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The UAE Consensus: What Next for Climate Finance?

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Summary

- Climate finance was a key focus at the 28th meeting of the Conference of Parties (COP28) to the United Nations Framework Convention on Climate Change (UNFCCC), held in Dubai from 30 November to 13 December 2023.[1] For the UAE, in its COP presidency role and as host of the conference, key outcomes included the decision on the global stocktake on the implementation of the Paris Agreement[2] and the decisions on climate finance, including on a new collective quantitative goal on climate finance and on the operationalisation of the Loss and Damage Fund established by UNFCCC parties at COP27 in 2022.

- This insight analyses the key outcomes of COP28 with respect to climate finance. These are found in the decision on the global stocktake which provides guidance on long-term climate finance, highlights the gap in available climate finance, stresses the need for new and additional finance and welcomes pledges to multiple funds.

- The insight also highlights key challenges facing the Loss and Damage Fund and the way forward.

- The insight also examines progress on long-term climate finance and the new collective quantified goal on climate finance.

- Taken together, the decisions highlight the challenges to date in mobilising and delivering climate finance in accordance with parties' obligations under the UNFCCC and the Paris Agreement, and establish a road map for enhanced ambition and addressing loss and damage in the climate context.

- Against this backdrop, the insight recommends the following:

  - On the **new collective quantified goal on climate finance,** in order to ensure a successful outcome at COP29 in Azerbaijan in 2024 and the highest level of ambition possible, there is a need for high-level political engagement from both developed and developing countries from the outset of the formal negotiation process. In particular, the planned high-level ministerial dialogue in 2024 should set ambitious expectations for the outcome. It is also essential to ensure that the negotiation process facilitates the effective representation and participation of key stakeholders.

  - To achieve the effective operationalisation of the new **Loss and Damage Fund,** the Fund's board could consider the early adoption of policies to ensure that the allocation of funding reflects developing country priorities and to facilitate direct access by such countries to the Fund's resources. The board should also consider prioritising funding applications from direct access entities and implementing policies to enable climate-vulnerable developing countries to receive support to submit applications that will satisfy the Fund's criteria. It should also consider the adoption of policies to facilitate consultation with a broad range of stakeholders, as well as arrangements to enable the provision of funding to address emergencies and rapid onset events.

The Issue

The mobilisation and delivery of climate finance is critical to the achievement of the objectives of the Paris Agreement. These include limiting the increase in the "global average temperature to well below 2°C above pre-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels" and increasing the "ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production".[3]

The importance of climate finance is recognised in the Paris Agreement, which states that a key objective is to make "finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development".[4] This insight analyses the key outcomes of COP28 with respect to climate finance. These are found in the decisions on the global stocktake on the implementation of the Paris Agreement,[5] long-term climate finance,[6] the new collective quantified goal on climate finance[7] and the operationalisation of the Loss and Damage Fund[8] (the 'Fund') established by UNFCCC parties at COP27 in 2022.[9]

The Global Stocktake

The Paris Agreement provides that parties shall "periodically take stock of the implementation of this Agreement to assess the collective progress towards achieving the purpose of this Agreement and its long-term goals".[10] This process is referred to as the "global stocktake". The first global stocktake concluded at COP28. The resulting decision — with its calls for parties to triple renewable energy capacity and "transition away" from fossil fuels in energy systems[11] — was a key outcome of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement at its fifth session (CMA5) and the COP more generally. Finance is addressed in the contexts of means of implementation and support, and loss and damage. Significantly, the decision highlights the scale and magnitude of the challenge if the goals of the Paris Agreement are to be realised.[12]

The global stocktake decision is significant from a climate finance point of view because it highlights the gap between the needs of developing countries and the support provided to date for implementation, as well as the need to scale up support to developing countries. It also reinforces the key messages of the decision on long-term climate finance and provides an impetus for the negotiations on the new collective quantified goal on climate finance.

Specifically, the decision highlights the gap between the needs of developing countries and the support provided for the implementation of their Nationally Determined Contributions and that they require an estimated $5.8–5.9 trillion for the pre-2030 period.[13] It notes that the finance needs for adaptation of developing countries are estimated to be $215–387 billion annually until 2030, that approximately $4.3 trillion per year should be invested in clean energy until 2030 and that, thereafter, $5 trillion per year will be required to reach net zero emissions by 2050.[14]

The decision also stresses the need to scale up "new and additional grant-based, highly concessional finance" to support developing countries.[15] It recognises the role of the private sector and the need for policy guidance, incentives and "enabling conditions" to achieve the scale of investment required.[16]

Consistent with the Paris Agreement, the decision recalls that developed countries "should continue to take the lead in mobilizing climate finance from a wide variety of sources" and that "such mobilization of climate finance should represent a progression beyond previous efforts".[17] It also emphasises the challenges many developing countries face in accessing finance and calls for simplified access to finance, particularly for developing countries with significant capacity constraints, such as the Least Developed Countries (LDCs) and Small Island Developing States (SIDS).[18]

In addition, the decision welcomes progress by developed countries in the provision of climate finance. It notes the increase in climate finance provided by developed countries in 2021 to $89.6 billion and the "likelihood" of meeting the $100 billion per year goal in 2022.[19] It also highlights the efforts of developed countries to double adaptation finance from 2019 levels by 2025.[20]

That said, parties also note with "deep regret" that the goal of developed countries to "mobilize jointly $100 billion per year" was not achieved in 2021 and urge developed countries to "fully deliver, with urgency, on the $100 billion goal through to 2025".[21]

Further, the decision welcomes pledges made to the various UNFCCC/Paris Agreement financial mechanisms (including the Green Climate Fund, the nascent Loss and Damage Fund, the Least Developed Countries Fund and the Special Climate Change Fund) and calls on parties to honour the pledges made.[22] On loss and damage, the decision acknowledges the "significant gaps, including finance, that remain in responding to the increased scale and frequency of loss and damage, and the associated economic and non-economic losses".[23]

