricing mechanisms, may contribute.⁴⁵</p>
<p>Co-Chairs Proposal from TC5</p>	<p>The draft Decision⁴⁶: “Urge(s) developed country Parties to continue to provide support and encourage(s) other Parties to provide, or continue to provide support, on a voluntary basis, for activities to address loss and damage.”</p> <p>The proposed governing instrument⁴⁷ has no differentiation between developed and developing country contributions, “The Fund is able to receive contributions from a wide variety of sources of funding, including grants and concessional loans from public, private and innovative sources, as appropriate”.</p> <p>“The Board will prepare a long-term fundraising and resource mobilisation strategy and plan for the Fund to mobilise new, additional, predictable and adequate financial resources from all sources of funding.”</p>

At the moment the main financiers of loss and damage from climate change are the world’s poor, disproportionately women and other marginalised groups, who can least afford it. Rural families in Bangladesh spend almost 2 billion USD a year to repair climate damage or try to prevent it.⁴⁸ Vanuatu allocates 20% of its discretionary budget to addressing climate impacts.⁴⁹ Pakistan self financed, or received loans that must be repaid, the vast majority of loss and damage from the 2022 floods⁵⁰.

Developed countries have a historical responsibility for the loss and damage being faced now - it is their historical

emissions that have primarily caused the climate change experienced to date⁵¹ - they must meet their responsibility and contribute their fair share to the Loss and Damage Fund in the form of grant funding additional to Overseas Development Assistance (ODA) and climate finance commitments.

To meet the scale of funding required new sources of funding will be needed, alongside developed country contributions. Alternative (innovative) sources of funding must be implemented and should be based on the polluter pays principle and equitably implemented. Sources such as a tax on the fossil fuel industry, a frequent flyer levy, a tax on international shipping fuel, a global wealth tax or financial transaction tax can make a valuable contribution to the Loss and Damage Fund in a fair way that helps to reduce emissions. COP 28 must agree on a pathway forward to explore and put in place such sources.

All sources of funds for the Loss and Damage Fund should meet three key principles:

- Historical responsibility and ensuring the polluter pays;
- Respective capability, so that the wealthy pay and low-income households are not burdened;
- New, additional, predictable, precautionary and adequate. Funding must be provided at the scale necessary and not taken away from equally needed humanitarian or development assistance, mitigation or adaptation funding.

3.4 ELIGIBILITY

<p>L&DC view</p>	<p>Access should be open to all developing countries, with funds allocated equitably to ensure that there is balance between slow onset and extreme event funding, and to ensure there is appropriate allocation to small island and low lying developing countries, least developed countries, and regional balance.</p> <p>The Fund should provide direct access to impacted communities, Indigenous Peoples, local government, and civil society via a small grants window, or other modality.</p>
<p>Developing country view</p>	<p>All developing countries should be eligible to receive financial resources from the Fund.</p> <p>Funding should be equitably balanced across geographical and thematic considerations.^{52,53}</p>

<p>Developed country view</p>	<p>In the EU proposal the Fund is to serve LDCs, SIDS, and other particularly vulnerable countries based on to-be-developed specific eligibility criteria such as levels of development and relative wealth, the proportional impact of climate events, exposure and vulnerability.⁵⁴</p> <p>The US proposal establishes a two tier approach to access via sub-funds (see section 3.5 for more detail) and implies grants for countries with a population of five million or fewer, and loans for other developing countries. The US submission flags developing a system of allocations based on vulnerability.⁵⁵</p>
<p>Co-Chairs Proposal from TC5</p>	<p>All developing countries that are particularly vulnerable to the adverse effects of climate change are eligible to receive resources from the Fund.</p>

In the history of the UNFCCC there has been no official definition of which countries are particularly vulnerable to climate impacts.⁵⁶

The 1992 Convention preamble recognises “that low-lying and other small island countries, countries with low-lying coastal, arid and semi-arid areas or areas liable to floods, drought and desertification, and developing countries with fragile mountainous ecosystems are particularly vulnerable to the adverse effects of climate change”. In Article 4, paragraph 8 the Convention identifies that developing countries would need support for adverse effects of climate change, especially on:

- Small island countries;
- Countries with low-lying coastal areas;
- Countries with arid and semi-arid areas, forested areas and areas liable to forest decay;
- Countries with areas prone to natural disasters;
- Countries with areas liable to drought and desertification;
- Countries with areas of high urban atmospheric pollution;
- Countries with areas with fragile ecosystems, including mountainous Ecosystems; and
- Landlocked and transit countries.

