

# Fund for responding to loss and damage

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FLD/B.2/13

1 July 2024

## Second meeting of the Board

9 – 12 July 2024

Songdo, Republic of Korea

Provisional agenda item 13

## **Background paper on draft arrangements between the Conference of the Parties, the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement and the Board of the Fund for responding to loss and damage**

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### *Expected actions by the Board*

The Board will be invited to consider and approve the draft arrangements proposed by the Standing Committee on Finance.

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## I. Background and mandate

1. According to paragraph 11 of the Governing Instrument of the Fund for responding to loss and damage (as contained in annex I to decisions 1/CP.28 and 5/CMA.5), the Fund will be designated as an entity entrusted with the operation of the Financial Mechanism of the Convention, which also serves the Paris Agreement, and will be accountable to and function under the guidance of the Conference of the Parties (COP) and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA). Paragraph 12 of the Governing Instrument stipulates that arrangements for ensuring that the Fund is accountable to and functions under the guidance of the COP and the CMA, consistently with the Governing Instrument, will be concluded between the COP, the CMA and the Board for consideration and approval at COP 29 and CMA 6.
2. According to paragraph 13 of the Governing Instrument, the Board will receive guidance from the COP and the CMA on its policies, programme priorities and eligibility criteria; take appropriate action in response to the guidance received from the COP and the CMA; and submit annual reports to the COP and the CMA for their consideration.
3. COP 28 and CMA 5 decided that arrangements with the Fund, consistently with the Governing Instrument of the Fund and to ensure that the Fund is accountable to and functions under the guidance of the COP and the CMA, are to be approved by COP 29 and CMA 6.<sup>1</sup> Furthermore, COP 28 and CMA 5 requested the Standing Committee on Finance to develop said arrangements to be concluded between the COP, the CMA and the Board of the Fund, consistently with the Governing Instrument of the Fund, for consideration and approval by the Board and subsequent consideration and approval by COP 29 and CMA 6 (November 2024).<sup>2</sup>
4. The Co-Chairs of the Standing Committee on Finance transmitted its proposal on initial draft of the arrangements to be concluded between the COP, the CMA and the Board of the Fund, to the Co-Chairs of the Board of the Fund on 28 June 2024. The draft is included in annex II to this document.

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<sup>1</sup> Para. 6 of decisions 1/CP.28 and 5/CMA.5.

<sup>2</sup> Para. 7 of decisions 1/CP.28 and 5/CMA.5.

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## Annex I

### Draft decision

The Board, having considered document FLD/B.2/13 Draft arrangements between the Conference of the Parties, the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement, and the Board of the Fund for responding to loss and damage

1. *Approves* the initial draft of the arrangements between the Conference of the Parties to the UN Framework Convention on Climate Change, the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement and the Board of the Fund for responding to loss and damage (hereafter referred to as the arrangements);
2. *Requests* the Co-Chairs of the Board to inform the Co-Chairs of the Standing Committee on Finance of the outcome of its deliberations on the initial draft of the arrangements;

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**Annex II****Initial draft of the arrangements between the Conference of the Parties to the UN Framework Convention on Climate Change, the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement and the Board of the Fund for responding to loss and damage****Preamble**

*Recalling* Article 11 of the Convention and Article 9, paragraph 8, of the Paris Agreement,

*Also recalling* paragraphs 2–3 of decisions 2/CP.27 and 2/CMA.4; and decisions 1/CP.28 and 5/CMA.5, as well as annex I to those decisions, which sets out the Governing Instrument of the Fund referred to in paragraph 3 of decisions 2/CP.27 and 2/CMA.4 (hereinafter referred to as the Fund),

*Recognizing* that the Fund is designated as an entity entrusted with the operation of the Financial Mechanism of the Convention, also serving the Paris Agreement, which will be accountable to and function under the guidance of the Conference of the Parties to the United Nations Framework Convention on Climate Change and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement, as per decisions 1/CP.28 and 5/CMA.5, paragraph 5,

*Further recognizing* that pursuant to paragraph 6 of decisions 1/CP.28 and 5/CMA.5, the arrangements between the Conference of the Parties to the United Nations Framework Convention on Climate Change, the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement and the Board of the Fund are to be consistent with decisions 1/CP.28 and 5/CMA.5 and the Governing Instrument of the Fund,

The Conference of the Parties to the United Nations Framework Convention on Climate Change (COP) and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA) and the Board of the Fund hereby agree to the following arrangements.

**Purpose of these arrangements**

1. The purpose of these arrangements is to set out the working relationship between the COP, the CMA and the Board of the Fund to ensure that the Fund is accountable to and functions under the guidance of the COP and the CMA, consistently with the Governing Instrument of the Fund and receives guidance from the COP and the CMA on its policies, programme priorities and eligibility criteria.

**Determination and communication of guidance from the COP and the CMA**

2. The Board will receive guidance from the COP and the CMA on its policies, programme priorities and eligibility criteria.<sup>3</sup>

3. The Board will submit annual reports to the COP and the CMA for their consideration.<sup>4</sup>

4. The COP and the CMA will adopt decisions providing guidance to the Board at each of their sessions, unless otherwise decided by the COP and the CMA.

