

8 July 2024

## Second meeting of the Board

9 – 12 July 2024

Songdo, Incheon, Republic of Korea

Provisional agenda item 14

## Background paper on the participation of active observers in Board meetings and related proceedings<sup>1</sup>

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### *Expected action by the Board*

The Board will be invited to:

- (a) Take note of document FLD/B.2/14/Rev.1, which contains guidelines for the participation of active observers in Board meetings and related proceedings;
- (b) Consider and agree on the participation of active observers in Board meetings and related proceedings to further enhance stakeholder engagement.

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<sup>1</sup> This revised version includes in annex II, the *Report of the consultation session between the Co-Chairs and UNFCCC observer constituencies on the participation of active observers in Board meetings and related proceedings*, held virtually on 2 July 2024.

## I. Background and mandate

1. The interim secretariat previously prepared document FLD/B.1/6, titled “Background paper on arrangements for observer participation in Board meetings”, which provided a comprehensive benchmarking analysis of observer participation within comparable funds and organizations, alongside a proposed framework for enhancing observer participation in Board meetings, pursuant to paragraph 27 of the Governing Instrument of the Fund referred to in decisions 1/CP.28 and 5/CMA.5.<sup>2</sup>
2. At the first meeting of the Board, the Co-Chairs of the Board proposed interim arrangements for observer participation. Through decision FLD/B.1/D.2 the Board approved these measures and invited one representative from each of the nine observer constituencies of the United Nations Framework Convention on Climate Change (UNFCCC) to observe the proceedings of open sessions of the Board meeting in the room. This decision underscored the Board’s commitment to a consultative process, with the Co-Chairs leading the efforts to enhance the participation of civil society in the meetings of the Board.
3. Building on this foundation, during the first meeting of the Board the Co-Chairs introduced the “Dialogue with Civil Society” as a new agenda item under the revised provisional agenda (FLD/B.1/1/Rev.1), with the aim of increasing the opportunities for structured interactions between Board members and representatives of the nine observer constituencies of the UNFCCC. This initiative, led by the Co-Chairs and in response to the interest expressed by civil society to engage with the Board, resulted in a dedicated exchange of views and provided a platform for the representatives to engage with the Board during its first meeting.
4. By decision B.1/D.9, the Board adopted a phased approach to further define observer’s participation in Board meetings. At its second meeting, the Board will consider this paper on the participation of active observers in Board meetings and related proceedings; at its third meeting, the Board will consider a paper on the observer accreditation process; and at its fourth meeting, the Board will consider a paper on the establishment of consultative forums to engage and communicate with stakeholders.
5. During the first meeting of the Board, the Board underscored the importance of inviting the views of the observers accredited by the UNFCCC to engage in Board deliberations on matters relating to provisions of the Governing Instrument on the role of stakeholders in the work of the Board through decision B.1/D.9, paragraph (a), noting that the deliberations of the Board under other agenda items may expand the scope of stakeholders to be invited to provide views. Following this invitation for a broad and inclusive consultation process, comprehensive inputs were received from various constituencies on 12 June 2024. These included a consolidated submission from members of UNFCCC cross constituencies and select contributions from members of the women and gender constituency, Indigenous Peoples organizations, environmental non-governmental organizations (Climate Action Network International and Demand Climate Justice) and the children and youth constituency, as well as from the Human Rights and Climate Change Working Group. These inputs were taken into account in the development of this paper for the Board’s further consideration.<sup>3</sup>

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<sup>2</sup> Annex I to decisions 1/CP.28 and 5/CMA/5.

<sup>3</sup> Submission from observers are available from: [Fund for responding to loss and damage | UNFCCC](#).

## **Annex I: Guidelines for the participation of active observers in Board meetings and related proceedings**

### **I. Introduction**

1. These guidelines define and elaborate on the crucial role of the participation of active observers in Board meetings and the related proceedings.
2. The Board wishes to promote the participation of active observers in Board meetings and related proceedings, to enhance stakeholder engagement. Increased interaction with the members and alternate members of the Board and the Co-Chairs will be arranged before, during, and after the Board meetings to promote the overall inclusivity and effectiveness of the Fund's decision-making processes, fostering diverse input, and ensuring that the Fund's actions reflect the needs and priorities of affected communities.