In 2015 the Paris Agreement recognised “the specific needs and special circumstances of developing country Parties, especially those that are particularly vulnerable to the adverse effects of climate change, as provided for in the Convention”.

Outside of the UNFCCC there have been various efforts to define vulnerability via a number of indices. However, it has proved a difficult concept to operationalise, as meanings and interpretations vary, being described as “complex and conceptually fraught”.⁵⁷ For instance, it is difficult to factor in the multilevel vulnerabilities of high-risk groups, which has been the case in Pakistan, for example.⁵⁸

There is no straightforward way of classifying particularly vulnerable developing countries. For instance of the 58 members of the Climate Vulnerable Forum, 12 fall outside of the country categories of SIDS, LDCs and African countries, including the Philippines and Sri Lanka, both of whom have suffered extreme climate events, Typhoon Haiyan/Yolanda in 2013 and 2016-18 floods affected over 294,000 persons across Sri Lanka.⁵⁹

Yet, across the TC meetings this year, developed country negotiators have emphasised various definitions of vulnerability. Including as identified in the table above a focus on SIDS and LDCs or on countries with small populations. The stated reason provided by developed countries has been to help those most in need.⁶⁰ It is worth noting two elements to such an emphasis. Firstly, it would have the result of minimising the Loss and Damage finance required. By keeping the Loss and Damage Fund focused on, for example, LDCs and SIDS, it would ensure that high impact climate events such as the 2022 floods in Pakistan, or Typhoon Haiyan in the Philippines would remain outside of the remit.

Secondly, attempts to define vulnerability, and therefore “split” developing countries into categories, poses a risk to solidarity among developing countries including G77 and China⁶¹ who have been most effective at making gains on Loss and Damage when they negotiate as a coherent block. If such tactics were effective, it would likely result in a weakened Loss and Damage Fund, and therefore a lower requirement for contributions from developed countries.

Developing countries have, instead, proposed that all developing countries be able to access the Loss and Damage Fund, in order to uphold the Convention definition of all developing countries being vulnerable to the impacts of climate change. And that the Board should equitably balance funding allocations across geographical and thematic considerations. Developing countries have proposed triggers as an access modality, with triggers being based on the magnitude of the event and impact on: the economy (triggers of greater than 0.6% or 5% of gross national income were variously identified), non-economic losses including ecosystem services, biodiversity and cultural losses, amongst others.⁶² These triggers are referred to in the following subsection on windows and sub-funds.

3.5 ACCESS MODALITIES, INCLUDING WINDOWS AND SUB-FUNDS

<p>L&DC view</p>	<p>The Fund should ensure an equitable allocation across thematic areas, through windows such as:</p> <ul style="list-style-type: none"> • Disaster response window, • Reconstruction and rebuilding window, • Slow-onset window, • Micro-/Small-Grant window to provide direct access to impacted communities, Indigenous Peoples, local government, and civil society. <p>There should be no ear-marking to specific activities, the Board should have the power to make allocation decisions, hence making it more likely the Fund would be led by priorities of affected countries.</p>
<p>Developing country view</p>	<p>Programmatic (direct budget) support through national entities, or other implementing partners or multilateral or regional implementing entities.</p> <p>Enhanced access for communities and other groups.</p> <p>The Fund’s eligibility and access requirements or conditions will not act as barriers to access in countries with limited data or capacity.⁶³</p> <p>The Least Developed Countries⁶⁴ propose three windows:</p> <ul style="list-style-type: none"> • Rapid disbursement window for extreme events, • Rehabilitation and reconstruction window, • Chronic needs window for slow onset and ongoing impacts. <p>An event trigger should apply to extreme events (both immediate response and rehabilitation and reconstruction).</p> <p>Programme based access should be applicable to slow onset events and ongoing rehabilitation and reconstruction.</p> <p>All funding should be in the form of grants and provide direct budget support.</p>