The decision also reflects the work undertaken by parties to understand the scope of Article 2(1)(c) of the Paris Agreement with respect to making finance flows "consistent with a pathway towards low greenhouse gas emissions and climate-resilient development" and notes that this goal is "complementary to, and no substitute for, Article 9 of the Paris Agreement", which sets out the obligations of parties concerning finance.[24]

The discussions on Article 2(1)(c) are important because they will inform the nature and scale of financial flows to support the implementation of the Paris Agreement and future negotiations on long-term climate finance and the new collective quantified goal on climate finance. In particular, the decision recognises the need for "further understanding" of Article 2(1)(c) and decides to continue the process known as the Sharm el-Sheikh dialogue to enhance understanding of its scope and its complementarity with Article 9 of the Paris Agreement.[25]

Finally, the decision refers to the process that will enable the development of a draft negotiating text for the new collective quantified goal on climate finance for consideration by CMA6 in 2024.[26] Moreover, it underscores the need to reform the multilateral financial architecture and highlights the role of governments, central banks, institutional investors and other financial actors in enhancing access to finance.[27]

Long-term Climate Finance

The decision on long-term climate finance reviews progress to date on the mobilisation and delivery of climate finance. It reiterates the messages of previous COPs with respect to the need for greater ambition and enhanced action on climate finance. It recalls the commitment of developed country parties to a goal of mobilising jointly $100 billion per year in accordance with the 2010 Cancún Agreements. It also notes with "deep regret" that the goal of developed country parties to mobilise jointly $100 billion per year by 2020 was not met in 2021 and welcomes the "ongoing efforts" of developed countries to achieve that goal.[28] It urges developed countries to "fully deliver on the $100 billion goal urgently and through 2025" and to enhance the coordination efforts to deliver the goal, and highlights the "significant role of public funds".[29] It also welcomes the financial pledges to the various entities that serve the UNFCCC, including the Green Climate Fund, the nascent Loss and Damage Fund, the Least Developed Countries Fund and the Special Climate Change Fund.[30] The table below summarises the pledges made to these funds at COP28.

Table 1: Pledges made at COP28 to UNFCCC Financial Entities [31]

Fund	Commitment (USD millions)
Green Climate Fund	3,500
Loss and Damage Fund	792[32]
Adaptation Fund	188
Least Developed Countries Fund	129
Special Climate Change Fund	31

The decision on long-term climate finance also emphasises the need to enhance access to climate finance and the need for "public and grant-based resources for adaptation".[33] It endorses the key messages of the fifth biennial high-level ministerial dialogue on climate finance, including in relation to closing the "significant financing gap" to achieve the $100 billion goal by 2025.[34] While the decision is not ground-breaking, it is nonetheless significant because it reflects the recognition by UNFCCC/Paris Agreement parties that existing commitments have not been fulfilled and that there is an urgent need to significantly increase efforts to mobilise climate finance at scale.

New Collective Quantified Goal on Climate Finance

The decision on a new collective goal on climate finance is forward-looking and outlines the process to enable Paris Agreement parties to agree on a new goal in 2024. The decision highlights that deliberations on setting the new goal on climate finance will conclude in 2024 and foreshadows the development of a draft negotiating text for consideration at CMA6 in November 2024.[35]

The decision states that there will be at least three technical expert dialogues and at least three meetings in 2024 to enable parties to "engage in developing the substantive framework for a draft negotiating text".[36] A broad range of stakeholders are invited to submit views before the technical discussions and meetings of the parties.[37] The decision also emphasises the need for "effective, inclusive and meaningful political engagement" and states that a high-level ministerial dialogue on the goal will be held in 2024, well in advance of CMA6.[38] It highlights the need to "scale up ambition" and "adaptation and mitigation finance in line with the needs of developing countries".[39]

Finally, it confirms that the "deliberations on the scale and elements of the new collective quantified goal will take into consideration the...need to support implementation of current nationally determined contributions and national adaptation plans…" and reflect the "evolving needs" of developing countries and the necessity of "enhanced provision and mobilization of climate finance from a wide variety of sources and instruments and channels".[40]

The significance of this decision is that it outlines a clear process for negotiating a new collective goal on climate finance and highlights the need for high-level political engagement, enhanced ambition with respect to the mobilisation and delivery of finance, and meaningful engagement with key stakeholders. It also sets the stage for what will likely be the most critical outcome of COP29 in Azerbaijan in 2024.

The UAE Leaders' Declaration on a Global Climate Finance Framework

The UAE Leaders' Declaration on a Global Climate Finance Framework represents an important commitment to this process. Endorsed by the leaders of 13 countries, the declaration urges "global leaders to seize [the] unprecedented economic opportunity for inclusive and shared prosperity so that no country has to choose between fighting poverty and fighting climate change". It also highlights the need to deliver on commitments, enhance access to concessional finance and support just, country-owned transitions. It also notes the critical role of the multilateral development banks and the private sector in facilitating access to finance.[41]

Critical Issues in the Negotiation

Critical issues in the negotiation are likely to include the sources and scale of finance. Concerning the sources of finance, the Paris Agreement provides that developed country parties "shall provide financial resources to assist developing country parties" while other parties are encouraged to provide such support voluntarily.[42] In addition, it provides that, as part of global efforts, developed country parties should "continue to take the lead in mobilizing climate finance from a wide variety of sources, instruments and channels, noting the significant role of public funds".[43]

Historically, many developing countries have argued in the climate negotiations that finance should be provided primarily by developed countries from public sources, in accordance with the principle of common but differentiated responsibilities.[44] In contrast, developed countries have supported the mobilisation of finance from public, private and blended sources.