5. The COP and the CMA will provide guidance based, inter alia, upon a thorough consideration of the information in the annual reports of the Board.

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<sup>3</sup> Pursuant to para. 13(a) of the Governing Instrument.

<sup>4</sup> Pursuant to para. 13(c) of the Governing Instrument.

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6. The Board may review the periodicity of the guidance from the COP and the CMA and make a recommendation thereon for consideration by the COP and the CMA.<sup>5</sup>

#### **Conformity with guidance of the COP and the CMA**

7. The Board will take appropriate action in response to the guidance received from the COP and the CMA and will report on such action in its annual reports.

#### **Reconsideration of funding decisions**

8. These arrangements reaffirm that the Board has responsibility for setting the strategic direction of the Fund and for the Fund's governance and operational modalities, policies, frameworks and work programme, including relevant funding decisions.<sup>6</sup>

9. The COP and the CMA may provide additional guidance to the Board to clarify policies, programme priorities and eligibility criteria as they impact funding decisions.

10. Further modalities by which a particular funding decision may be reconsidered as per Article 11, paragraph 3(b) of the Convention, will be developed by the Board, as appropriate.<sup>7</sup>

#### **Financial instruments**

11. In its provision of finance, the Fund will take into account guidance from the COP and the CMA, pursuant to paragraphs 57-59 of the Governing Instrument.<sup>8</sup>

#### **Reports from the Board to the COP and the CMA**

12. The Board will include in its annual reports to the COP and the CMA:

(a) Information on implementation of policies, programme priorities and eligibility criteria, including information on the action taken by the Board in response to guidance provided by the COP and the CMA;

(b) A synthesis of the different activities under implementation and a list of the activities approved, as well as a financial report;

(c) Information on all activities financed by the Fund;

(d) Actions taken to develop, operate and review the resource allocation system referred to in paragraphs 60–61 of the Governing Instrument;

(e) Any reports of the independent evaluations of the performance of the Fund referred to in paragraphs 64 and 65 of the Governing Instrument;

(f) Information on how it has drawn on expert and technical advice, including from the relevant constituted bodies established under the Convention and the Paris Agreement, as appropriate;

(g) The high-level dialogue referred to in paragraph 11, Annex II to decisions 1/CP.28 and 1/CMA.5, as described in paragraph 12 of Annex II to decisions 1/CP.28 and 1/CMA.5.

(h) Information on action taken to enhance coordination and complementarity pursuant to paragraphs 51–53 of the Governing Instrument, as well as recommendations to the COP and the CMA pursuant to paragraph 22(s) of the Governing Instrument;

13. The Board is encouraged to include information in its annual reports on how it has established consultative forums to engage and communicate with stakeholders, pursuant to paragraph 28 of the Governing Instrument, and developed and managed mechanisms to promote the input and participation of stakeholders, pursuant to paragraph 29 of the Governing Instrument.

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<sup>5</sup> Pursuant to para. 14 of the Governing Instrument.

<sup>6</sup> Pursuant to para. 15 of the Governing Instrument.

<sup>7</sup> Pursuant to Article 11, para. 3(b) of the Convention.

<sup>8</sup> Pursuant to section VIII of the Governing Instrument.

14. The COP and the CMA may request the Board to provide additional information in its annual reports.

**Determination of funding necessary and available**

15. The Board will include information in its annual reports to the COP and the CMA on its long-term fundraising and resource mobilization strategy, as appropriate.<sup>9</sup>

**Periodic review of the Fund**

16. Pursuant to paragraph 66 of the Governing Instrument, the Fund will be subject to periodic reviews conducted by the COP and the CMA, which will be informed by, inter alia, the results of the independent evaluation of the performance of the Fund referred to in paragraph 64 of the Governing Instrument and the annual reports of the Board to the COP and the CMA.

**Amendments to the Governing Instrument**

17. The Board may recommend amendments to the Governing Instrument for consideration by the COP and the CMA.<sup>10</sup>

**Termination of the Fund**

18. The Board may recommend the termination of the Fund for consideration by the COP and the CMA.<sup>11</sup>

**Cooperation between secretariats and representation in sessions of the COP and the CMA**

19. The secretariat of the Fund may, as necessary and subject to the direction of the Board of the Fund, cooperate and exchange views with the UNFCCC secretariat on matters relevant to the operation of the Financial Mechanism of the Convention and the Paris Agreement, including implementation of these arrangements between the COP, the CMA and the Board, coordination with other international financing channels and funding arrangements, as appropriate, and participation of representatives in sessions of the COP and the CMA.

20. The participation of representatives of the UNFCCC secretariat in meetings of the Board, and of the secretariat of the Fund in sessions of the COP and the CMA, is to be governed by the rules of procedure of the Board and the draft rules of procedure of the COP, respectively.

**Final clauses**

21. These arrangements can only be modified by mutual written consent of the COP, the CMA and the Board.

22. These arrangements are effective upon approval by the Board and subsequent approval by the COP and the CMA.

23. These arrangements may only be terminated by mutual written consent of the COP, the CMA and the Board.

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<sup>9</sup> Pursuant to para. 56 of the Governing Instrument.

<sup>10</sup> Pursuant to para. 72 of the Governing Instrument.

<sup>11</sup> Pursuant to para. 73 of the Governing Instrument.