### **II. Mandate and provisions**

#### **Decision FLD/B.1/D.2, paragraph (b)**

3. *Requests* the interim secretariat, pursuant to paragraph 20 of the Governing Instrument, to present a paper on the participation of active observers in Board meetings and related proceedings for consideration by the Board at its second meeting.

#### **UNFCCC decisions 1/CP.28 and 5/CMA.5, annex I, paragraph 20, 27, 28-29**

4. The Board will enhance the engagement of stakeholders by inviting active observers, including youth, women, Indigenous Peoples and environmental non-governmental organizations, to participate in its meetings and related proceedings.
5. The Fund will make arrangements to allow for the effective participation of observers in its meetings, including developing and carrying out an observer accreditation process.
6. The Fund will establish consultative forums to engage and communicate with stakeholders. The forums will be open to a wide range of stakeholders, including 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. Participation in such forums should reflect a balance among United Nations geographical regions.
7. The Fund will develop mechanisms to promote the input and participation of stakeholders, including private sector actors, civil society organizations and the groups most vulnerable to the adverse effects of climate change, including women, youth and Indigenous Peoples, in the design, development and implementation of the activities financed by the Fund.

### **III. Representation and number of active observers**

8. Until the Board has approved a Fund specific accreditation process for observer organizations, the active observers of the Fund will be invited to participate in the Board meetings among the UNFCCC accredited organizations and may consist of the following representation:

***Groupings from paragraph 20 of the Governing Instrument, affected communities, and trade unions***

- (i) One representative of the Indigenous Peoples group;
- (ii) One representative of the women group;
- (iii) One representative of the youth group;

- (iv) One representative of the environmental non-governmental organizations;
- (v) One representative from the affected communities<sup>4</sup>; and
- (vi) One representative from the trade union group.

9. If an active observer is unable to attend a Board meeting or fails to comply with the requirements set forth in chapter IV of these guidelines, the Co-Chairs, acting jointly, may invite the active observer to nominate an alternate from their respective group of active observers, consistent with chapter V of these guidelines and the procedure concerning the accreditation of observer organizations.

#### **IV. Roles and responsibilities of active observers**

10. In accordance with the Governing Instrument and the rules of procedure, the Fund will endeavour to actively engage with the active observers before, during, and after each Board meeting. Furthermore, decision B.1/D.9, paragraph (a), underscores the importance of inviting the views of observers accredited by the United Nations Framework Convention on Climate Change in Board deliberations on matters relating to provisions of the Governing Instrument on the role of stakeholders in the work of the Board.

11. Before the Board meeting, the active observers will:

- (a) Receive Board documentation at the same time as Board members, except for documents deemed confidential. Inputs received from constituencies will be made available on the Fund's website;
- (b) Ensure consultations and engagement of their constituencies in relevant meetings, activities, and processes of the Fund;
- (c) Participate in consultative forums, meetings, technical sessions, and dialogues organized by the secretariat in the lead up to the Board meeting;
- (d) Coordinate the preparation and submission of inputs to the Board meeting agenda within their constituencies and provide them in a timely manner so they can be shared by the secretariat. Such submissions will be made available on the Fund's website.

12. During the Board meeting, the active observers will:

- (a) Meet with the Co-Chairs to receive information on the Co-Chairs' plan and official agenda, at which meeting the active observers will inform the Co-Chairs of which active observers will be making interventions on each agenda item in the plenary session;
- (b) Engage with the Board on matters relating to Board agenda items, upon the invitation of the Co-Chairs during the formal proceedings;
- (c) Make interventions during formal Board proceedings upon the invitation of the Co-Chairs. Active observer interventions and actions in the plenary session should be based on regular and thorough interaction with their constituencies;
- (d) Have access to draft Board decisions under consideration by the Board at the discretion of the Co-Chairs.

13. After the Board meeting, the active observers will have access to Board meeting reports and the compendium of Board decisions, except when certain decisions contain sensitive information and are therefore deemed confidential.