<p>Developed country view</p>	<p>In the EU proposal⁶⁵ the Fund would have differentiated modes of access via sub-funds:</p> <ul style="list-style-type: none"> • LDCs and SIDS Sub-Fund, • Recovery and Reconstruction Sub-Fund in cooperation with MDBs to provide loans, • Pre-Arranged Finance Sub-Fund to collaborate with the Global Shield (a multilateral body that primarily provides insurance), • Small Grants Response Sub-Fund for civil society and community-based organisations, and • Human Mobility Sub-Fund. <p>The EU proposal would allow contributors to provide funds to a specific sub-fund, known as ear-marking, rather than the Fund Board making all allocation decisions.</p> <p>The US proposal⁶⁶ establishes three Sub-Funds:</p> <ul style="list-style-type: none"> • Slow Onset Events Sub-Fund; • Recovery and Reconstruction Sub-Fund which would work via the MDBs and provide grants and loans; • Small Markets Sub-Fund which would provide finance to countries with populations of five million or fewer.
<p>Co-Chairs Proposal from TC5⁶⁷</p>	<p>The Board is to develop and operate a resource allocation system, taking into account the priorities and needs of developing countries and climate vulnerable communities, considering the scale of impacts relative to national circumstances (which would likely cover event triggers), estimates of recovery and reconstruction costs, and ensuring a minimum allocation to LDCs and SIDS.</p> <p>The Board will develop modalities to facilitate access to resources including direct access nationally and sub nationally, small grants for communities, Indigenous Peoples and vulnerable groups, and rapid disbursement modalities.</p> <p>Neither sub-funds nor windows are stipulated.</p>

A sub-fund would facilitate ear-marking - that is it would allow developed countries to dictate where their funds are spent. Whereas a window would allow the Board to make allocation decisions, within the framework and guidance provided to them by Parties of the UNFCCC and the Paris Agreement. To allow the Loss and Damage Fund Board to ensure equitable allocation, and to ensure that the Fund best meets the needs of developing countries, ear-marking should not be allowed.

3.5 INSTITUTIONAL ARRANGEMENTS

3.5.1 STAND ALONE OPERATING ENTITY OR UNDER THE WORLD BANK?

<p>L&DC view</p>	<p>The Loss and Damage Fund should be an Operating Entity of the Financial Mechanism of the Convention, and under the guidance of and be accountable to the COP and CMA. It should be a stand alone entity, not hosted by the World Bank.</p>
<p>Developing country view</p>	<p>The Loss and Damage Fund should be an Operating Entity of the Financial Mechanism of the Convention, and under the guidance of and be accountable to the COP and CMA. It should be a stand alone entity, not hosted by the World Bank.</p>
<p>Developed country view</p>	<p>The Loss and Damage Fund should be hosted by the World Bank as a Financial Intermediary Fund (FIF). The Fund should serve the Paris Agreement only, not the UNFCCC.</p>
<p>Co-Chairs Proposal from TC5⁶⁸</p>	<p>The World Bank is identified as interim host for four years, provided it can meet certain criteria including:</p> <ul style="list-style-type: none"> • Direct access for all developing countries, regardless of whether they are members of the World Bank; • Direct access for communities via small grant funding; • The Fund can receive contributions from a wide variety of sources (including innovative sources); • The cost recovery is “reasonable and appropriate”. <p>If the World Bank is unable to meet these criteria within six months of COP 28, then the Board will take steps to operationalise the Fund as an independent standalone institution</p> <p>After the four year interim period, the Board will undertake a review to see if the conditions have been met and, if not, establish the Fund as a standalone independent institution.</p> <p>The Fund is “designated as an entity entrusted with the operation of the financial mechanism of the Convention, that also serves the Paris Agreement, and will be accountable to and function under the guidance of the Conference of the Parties to the Convention (COP) and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA).”</p>

There is symbolic value to making the Fund an operating entity of the Convention - it would place it at the same level of importance as, for example, the Green Climate Fund (GCF). And place addressing loss and damage at a core level of importance.