On the question of scale, the Paris Agreement does not provide specific guidance, although it states that the mobilisation of finance should "represent a progression beyond previous efforts".[45] Given the difficulties to date in achieving the goal agreed in 2009 of mobilising jointly $100 billion per year by 2020, it will be challenging for parties to agree on a significantly more ambitious target.

Transparency and reporting of climate flows could also be potentially contentious issues in the negotiation. The Paris Agreement provides for ex ante reporting of financial flows. Specifically, developed countries are required to "biennially communicate indicative quantitative and qualitative information [on] projected levels of public financial resources to be provided to developing country parties", while other parties are encouraged to do so on a voluntary basis.[46]

The Agreement also provides for the ex post reporting of financial flows. Developed countries are required to "provide transparent and consistent information on support for developing country parties provided and mobilized through public interventions biennially", while other parties are encouraged to do so.[47] Potential issues include the transparency and consistency of the information provided by developed countries under these provisions.[48]

Operationalisation of the Loss and Damage Fund

A key outcome of the COP was the adoption, on the first day of the conference, of the instrument that will govern the Loss and Damage Fund established by COP27. Parties adopted the Governing Instrument of the Fund ('Governing Instrument'), which — inter alia — sets out the objectives and purpose of the Fund, its scope, the arrangements for its governance, operational modalities and the policies that will inform financial inputs, financial instruments and the allocation of funding.[49] The establishment of the Fund and the adoption of the Governing Instrument respond to a long-standing priority of developing countries in the climate negotiations and follow a number of years of work by UNFCCC parties to address loss and damage. (See Appendix 1 for a chronology of the consideration of loss and damage in the UNFCCC.)

Key challenges going ahead will be to ensure that the Fund becomes operational within a reasonable timeframe and that it can mobilise finance, allocate funding per its mandate and achieve outcomes that enable developing countries that are particularly vulnerable to the adverse impacts of climate change (for example, the African States, LDCs and SIDS) to respond to loss and damage.

The next section examines the Governing Instrument and highlights potential challenges in the operationalisation of the Fund.

Objectives, Purpose and Scope of the Fund

The purpose of the Fund is to "assist developing countries that are particularly vulnerable to the adverse effects of climate change in responding to economic and non-economic loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events."[50] While the Governing Instrument does not define loss and damage, the concept relates to the "unavoidable" and "irreversible" adverse impacts of climate change.[51]

Loss and damage can be economic and non-economic. Economic loss and damage includes the negative impacts of climate change where the costs are quantifiable (for example, damage to infrastructure and property or reduced crop yields). Non-economic loss and damage refers to impacts that are difficult to measure in financial terms (for example, loss of culture and way of life, and displacement of communities due to the adverse impacts of climate change).[52]

Specifically, the Fund will provide finance to address "climate-related emergencies, sea level rise, displacement, relocation, migration, insufficient climate information and data, and the need for climate-resilient reconstruction and recovery".[53]

The Governing Instrument highlights the "urgent and immediate need for new, additional, predictable and adequate financial resources to assist developing countries that are particularly vulnerable to the adverse effects of climate change in responding to economic and non-economic loss and damage".[54] The Fund aims to be a "new channel for multilateral finance to assist those countries in responding to loss and damage" and to assist those countries in "mobilizing external finance".[55] It seeks to promote "coherence and complementarity with new and existing funding arrangements for responding to loss and damage associated with the adverse effects of climate change across the international financial, climate, humanitarian, disaster risk reduction and development architectures".[56] The Fund also seeks to pursue country ownership and the "effective involvement of relevant institutions and stakeholders, including non-State actors".[57]

Governance

The Fund will serve as one of the financial mechanisms of the UNFCCC and the Paris Agreement, along with the Green Climate Fund and the Adaptation Fund, and be "accountable to and function under the guidance" of the COP and the CMA. While the Fund will be required to submit annual reports to the COP and the CMA, and receive "guidance" from these bodies,[58] in practice, it will likely operate with relative independence, as is the case with the Green Climate Fund, which is also is accountable to and functions under the guidance of the COP, and submits annual reports and receives guidance from the COP.[59]

The Fund will be governed by a board of 26 members and alternates. The membership of the board is broadly representative of the interests of both developed and developing countries, with 14 members from developing countries and 12 from developed countries. The composition is as follows:

- 12 members from the developed countries;
- three members from the Asia-Pacific states;
- three members from the African states;
- three members from the Latin American and Caribbean states;
- two members from the SIDS;
- two members from the LDCs; and
- one from a developing country not included in the aforementioned regional groups and constituencies.[60]

The responsibilities of the board will include:

- overseeing the operation of the Fund;
- developing operational and access modalities, financial instruments and funding structures; and
- approving funding per the Fund's criteria and policies.[61]

Board decisions will be based on consensus. If efforts to reach consensus are exhausted and there is no consensus, decisions will be made by a four-fifths majority of the members present and voting.[62]

The board will facilitate the engagement of a broad range of stakeholders by inviting the participation of active observers in meetings and related fora. Designated observers include youth, women, indigenous peoples, and environmental non-governmental organisations.[63] The Fund will also establish forums to consult with, and promote the participation of, a broad range of stakeholders.[64]

The strengths of the governance arrangements set out in the Governing Instrument include:

- the composition of the membership of the board, which is broadly balanced between developed and developing countries;
- the arrangements for observer and stakeholder involvement, which envisage the participation of a broad range of interests; and
- the fact that there is a process to follow if the board cannot reach a consensus with respect to decision-making.

Potential challenges include ensuring that the arrangements adopted for the participation of, and consultation with, observers and stakeholders effectively facilitate their input into board deliberations and decisions, and take account of their views and concerns. The Fund's board could address this by considering the early adoption of policies to facilitate effective participation of, and consultation with, observers and other stakeholders.