#### **V. Selection process and terms for active observers**

14. For the period until a Fund specific accreditation system is approved, the active observers will be chosen through self-selection process by the nine observer constituencies

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<sup>4</sup> Further information on affected communities is contained in the report *Loss and Damage Fund: A Participation Blueprint*, published by the Loss and Damage Collaboration and available at <https://us.boell.org/en/2024/04/25/loss-and-damage-fund-participation-blueprint>.

of the UNFCCC. Once the Fund's specific system is in place, the self-selection process will be run by the active observer constituencies approved by the Board. The secretariat will communicate with focal points within each constituency on matters relating to the self-selection process.

15. The criteria for selection of active observers should include adequate and enhanced representation of the developing countries, geographical diversity, and regional rotation in each group.

16. The active observers shall serve for a fixed term of two years.

## **VI. Conflict of interest**

17. TBD

## **VII. Confidentiality**

18. TBD

## **VIII. Travel support**

19. TBD

## **IX. Secretariat support**

20. The secretariat will provide support to facilitate effective participation and engagement of civil society in Board's discussions.

## **X. Review of the policy**

21. This policy shall be reviewed every five years.

## **Annex II: Report of the consultation session between the Co-Chairs and UNFCCC observer constituencies on the participation of active observers in Board meetings and related proceedings**

### **Virtual, 2 July 2024**

1. The Co-Chairs met virtually with UNFCCC observers constituencies on 2 July 2024 to receive consultations ahead of the second meeting of the Board of the Fund for responding to loss and damage.
2. The following issues were discussed during the meeting.
  - (a) **Procedural clarity**
  - (i) **Issues raised by observers:**
    - a. Requested clarification on the accreditation process leading up to B.2 and on the process to be followed for B.3, noting that the matter of accreditation will be considered by the Board at B.3.
    - b. Sought clarification on the proposed grouping and whether or not this will extend beyond the UNFCCC constituencies.
    - c. Noted that there is no provision for alternates in the current draft.
  - (ii) **Response from Co-Chairs:**
    - a. Accreditation will be addressed at B.3 in line with the decision at B.1.
    - b. The Board may wish to consider adhering to or going beyond UNFCCC constituencies.
    - c. Active observers should be present during Board discussions to present their views.
  - (b) **Roles and responsibilities, including the participation in sub-committees and agenda proposals**
  - (i) **Issues raised by observers:**
    - a. Stressed the need for secretariat support as an enabling condition for the active observers to carry their roles and responsibilities.
    - b. Suggested that the paper should include provisions for active observer participation in sub-committee meetings and that active observers may propose agenda items and participate in closed sessions.
    - c. Noted that paragraph 12 (a) should make clear that active observers do not need to provide information in advance on which of them will intervene on specific agenda item.
    - d. Sought clarification on paragraph 12 (d) and whether active observers can intervene when draft decision texts are being considered during the formal session.
  - (ii) **Response from Co-Chairs:**
    - a. Agreed on the need for timely notifications and calls for input as a form of secretariat support.
    - b. Noted that some suggestions would be covered under the additional rules of procedure item and the idea that active observers may propose agenda items is a matter for the Board to consider.
    - c. Mentioned that consultative forums could be an opportunity for active observers to bring up new agenda items for Board consideration.
    - d. Agreed to consult with civil society on significant issues.

- e. Emphasized the principles-based approach to active observer engagement (especially on regional rotation).
- (c) **Observer representation and regional rotation**
  - (i) **Issues raised by observers:**
    - a. Expressed concern over the absence of active observers representation from the Local Government Constituency in the background paper, which may contradict paragraphs 20, 42, and 49 of the Governing Instrument.
    - b. Mentioned that there should be two active observer representatives per group, with at least one from developing countries.
    - c. Expressed concern about the lack of broader observer participation and challenges of regional rotation because of the absence of a travel policy.
  - (ii) **Response from Co-Chairs:**
    - a. Mentioned the importance of adhering to the Governing Instrument and that the nine UNFCCC groupings are already extensive. Reminded of active observer groups specifically mentioned in the Governing Instrument.
    - b. Mentioned that it was important to engage with the active observers and the wider observers group, adopting a principles-based approach to representation.
- (d) **The observers requested for travel support.**