A fund set up as an operating entity of the financial mechanism of the UNFCCC and Paris Agreement would use the principles of the Convention - equity, polluter pays, historical responsibility and capacity. Thus enshrining the historical responsibility of developed countries to pay for loss and damage. The Convention principles give guidance as to who can access the Fund, as explored in the sections on source of funds and eligibility and access. The Convention also has equity enshrined in how decisions are made, which means that developing countries would have a strong say in how the funds are spent. Establishing the Loss and Damage Fund as an operating entity of the financial mechanism of the Convention, under Article 11, would mean applying clear, tried and tested guidance on eligibility, program priorities and governance, including receiving guidance from and reporting to the COP and CMA. This equates to a climate justice approach.

Whereas, the World Bank's business model is one of aid, or "charity", which is at the discretion of the "donor", ignoring the responsibility of historical polluters. Establishing the Loss and Damage Fund as a standard World Bank FIF would give developed countries greater control over how it operates —votes in the World Bank Board are based on how much you contribute, which developed countries have also directly advocated for in their proposals for Board structure for the Fund.

Secondly, the World Bank operates primarily by providing loans and by encouraging "enabling environments" for the private sector. Not only are loans for loss and damage antithetical to the standards of climate justice, forcing developing countries deeper into debt leaves little fiscal space for climate action: mitigation, adaptation and addressing loss and damage.

Thirdly, the World Bank does not currently disperse funds directly to recipient countries and communities through direct access. Instead, funding would go through a UN agency or Multilateral Development Bank to access funds. Whilst the World Bank has made a commitment to "pursue" this approach and seek approval from its Executive Board on the matter, this is a far cry from guaranteeing direct access and leaves the modalities of the Loss and Damage Fund in the hands of World Bank management.⁶⁹

The World Bank separates countries into income groupings, which would likely mean that middle income countries like Pakistan and the Philippines would be expected to take loans to fund recovery from loss and damage, which is exactly what happened following the extreme Pakistan floods in 2022, and only low income countries would receive grants.

Finally, the World Bank is exacerbating the problem we are trying to address: in 2022 the World Bank provided 3.7 billion USD in finance to fossil fuel projects.

The proposal contained in the TC5 Co-Chairs text seeks to address some of these concerns by imposing conditions which the World Bank would have to agree to meet, and then after a four year interim period assess whether those conditions have truly been met. Past experience of other funds is that once a fund is in the World Bank it is exceedingly difficult to withdraw.⁷⁰

Developed countries have argued that establishing a fund outside of the UNFCCC would ensure it was in place more quickly, and would mean it could garner greater contributions. If we consider how other funds work in practice, evidence clearly debunks this. The GCF is a stand-alone, designated operating entity of the Convention and it is the world’s largest climate fund, with 20 billion USD in pledges, disbursing over 1 billion USD annually. Whilst it took time to establish, the advantage is that the Loss and Damage Fund can learn lessons from the GCF. In fact, GCF staff have attended TC meetings and given TC members detailed presentations and papers on how to learn from GCF experience and overcome, for instance, the privileges and immunities challenges of a new Fund. Thus, experience to date supports designating the Loss and Damage Fund as a stand-alone operating entity of the financial mechanism of the Convention.

3.5.2 BOARD AND SECRETARIAT

<p>L&DC view</p>	<p>The Board should report to and be under the guidance of the COP and CMA. It should be composed with equitable representation, with a majority of seats for developing countries, with gender balance, and should give voice and vote to representatives from affected communities and civil society organisations as full board members.</p>
<p>Developing country view</p>	<p>The Board should report to and be under the guidance of the COP and CMA. It should provide strategic leadership to allow the Fund to evolve over time and provide oversight to the secretariat, the trustee, implementing agencies and expert or advisory panels.</p> <p>The Board should have representation drawn from regional groups of developing countries, small island states and least developed countries and have representation from developed countries.</p> <p>The LDCs seek a resident Board to be able to make quick decisions following a climate event.</p>