Eligibility, Country Ownership and Access

Developing countries that are "particularly vulnerable to the adverse effects of climate change" will be eligible to receive resources from the Fund.[65] While the Governing Instrument does not define the concept of vulnerability, it highlights that the Fund's resource allocation will consider, inter alia, the "priorities and needs of developing countries that are particularly vulnerable to the adverse effects of climate change [and] the needs of climate-vulnerable communities".[66]

The Governing Instrument also provides that the allocation of funding will consider the "best available data and information from entities such as the Intergovernmental Panel on Climate Change and/or pertinent knowledge from Indigenous Peoples and vulnerable communities on exposure and sensitivity to the adverse effects of climate change and on loss and damage".[67] The Governing Instrument also notes that the Fund will develop mechanisms to promote the participation of, inter alia, "groups most vulnerable to the adverse effects of climate change [including] women, youth and Indigenous Peoples'.[68]

The Fund will pursue "country-led approaches, including through effective involvement of relevant institutions and stakeholders, in particular women, vulnerable communities and Indigenous Peoples", and be "responsive to country priorities and circumstances".[69] It will also promote "direct engagement at the national and, where appropriate, the subnational and local level to facilitate efficiency and the achievement of concrete results" and "involve developing country Parties that are particularly vulnerable to the adverse effects of climate change during all stages of the Fund's programme and project cycle, insofar as their respective projects are concerned".[70]

The Governing Instrument specifies that the board will develop modalities to enable access to the Fund's resources, including:

- direct access via "direct budget support through national governments, or in partnership with entities whose safeguards and standards have been judged functionally equivalent to those of multilateral development banks";
- direct access via "subnational, national and regional entities or in partnership with entities accredited to other funds, such as the Adaptation Fund, the Global Environment Facility and the Green Climate Fund"; and
- international access via bilateral or regional entities.[71]

In addition, the Fund will facilitate "access to small grants that support communities, Indigenous Peoples and vulnerable groups and their livelihoods" and develop modalities for rapid disbursement of funds.[72]

The commitment to country ownership and direct access are defining features of the Governing Instrument and respond to key priorities of developing countries and civil society stakeholders. Some challenges include:

- ensuring that the allocation of funding reflects developing country priorities, as set out in their Nationally Determined Contributions (NDCs) under the Paris Agreement and in other national-level climate policies and strategies;
- ensuring that the objective of direct access to the Fund's resources is realised and that international access entities do not dominate the Loss and Damage Fund project portfolio; and
- ensuring that climate-vulnerable developing countries receive capacity-building and support to submit applications that satisfy the Fund's criteria.

Financial Inputs

The Fund will be 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" and will conduct periodic funding replenishments on a four-year cycle.[73] Key to the success of the Fund will be its ability to mobilise contributions from several sources, both public and private.

During COP28, 19 parties to the UNFCCC made pledges totalling $661.39 million.[74] To build on this momentum, the Fund's board could consider actively canvassing contributions from a broad range of sources, including the governments of developed countries and higher-income developing countries, sub-national and regional administrations, and private sector entities.

Financial Instruments

Consistent with the practice of other multilateral climate funds, the Fund will provide financing mainly in the form of grants and concessional loans.[75] It will take account of a range of factors, including "triggers", "climate impact relevant indicators", "debt sustainability considerations" and "criteria developed by the board", as well as "guidance" from the COP and the CMA.[76]

The Fund may utilise additional financial instruments that "take into consideration debt sustainability…to augment and complement national resources for addressing loss and damage".[77] It will also aim to "blend" finance from various financial instruments to make optimal use of public funding.[78] In seeking to address loss and damage, it will be critical for the board to ensure that its decisions with respect to the use of loans and other financial instruments do not aggravate the indebtedness of climate-vulnerable countries.[79]

Allocation of Funding

The Fund's allocation of resources will take account of, inter alia:

- the priorities of developing countries that are "particularly vulnerable to the adverse effects of climate change" and "needs of climate-vulnerable communities";
- the "scale of impacts of particular climate events relative to the national circumstances" including but not limited to, response capacities of the impacted countries;
- the need to avoid overconcentration of resources in any given "country, group of countries or region";
- estimates of the costs of recovery and reconstruction; and
- an allocation floor for LDCs and SIDS.[80]

While the Governing Instrument sets out the principles that will guide the allocation of funding, the board can flesh out the details and develop resource allocation policies. The Governing Instrument also provides that funded activities will be regularly monitored for "impact, efficiency and effectiveness" and that the Fund's performance and funded activities will be the subject of "periodic independent evaluations".[81] The effective operationalisation of the Fund will require the early adoption of policies on resource allocation and monitoring and evaluation.

Fiduciary Standards, Environmental and Social Safeguards, and Accountability

The Fund will also seek to ensure that "high-integrity fiduciary principles and standards are applied to its activities" and that "best practice environmental and social safeguards policies" are applied.[82] While the Governing Instrument identifies women as being "vulnerable to the adverse effects of climate change" and as relevant stakeholders,[83] it does not require the Fund to adopt a gender policy nor does it specify that entities receiving funding be required to undertake gender assessments and/or develop gender action plans.

With respect to accountability, the Governing Instrument provides that the implementing entities' integrity units or equivalents will work with the Fund to "investigate allegations of fraud and corruption", and that their grievance and redress mechanisms will examine any complaints related to activities supported by the Fund.[86] Similarly, the Fund's activities will be subject to the access to information policies of the implementing entities.[85] The accountability provisions suggest that the Fund will seek to operate in a streamlined fashion with minimal internal bureaucracy, other than its Secretariat, which will be responsible for day-to-day operations.[86]

The effective operationalisation of the Fund will also require the early adoption of policies on fiduciary standards and environmental and social safeguards. For example, the board could incorporate gender considerations into the Fund's operations and funding decisions utilising the authority it has under the Governing Instrument to "approve operational policies and frameworks" and develop mechanisms to ensure that activities supported by the Fund are implemented based on environmental and social safeguards that promote a "high level of integrity".[87] It could consider adopting a gender policy, utilising the Green Climate Fund's Gender Policy as a potential model.[88]

Overall, the Governing Instrument provides a solid basis for the operationalisation of the Loss and Damage Fund. If the Fund can secure predictable funding through its initial resource mobilisation efforts and subsequent replenishments, it will be well-positioned to respond to slow-onset events. It is, however, potentially less well-positioned to respond to rapid-onset events or emergencies and the Governing Instrument does not address such contingencies in detail.