<p>Developed country view</p>	<p>The EU proposal, which is similar to the US proposal, has ten developing country positions, six developed country positions, and five members from contributing Parties, based on cumulative paid-in contribution. This would likely place the balance towards developed countries and replicates a World Bank model of “contributor control” rather than allowing affected countries to have a majority say.</p> <p>The US proposal has civil society, private sector, philanthropic and Indigenous Peoples representatives on the Board. The EU has a diverse range of civil society representatives participate as active observers.</p> <p>The Board should prepare a long-term fundraising and resource mobilisation strategy and plan for the Fund to mobilise new, additional, predictable and adequate financial resources.</p>
<p>Co-Chairs Proposal from TC5⁷¹</p>	<p>The TC5 text has a small majority (16 versus 14) of developing country Board positions, versus developed country Board positions.</p> <p>However, there is no representation on the Board for Indigenous people, civil society nor impacted communities.</p>

Concerns were raised by developing country TC members about the Secretariat being established within an institutional culture, for example the World Bank, that was not established by the international climate regime. Whereas some developed country delegates were enthusiastic about a Secretariat being established within the World Bank, as a way to adopt the existing policies and logistics of that institution and therefore be able to be in place quickly.

The outcome from TC5, without any Board positions for impacted communities, Indigenous Peoples or civil society and the commitments in relation to observer engagement are disappointingly weak. The Board must ensure it adopts the strongest possible engagement process so that the communities who will be impacted by climate change loss and damage will have their voices heard and views respected.

If the TC5 proposed text is opened up for negotiation, voting Board positions for impacted communities, Indigenous Peoples and civil society should be included in a revised governing instrument.

3.6 PRINCIPLES

<p>L&DC view</p>	<p>The Loss and Damage Fund should enshrine human rights in its governing instrument, adopt policies to enact human-rights and a gender-responsive approach and enable the active, meaningful and effective participation of affected communities including women, children, youth, Indigenous Peoples, and civil society organisations in the design, implementation, monitoring and evaluation of Loss and Damage Fund’s policies and activities</p> <p>All loss and damage funding should be grant based and non-debt creating.</p>
<p>Developing country view</p>	<p>Developing countries expressed mixed views on human rights being included in the governing instrument with some against and some, particularly AILAC countries, speaking in favour.</p> <p>LDCs and AOSIS countries were clear that funds needed to be provided as grants. The developing country TC member proposal indicated primarily grant-based.⁷²</p>
<p>Developed country view</p>	<p>The EU submission⁷³ advocated for the Fund to take a human-rights-based approach.</p> <p>The EU⁷⁴ and the US⁷⁵ advocated for concessional loans alongside grants for loss and damage finance and the Fund.</p>
<p>Co-Chairs Proposal from TC5⁷⁶</p>	<p>Human rights are not included in the governing instrument of the Fund.</p> <p>The governing instrument of the Fund stipulates it will provide grants and “highly concessional loans and other financial products” including insurance.</p>

In addition to the principles of the Convention and the Paris Agreement, the Loss and Damage Fund should enshrine the following principles in its operation:

- **Grants:** It is essential that the Loss and Damage Fund provide grant based, non-debt creating finance. Many vulnerable countries are already under debt distress and cannot afford additional indebtedness. Providing debt undermines the very reason for establishing a Loss and Damage Fund. Vulnerable developing countries have done little to cause the climate crisis, they should not be forced to take out loans - even concessional ones - that require them to pay the costs of the climate crisis with interest.
- **Subsidiarity;** promoting decision-making, financial and implementation support through partnerships with national, sub-national and locally led organisations.
- **Active, meaningful and effective public participation** of affected communities, including women, children, youth, Indigenous Peoples, and civil society organisations in

the design, implementation, monitoring and evaluation of Loss and Damage Fund's policies and activities, in addition to guaranteed access to information, transparency, accountability and culturally-appropriate grievance redress mechanisms.

- The Fund and its policies and activities will respect, protect and fulfil human rights; the right to health; the right to a clean, healthy and sustainable environment; the right to development; the rights of Indigenous Peoples, local communities, migrants, women and girls, children, youth, persons with disabilities, and people in vulnerable situations as well as gender equality and intergenerational equity.
- Adoption of policies to ensure the inclusion and meeting the needs and priorities of specific groups in vulnerable situations, including but not limited to child-responsive strategies aligned with Articles set out in the United Nations Convention on the Rights of the Child, including best interests of children and taking their views and recommendations in all aspects of governance and decision-making processes of the Loss and Damage Fund.⁷⁷
- Guidelines and criteria for loss and damage finance allocations will be issued in national, local languages and culturally-appropriate ways through channels easily accessible to populations most impacted by inequality, discrimination and the climate crisis, including children, women, youth, Indigenous Peoples, the elderly and people with disabilities.
- Ensure strong environmental and social safeguards in line with international law are in place, as well as accountability mechanisms, including an effective, legitimate, accessible, predictable, equitable, transparent, rights-compatible and independent grievance mechanism for the public to raise concerns and to seek redress in the occurrence of violations of the Fund's safeguarding policies and/or human rights.
- That the Loss and Damage Fund takes into account Indigenous, traditional and local knowledge and not just rely on data pulled from modern sources or scientific databases.

FUNDING ARRANGEMENTS

KEY MESSAGES

- It is essential that all funding arrangements for loss and damage - including new and additional resources, funds, processes and initiatives under and outside the Convention and the Paris agreement - meet criteria that ensure they are genuine loss and damage resources. Including that they be new, additional, predictable and adequate, be equitably generated and governed, be grant-based and intersectional with human rights. They should be transparently reported and this information used to generate a regular loss and damage gap report.
- The Loss and Damage Fund should coordinate a high level council, or similar, to encourage coordination and coherence across the elements of the funding arrangements. The Santiago network should play a role in aligning technical assistance to support the Loss and Damage Fund and the funding arrangements.

In addition to agreeing to establish a Loss and Damage Fund, COP27 decided 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 mobilising 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”⁷⁸

Funding arrangements have two elements: the ‘mosaic of solutions’, that provide what is judged to be Loss and Damage finance outside of the Loss and Damage Fund. For example, multilateral programs such as the Global Shield which provide insurance for extreme events, or humanitarian programs that take action after an extreme

event, or multilateral development banks such as the World Bank or the African Development Bank who provide loans to rebuild infrastructure destroyed by a climate disaster. Secondly, funding arrangements can be used to refer to how funds are generated for the Loss and Damage Fund for example, a tax on heavily polluting sectors such as fossil fuels. This report addresses this latter element at section 3.3 source of funds.

Developed countries have emphasised the existing institutions and arrangements —ones that in general they have more power and control over —and have a preference for keeping funding arrangements vague and open-ended. For instance, the EU proposal⁷⁹ “welcomes initiatives such as Early Warning for All, Climate Risk and Early Warning Systems (CREWS), SOFF and the V20/G7 initiative Global Shield against Climate Risks” and “invites Parties and relevant institutions to actively take forward improvements ... in such sources, funds, processes, fora and initiatives outside the Convention and the Paris Agreement”. Whereas the COP27 decision explicitly recognises that existing funding arrangements “fall short” and “are not sufficient” and should be better defined and enhanced with improved coordination and complementarity.⁸⁰

There are two key elements in regards to Funding Arrangements: first, a criteria to identify whether something does count as a Loss and Damage funding arrangement or finance, and secondly how to ensure coordination and coherence across the landscape.

4.1 CRITERIA FOR LOSS AND DAMAGE FINANCE

The Climate Action Network and Women and Gender Constituency have made the following list of criteria as a way to judge whether something should count as Loss and Damage finance, which should be applied to all loss and damage finance and funding arrangements in order for them to be counted towards loss and damage finance in reporting from developed countries, and to count as loss and damage finance for the purpose of a loss and damage gap report⁸¹:

Recognise and aim to comprehensively address Loss and Damage;

- Be obligatory and compensatory;
- Be grant-based and non-debt creating;
- Be new, additional, predictable and adequate;
- Be equitably governed;
- Ensure the active and meaningful participation of affected communities, with direct access; and

- Be intersectional with child rights, Indigenous peoples rights, human rights, labour rights, and gender equality.