Conclusion and Recommendations

The decisions on the global stocktake, long-term climate finance, the new collective quantified goal on climate finance and the operationalisation of the Loss and Damage Fund are important outcomes of COP28. Looking ahead, it will be critical to ensure the necessary political engagement and commitment to achieving an ambitious outcome on a new collective quantified goal on climate finance at COP29. Equally important will be the practical operationalisation and ongoing capitalisation of the Loss and Damage Fund to ensure it is well-positioned to respond to loss and damage in the most climate-vulnerable developing countries.

Following are some recommendations concerning the new collective quantified goal on climate finance and the operationalisation of the Loss and Damage Fund. The recommendations on the former seek to ensure the highest level of ambition possible and the effective representation and participation of key stakeholders. The recommendations on the latter seek to facilitate the practical operationalisation of the Fund as soon as possible and thereby contribute to its legitimacy among its key stakeholders, particularly the intended beneficiaries in climate-vulnerable developing countries.

Recommendations

New Collective Quantified Goal on Climate Finance

- To ensure the highest level of ambition possible, there should be high-level political engagement from both developed and developing countries from the outset of the formal negotiation process.
- The planned high-level ministerial dialogue in advance of CMA6 should set high expectations for the outcome on the new goal on climate finance.
- The negotiation process should facilitate the effective representation and participation of key stakeholders, including climate-vulnerable countries (such as the African States, LDCs and SIDS), civil society, indigenous peoples, youth, women, industries and sectors impacted by climate change, bilateral and multilateral financial institutions and development cooperation agencies, and the private sector.

Loss and Damage Fund.

- The Fund's board should consider the early adoption of policies to facilitate effective participation of, and consultation with, observers and other stakeholders.
- The Fund's board should prioritise the early adoption of policies on resource allocation to ensure that the allocation of funding reflects developing country priorities, as set out in their Nationally Determined Contributions under the Paris Agreement and in other national-level climate policies and strategies.
- To achieve the Fund's objectives with respect to country ownership and direct access, the Fund's board should prioritise funding applications from direct access entities.
- The board should adopt policies to enable climate-vulnerable developing countries to receive capacity-building and support to submit applications that will satisfy the Fund's criteria.
- The Fund should canvass financial contributions from a broad range of sources, including the governments of developed countries and higher-income developing countries, sub-national and regional administrations, and private sector entities.
- The board should prioritise the early adoption of policies on monitoring and evaluation, fiduciary standards and environmental and social safeguards.
- The board should consider the adoption of a gender policy.
- The board should consider developing policies and funding modalities to enable the provision of funding to address emergencies and rapid onset events.

Appendix 1
A Chronology of the Consideration of Loss and Damage in the UNFCCC[89]

1991	Vanuatu proposes – on behalf of the Association of Small Island States (AOSIS) – the establishment of an insurance mechanism to address loss and damage because of sea level rise. AOSIS argues that developing countries should be compensated where insurance was not available for damage resulting from the impact of climate change and that an International Insurance Pool, funded by industrialised developed countries, should be established.[90]
1992	Adoption of the United Nations Framework Convention on Climate Change (UNFCCC). AOSIS proposal not accepted. However, under Article 4(8) of the UNFCCC, parties agree to "give full consideration to what actions are necessary under the Convention, including actions related to funding, insurance and the transfer of technology, to meet the specific needs and concerns of developing country Parties arising from the adverse effects of climate change".[91]
1997 COP3	Adoption of the Kyoto Protocol. Article 3(14) calls for parties to "implement…[commitments]…in such a way as to minimize adverse social, environmental and economic impacts on developing country Parties, particularly those identified in [Article 4(8)] of the Convention" and to "consider what actions are necessary to minimize the adverse effects of climate change and/or the impacts of response measures" on developing country parties.[92]
2001 COP7	Marrakech Accords: Parties agree to consider "the implementation of insurance-related actions to meet the specific needs and concerns of developing country Parties arising from the adverse effects of climate change".[93]
2007 COP13	The Bali Action Plan: Parties agree to consider "enhanced action on adaptation, including…risk management and risk 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".[94]
2010 COP16	The Cancún Agreements. Parties recognise "the need to strengthen international cooperation and expertise in order to understand and reduce loss and damage associated with the adverse effects of climate change". Parties establish a work programme 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".[95]
2012 COP18	The Doha Climate Gateway: Parties agree to establish institutional arrangements at COP19 to "address loss and damage associated with the impacts of climate change in developing countries that are particularly vulnerable to the adverse effects of climate change".[96]
2013 COP19	Warsaw International Mechanism (WIM) 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". Key functions of the WIM are to: · "enhance knowledge and understanding of comprehensive risk management approaches to address loss and damage"; · "strengthen dialogue, coordination, coherence and synergies among relevant stakeholders"; and · promote "action and support, including finance, technology and capacity-building, to address loss and damage".[97]
2014 COP20	Initial two-year WIM work plan approved.[98]