4.2 COORDINATION AND COHERENCE

There is general agreement that a body or council of some kind should be established to encourage coordination and coherence across the Loss and Damage Funding landscape. Developed countries have called for the Loss and Damage Fund to have a central role, whereas developing countries see a more central role for the World Bank and other MDBs.

The TC5 Co-Chairs proposal⁸² would establish a high level dialogue, established and operationalised by the Loss and Damage Fund and co-convened with the United Nations Secretary General, that would act as a body to ensure coordination and complementarity within the funding arrangements. With 30 high-level representatives from the Loss and Damage Fund, the World Bank and Regional Development Banks, the International Monetary Fund, other climate funds, the WIM Executive Committee and the Santiago network and experts on Loss and Damage, including from civil society, Indigenous Peoples, and philanthropy, amongst other bodies.

The Santiago network would have a further role by aligning technical assistance to support the Loss and Damage Fund and the funding arrangements.

Initiatives such as Early Warnings for All, Climate Risk and Early Warning Systems (CREWS), Systematic Observations Financing Facility (SOFF) and the Global Shield against Climate Risks are welcome, and encouraged in the TC5 Co-Chairs text.

COP 28 EXPECTATIONS

COP 28 has the opportunity to redress the long term imbalance of the climate negotiations - and ensure that the international climate architecture works for the people and countries on the front line of climate impacts. To deliver on this aspiration, it must commit to the outcomes below.

5.1 GLOBAL STOCKTAKE (GST)

The first GST must provide a clear idea of the loss and damage occurring already, and the pathways forward to address the gaps, including by:

- Recognising the interconnectedness of mitigation, adaptation and Loss and Damage, and include a roadmap to limit global warming to 1.5°C, including a commitment to a full, fast and fair phase-out of all fossil fuels; and address the impacts of climate change through both adaptation and addressing loss and damage comprehensively and holistically so that all have the resources they need to thrive in the midst of climate change.
- Providing a robust assessment of progress towards implementing the Paris Agreement, the GST outcome must include a dedicated section on Loss and Damage, recognising the need to address both economic and non-economic loss and damage in developing countries, both current and projected, given current emission trajectories.
- Laying out a roadmap for how the gaps and needs on Loss and Damage will be addressed including through fully operationalising the Santiago Network, operationalising the Loss and Damage Fund, and acknowledging loss and damage needs of at least 400 billion USD. Parties must also commit to establishing a sub-goal on Loss and Damage under the NCQG.

5.2 SANTIAGO NETWORK

COP 28 must ensure the Santiago network has the tools it needs to immediately start supporting developing countries to develop their approaches to addressing loss and damage so that programs can be implemented from 2024, and ramped up when funding is provided through the Loss and Damage Fund. This will require:

- Selection of the Santiago network host organisation that has a presence and history in developing countries and with a wide range of skills and knowledge on loss and damage to effectively support the implementation of Santiago network activities.
- Election of members of the Advisory Board, ensuring the Board has a diverse range of technical experience and knowledge related to averting, minimising, and addressing the loss and damage and includes women and gender constituencies, Indigenous peoples, and children and youth non-governmental organisations.
- Acknowledgement that the Santiago network Board and secretariat should be accountable to the COP and CMA to ensure it meets the needs of developing countries, and therefore should be independent from the host organisation.
- Developed countries provide immediate, additional support to the Santiago network, as well as embedding support for the Santiago network within the Loss and Damage Fund decision, to assure finance for technical assistance.