2015 COP21	Adoption of the Paris Agreement and related decisions. Paris Agreement Article 8(1) recognises the "importance of averting, minimizing and addressing loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events, and the role of sustainable development in reducing the risk of loss and damage". Article 8(4) identifies areas of potential cooperation as follows: · early warning systems; · emergency preparedness; · slow onset events; · events involving irreversible and permanent loss and damage; risk assessment and management; · risk insurance facilities, · climate risk pooling and other insurance; · non-economic losses; and · resilience of communities, livelihoods and ecosystems. Paris Agreement decision Parties decide to continue the WIM and request the Executive Committee to establish a "clearing house for risk transfer" to serve as a "repository for information on insurance and risk transfer…to facilitate [the development and implementation of] comprehensive risk management strategies". The Parties also request the Executive Committee of the WIM to establish a task force to "develop recommendations for integrated approaches to avert, minimize and address displacement related to the adverse impacts of climate change". The decision rules out consideration of liability or compensation, with the Parties agreeing that Article 8 of the Agreement did "not involve or provide a basis for any liability or compensation".[99]
2016 COP22	First review of the WIM.[100]
2017 COP23	Launch of Fiji Clearing House for Risk Transfer and the Task Force on Displacement. COP welcomes progress on the operationalisation of the task force on displacement and invites it to "take into consideration both cross-border and internal displacement…when developing recommendations for integrated approaches to averting, minimizing and addressing displacement related to the adverse impacts of climate change".[101]
2019 COP25/ CMA2	Second review of the WIM. Santiago Network established to promote the provision of technical assistance for the most climate-vulnerable countries.[102]
2021 COP26/ CMA3	Glasgow Dialogue between Parties established to consider arrangements for funding of activities to address loss and damage. Terms of reference of Santiago Network agreed.[103]
2022 COP27/ CMA4	COP27/CMA4 agree to establish a dedicated fund to assist particularly vulnerable developing countries in responding to loss and damage.[104] Parties decide that "these new arrangements [should] complement and include sources, funds, processes and initiatives under and outside the Convention and the Paris Agreement".[105] Transitional Committee established to prepare recommendations and negotiate the Governing Instrument. CMA 4 finalises institutional arrangements of Santiago Network for technical assistance.[106]
2023 COP28/ CMA5	Adoption of the Governing Instrument for the Loss and Damage Fund.[107]

Endnotes

1. For a summary of the key outcomes of COP28, see: COP28: The UAE Consensus https://www.cop28.com.
2. Paris Agreement, opened for signature 12 December 2015, 3156 UNTS 79 (entered into force 4 November 2016) ('Paris Agreement'), art 14.
3. Ibid, art 2(1)(a)-(b).
4. Ibid, art 2(1)(c).
5. Decision 1/CMA.5: 'Outcome of the first global stocktake'. UN Doc FCCC/PA/CMA/2023/16/Add.1(15 March 2024).
6. See: Decision 4/CP.28: 'Long-term climate finance'. UN Doc FCCC/CP/2023/11/Add.1 (15 March 2024).
7. Decision 8/CMA.5: 'New collective quantified goal on climate finance'. UN Doc FCCC/PA/CMA/2023/16/Add.2 (15 March 2024).
8. See: 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'. UN Doc FCCC/CP/2023/11/Add.1 (15 March 2024); Decision 5/CMA.5: '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'. UN Doc FCCC/PA/CMA/2023/16/Add.1 (15 March 2024).
9. Decision 2/CMA.4: 'Funding arrangements for responding to loss and damage associated with the adverse effects of climate change, including a focus on addressing loss and damage'. UN Doc FCCC/PA/CMA/2022/Add.1 (17 March 2023).
10. See: Paris Agreement, art 14(1). Article 14(2) of the Paris Agreement states that the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA) shall undertake its first global stocktake in 2023 and every five years thereafter. Article 14(3) stipulates that the 'outcome of the global stocktake shall inform Parties in updating and enhancing…their actions and support…as well as in enhancing international cooperation for climate action'.
11. Ibid, paras 28(a), 28(d).
12. The objectives of the Paris Agreement are set out in Article 2(1) as follows:

    This Agreement, in enhancing the implementation of the Convention, including its objective, aims to strengthen the global response to the threat of climate change, in the context of sustainable development and efforts to eradicate poverty, including by:

    a) Holding the increase in the global average temperature to well below 2°C above re-industrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels, recognizing that this would significantly reduce the risks and impacts of climate change;

    b) Increasing the ability to adapt to the adverse impacts of climate change and foster climate resilience and low greenhouse gas emissions development, in a manner that does not threaten food production; and

    c) Making finance flows consistent with a pathway towards low greenhouse gas emissions and climate-resilient development.
13. Decision 1/CMA.5: 'Outcome of the first global stocktake', para 67.
14. Ibid, para 68.
15. Ibid, para 69.

16. Ibid, para 70.

17. Ibid, para 72. See also: Paris Agreement, art 9(3).

18. Decision 1/CMA.5: 'Outcome of the first global stocktake', para 75.

19. Ibid, para 76.

20. Ibid, para 77.

21. Ibid, paras 80, 85.

22. Ibid, paras 78-9, 82, 87-9.

23. Ibid, para 128.

24. Ibid, para 90.

25. Ibid, paras 91-2.

26. Ibid, para 93-4.

27. Ibid, para 95-6.

28. Decision 4/CP.28: 'Long-term climate finance', para 3.

29. Ibid, para 6.

30. Ibid, para 8.

31. Source: COP28: Action Build Hope – Climate Finance Commitment Counter. COP28: The UAE Consensus https://www.cop28.com.

32. This figure is higher than that reported by the Loss and Damage Fund joint interim Secretariat. See: United Nations Climate Change. Pledges to the Loss and Damage Fund https://unfccc.int/process-and-meetings/bodies/funds-and-financial-entities/loss-and-damage-fund-joint-interim-secretariat/pledges-to-the-loss-and-damage-fund.

33. Ibid, paras 10-12.

34. United Nations Climate Change. Fifth biennial high-level ministerial dialogue on climate finance. Note by the President. Pre-Session Document. UN Climate Change Conference - United Arab Emirates Nov/Dec 2023 (COP28), FCCC/CP/2023/7 (23 Aug 2023) <https://unfccc.int/documents/631172>, paras 6-15.

35. Decision 8/CMA.5: 'New collective goal on climate finance', para 1.

36. Ibid, paras 9-10.

37. The stakeholders identified include parties, constituted bodies under the UNFCCC and the Paris Agreement, the various operating entities of the Financial Mechanism, climate finance institutions, observers and private sector interests. Ibid, para 14.

38. Ibid, paras 17-8.

39. Ibid, para 25.

40. Ibid, para 26.

41. The text was endorsed by the leaders of Barbados, Federal Republic of Germany, French Republic, Ireland, Republic of the Philippines, Republic of Colombia, Republic of Ghana, Republic of Kenya, Republic of India, Republic of Senegal, United Arab Emirates, United Kingdom of Great Britain and Northern Ireland and United States of America. See: United Nations Climate Change. UAE Leaders' Declaration on a Global Climate Finance Framework. (COP28 UAE) https://www.cop28.com/en/climate_finance_framework.

42. See: Paris Agreement, arts 9(1)-(2).

43. Ibid, art 9(3).

44. The principle of common but differentiated responsibilities (CBDR) differentiates between the obligations of developed and developing country parties under the UNFCCC and the Paris Agreement. Article 3(1) of the UNFCCC states that the parties 'should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities [CBDR-RC]'. Article 3(1) also provides that developed country parties 'should take the lead in combating climate change and the adverse effects thereof'. The principle is also reflected in Article 4 on commitments, including in relation to the provision of finance by developed country parties to developing country parties, and Article 12 on reporting requirements. The principle of CBDR-RC is also incorporated into the Paris Agreement, although with the qualification of 'in the light of different national circumstances'. Article 2(2) provides that the agreement will be 'implemented to reflect equity and the principle of common but differentiated responsibilities and respective capabilities, in the light of different national circumstances'. Article 4(3) provides that each party's nationally determined contribution will, inter alia, 'reflect its highest possible ambition, reflecting its common but differentiated responsibilities and respective capabilities, in the light of different national circumstances'. Article 4(19) provides that all parties should 'strive to formulate and communicate long-term low greenhouse gas emission development strategies…taking into account their common but differentiated responsibilities and respective capabilities, in the light of different national circumstances'.

45. See: Paris Agreement, art 9(3).

46. Ibid, art 9(5).

47. Ibid, art 9(7).

48. For further information on reporting to date under Article 9(5), see: United Nations Climate Change. Biennial Communications Received in Accordance with Article 9, Paragraph 5, of the Paris Agreement. <https://unfccc.int/Art.9.5-biennial-communications>.

49. See: 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' – Annex 1: Governing Instrument of the Fund; Decision 5/CMA.5: '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' – Annex 1: Governing Instrument of the Fund ('Governing Instrument').

50. Governing Instrument, para 2.

51. UN Environment Program. About Loss and Damage .https://www.unep.org/topics/climate-action/loss-and-damage/about-loss-and-damage.

52. See, for example: Ibid; Bhandari, P., Warszawski, N., Warszawski, Cogan, D., and Gerholdt, R. (14 December 2022). 'What Is "Loss and Damage" from Climate Change? 8 Key Questions, Answered'. World Resources Institute. https://www.wri.org/insights/loss-damage-climate-change.

53. Governing Instrument, para 6.

54. Ibid, para 3.

55. Ibid.

56. Ibid, para 4.

57. Ibid, para 5.

58. Ibid, para 13.

59. See: Green Climate Fund. Governing Instrument for the Green Climate Fund. https://www.greenclimate.fund/document/governing-instrument paras 4, 6.

60. Governing Instrument, paras 17-18.

61. Ibid, para 22.

62. Ibid, para 26.

63. Ibid, para 20.

64. The stakeholders include 'representatives of civil society organizations, environmental and development non-governmental organizations, trade unions, Indigenous Peoples, youth, women, climate-induced migrants, industries and sectors impacted by climate change, community-based organizations, bilateral and multilateral development cooperation agencies, technical and research agencies, the private sector and governments'. Ibid, paras 28-9.

65. Ibid, para 42.

66. Ibid, para 60(a).

67. Ibid, para 60(d).

68. Ibid, para 29.

69. Ibid, para 43-4.

70. Ibid, paras 45-6.

71. Ibid, para 49(a)-(c).

72. Ibid, paras 49(d)-(e).

73. Ibid, paras 54-5.

74. The parties that announced contributions were: Canada, Denmark, Estonia, European Commission, Finland, France, Germany, Iceland, Ireland, Italy, Japan, Netherlands, Norway, Portugal, Slovenia, Spain, the United Arab Emirates, United Kingdom and United States of America. See: United Nations Climate Change. Pledges to the Loss and Damage Fund https://unfccc.int/process-and-meetings/bodies/funds-and-financial-entities/loss-and-damage-fund-joint-interim-secretariat/pledges-to-the-loss-and-damage-fund.

75. According to the UNFCCC Standing Committee's Fifth Biennial Assessment and Overview of Climate Finance Flows – Technical Report, funding provided through the major multilateral climate change funds amounted to an annual average of USD3.1 billion per year in 2019–2020, with 62% provided as grants, 34% as loans and 4% via other financial instruments. UNFCCC Standing Committee on Finance. Fifth Biennial Assessment and Overview of Climate Finance Flows – Technical Report. (United Nations Framework Convention on Climate Change, 2022) <https://unfccc.int/sites/default/files/resource/J0156_UNFCCC%20BA5_2022_Report_v4%5B52%5D.pdf> 106, 108.

76. Governing Instrument, para 57.

77. The additional financial instruments may include 'grants, highly concessional loans, guarantees, direct budget support and policy-based finance, equity, insurance mechanisms, risk-sharing mechanisms, pre-arranged finance, performance-based programmes and other financial products, as appropriate'. Ibid, para 58.