5.3 LOSS AND DAMAGE FUND

At COP 28 in Dubai countries must operationalise a fair and fit for purpose Loss and Damage Fund that is directly accessible to developing countries and communities and able to meet their needs now, as well as being capable of scaling up to meet future needs. This means a Loss and Damage Fund that is operationalised as:

- The central Fund to address Loss and Damage as a stand-alone operating entity of the financial mechanism of the Convention, and under the guidance of and accountable to the COP and CMA. It should have a coordinating role across other Loss and Damage funding arrangements.
- The Fund should ensure an equitable allocation across thematic areas, through windows or similar modalities such as: i) Disaster response window; ii) Reconstruction and rebuilding window; iii) Slow-onset window; iv) Micro-/Small-Grant window to provide direct access to impacted communities, Indigenous Peoples, local government, and civil society. There should be no ability to ear-mark to specific activities, such as via sub-funds. The Board should have the power to make allocation decisions in line with the priorities of affected countries.

- Acknowledging that a minimum of 400 billion USD a year reflects the current needs of developing countries and that this is expected to rise, the Loss and Damage Fund should establish a floor of funds to be raised and disbursed each year. Developed countries must commit to providing grant funding, other countries should be invited to contribute and pathways for new sources of funding that are polluter pays and equitably implemented - such as a tax on the fossil fuel industry, a frequent flyer levy, a tax on international shipping fuel, a global wealth tax or financial transaction tax - should be laid out at COP 28.
- Developed countries should make contributions at COP 28 to enable the Loss and Damage Fund to be set up - above and beyond existing climate finance and ODA.
- The Loss and Damage Fund must provide funds as grants, and not exacerbate the existing debt crisis amongst vulnerable countries.
- The Board should be composed with equitable representation, with a majority of seats for developing countries, with gender balance, and should give voice and vote to representatives from affected communities and civil society organisations as full board members.
- The Fund must be human rights-based and gender-responsive. In addition to the principles of the Convention and the Paris Agreement, including equity, historical responsibility, and capacity, principles that respect and uphold human rights and ensure active, meaningful and effective participation of affected communities, including women, children, youth, Indigenous Peoples, and civil society organisations in the design, implementation, monitoring and evaluation of Loss and Damage Fund's policies and activities should be implemented. The Loss and Damage Fund must take into account Indigenous, traditional and local knowledge and act at the most local level possible.

A criteria should be established in order for finance to count toward Loss and Damage finance - inside and outside the Loss and Damage Fund, including in the funding arrangements - and transparency and regular reporting adding up to a annual Loss and Damage gap report.

5.4 NEW COLLECTIVE QUANTIFIED GOAL (NCQG)

Acknowledging that loss and damage finance needs are at least 400 billion USD and growing, the NCQG is well placed to provide a goal or guide for loss and damage finance, including through the Loss and Damage Fund. Therefore we recommend at COP 28 countries agree to:

- Include loss and damage in the NCQG agenda in 2024, as a separate sub-goal in the NCQG, at par with similar sub-goals for mitigation, adaptation, and biodiversity conservation.
- Hold at least one additional dialogue (preferably hybrid) in 2024, whereby NCQG negotiators, loss and damage negotiators, civil society, communities, other stakeholders and advisors come together to include loss and damage in the NCQG.
- A formal relationship between Loss and Damage Fund and UNFCCC's global finance goals, thereby supporting the Fund's capitalisation and replenishment to disburse finance to address loss and damage.
- Regular reviews of the NCQG should be undertaken to evaluate progress and feed into the development of an annual loss and damage gap report.

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IMAGE CREDIT

1. Cover image: [Flood Refuge, Kurrigram, Bangladesh](#). Via [World Meteorological Organization](#) licensed under [CC BY-NC 2.0 DEED](#). Description: The photograph captures the aftermath of heavy rains on June 21, 2022, in Jatrapur Union, Kurigram, a border district town in Bangladesh. The image portrays the devastating impact of flooding on the local houses. One particular house stands out, partially submerged in the floodwaters, with a sick woman seen sitting inside a window. The scene depicts the dire circumstances faced by the community, highlighting the vulnerability and hardships they endure. The woman's presence adds a poignant element, emphasizing the human suffering and resilience amidst the chaos. It serves as a stark reminder of the urgent need for support and assistance in mitigating the effects of such natural disasters. © World Meteorological Organization/Muhammad Amdad Hossain.
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