78. Ibid, para 59.

79. For an analysis of the linkages between climate vulnerability and debt sustainability, see: United Nations Conference on Environment and Development (UNCTAD). (2019). Current Challenges to Developing Country Debt Sustainability. United Nations. UNCTAD/GDS/2018/2 https://unctad.org/system/files/official-document/gds2018d2_en.pdf; and United Nations Conference on Trade and Development. (November 2022). Tackling Debt and Climate Challenges in Tandem: A Policy Agenda (UNCTAD Policy Brief 104) https://unctad.org/system/files/official-document/presspb2022d12_en.pdf.

80. See: Governing Instrument, paras 60(a)-(c), 60(e).

81. Ibid, paras 62-6.

82. Ibid, paras 67-8.

83. See: Ibid, paras 29, 43. See also: 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' – Annex 2: Funding Arrangements, para 18; Decision 5/CMA.5: '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' – Annex 2: Funding Arrangements, para 18.

84. Governing Instrument, paras 69, 71.

85. Ibid, para 70.

86. The functions of the Secretariat are set out at Paragraph 35 of the Governing Instrument.

87. Governing Instrument, para 22(e)-(f).

88. Green Climate Fund. (2019). Gender Policy. (GCF Documentation: Policies) https://www.greenclimate.fund/sites/default/files/document/gcf-gender-policy.pdf.

89. For further background, see: United Nations Climate Change. (nd). Loss and damage chronology <https://unfccc.int/process-and-meetings/bodies/constituted-bodies/wim-excom/chronology#__21>; and United Nations Framework Convention on Climate Change. (nd). Loss and damage: Online guide.

90. Vanhala, L., and Hestbaek, C. (2016). Framing climate change loss and damage in UNFCCC negotiations. Global Environmental Politics, 16(4), 111-29. <https://direct.mit.edu/glep/article/16/4/111/14859/Framing-Climate-Change-Loss-and-Damage-in-UNFCCC> 115.

91. United Nations Framework Convention on Climate Change, opened for signature 9 May 1992, 1771 UNTS 107 (entered into force 21 March 1994), art 4(8).

92. Kyoto Protocol to the United Nations Framework Convention on Climate Change, opened for signature 11 December 1997, 2303 UNTS 148 (entered into force 16 February 2005), art 3(14).

93. Decision 5/CP.7: 'Implementation of Article 4, paragraphs 8 and 9, of the Convention (decision 3/CP.3 1 and Article 2, paragraph 3, and Article 3, paragraph 14, of the Kyoto Protocol)'. UN Doc FCCC/CP/2001/13/Add.1 (21 January 2002) paras 9, 30.

94. Decision 1/CP.13: 'Bali Action Plan'. UN Doc FCCC/CP/2007/6/Add.1 (14 March 2008) paras 1(c)(ii)-(iii).

95. 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'. UN Doc FCCC/CP/2010/7/Add.1 (15 March 2011) paras 25-6.

96. Decision 3/CP.18: 'Approaches to address loss and damage associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change to enhance adaptive capacity'. UN Doc FCCC/CP/2012/7/Add.1 (28 February 2013) para 9.

97. Decision 2/CP.19: 'Warsaw international mechanism for loss and damage associated with climate change impacts'. UN Doc FCCC/CP/2013/10/Add.1 (31 January 2014) paras 1, 5(a)-(c).

98. Decision 2/CP.20: 'Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts'. UN Doc FCCC/CP/2014/10/Add.2 (2 February 2015).

99. Decision 1/CP.21: 'Adoption of the Paris Agreement'. UN Doc FCCC/CP/2015/10/Add.1 (29 January 2016) paras 47-51; See also: Decision 2/CP.21: 'Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts'. UN Doc FCCC/CP/2015/10/Add.2 (29 January 2016)

100. Decision 3/CP.22: 'Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts' and Decision 4/CP. 22: 'Review of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts'. UN Doc FCCC/CP/2016/10/Add.1 (31 January 2017).

101. Decision 5/CP. 23: 'Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts'. UN Doc FCCC/CP/2017/11/Add.1 (8 February 2018) paras 2, 7-8.

102. Decision 2/CMA.2: 'Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts and its 2019 review'. UN Doc FCCC/CMA/2019/6/Add.1 (16 March 2020) para 43.

103. See: Decision 1/CMA.3: 'Glasgow Climate Pact'. UN Doc FCCC/PA/CMA/2021/10/Add.1 (8 March 2022) paras 61-74; Decision 19/CMA.3: 'Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts'. UN Doc FCCC/CMA/2021/10/Add.3 (8 March 2022); Decision 1/CP.26: 'Glasgow Climate Pact'. UN Doc FCCC/CP/2021/12/Add. 1 (8March 2022); Decision 17/CP.26: 'Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts'. UN Doc FCCC/CP/2021/12/Add.2 (8 March 2022).

104. See: Decision 1/CP.27: 'Sharm el-Sheikh Implementation Plan', paras 25-28, and Decision 2/CP.27: 'Funding arrangements for responding to loss and damage associated with the adverse effects of climate change, including a focus on addressing loss and damage'. UN Doc FCCC/CP/2022/10/Add. 1 (17 March 2023); Decision 1/CMA.4: 'Sharm el-Sheikh Implementation Plan'. UN Doc FCCC/PA/CMA/2022/10/Add. 1 (17 March 2023) paras 44-47.

105. Decision 2/CMA.4: 'Funding Arrangements for Responding to Loss and Damage Associated with the Adverse Effects of Climate Change, including a Focus on Addressing Loss and Damage'. UN Doc FCCC/PA/CMA/2022/Add.1 (17 March 2023) para 2.

106. Decision12/CMA.4: 'Santiago network for averting, minimizing and addressing loss and damage associated with the adverse effects of climate change under the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts'. UN Doc FCCC/PA/CMA/2022/10/Add. 1 (17 March 2023).

107. See: 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'; Decision 5/CMA.5: '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'.

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