

# Fund for responding to loss and damage

---

FLD/B.2/10

2 July 2024

## Second meeting of the Board

9 – 12 July 2024

Songdo, Republic of Korea

Provisional agenda item 10

## Matters relating to the operationalization of the Fund as a World Bank-hosted financial intermediary fund

---

### *Expected actions by the Board*

The Board is invited to:

- (a) Take note of the information provided by the World Bank regarding its willingness and ability to meet the conditions set out in paragraph 20 of decisions 1/CP.28 and 5/CMA.5;
  - (b) Provide guidance to the World Bank as it takes the necessary steps to establish the Fund as a financial intermediary fund as it deems necessary.
-

## I. Background and mandate

1. The Conference of the Parties (COP) at its twenty-eighth session and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA) at its fifth session invited the World Bank to operationalize the Fund as a World Bank-hosted financial intermediary fund for an interim period of four years,<sup>1</sup> serviced by a new, dedicated and independent secretariat hosted by the World Bank, subject to the conditions outlined in decisions 1/CP.28 and 5/CMA.5, paragraph 20, and elaborated in paragraphs 21–24. The interim period will begin from the sessions of the COP and the CMA at which the Board of the Fund confirms that the conditions (see para. 2 below) can be met.

2. The continued operationalization of the Fund during the interim period will be conditional on the World Bank hosting the Fund as a financial intermediary fund in a manner that:

- (a) Is fully consistent with the Governing Instrument of the Fund;
- (b) Ensures the full autonomy of the Board of the Fund to select the Executive Director of the Fund at a level of seniority set by the Board, in line with relevant World Bank human resources policies;
- (c) Enables the Fund to establish and apply its own eligibility criteria, including on the basis of guidance from the COP and the CMA;
- (d) Ensures that the Governing Instrument of the Fund supersedes, where appropriate, the policies of the World Bank in instances where they differ;
- (e) Allows all developing countries to directly access resources from the Fund, including through subnational, national and regional entities and through small grant funding for communities, consistent with the policies and procedures to be established by the Board of the Fund and applicable safeguards and fiduciary standards;
- (f) Allows for the use of implementing entities other than multilateral development banks, the International Monetary Fund and United Nations agencies, consistent with the policies and procedures to be established by the Board of the Fund and applicable safeguards and fiduciary standards;
- (g) Ensures that Parties to the Convention and the Paris Agreement that are not member countries of the World Bank are able to access the Fund without requiring decisions or waivers from the World Bank Board of Directors on individual funding requests;
- (h) Permits the World Bank, in its role as trustee, to invest contributions to the Fund in the capital markets to preserve capital and general investment income, in line with due diligence considerations;
- (i) Ensures that the Fund can receive contributions from a wide variety of sources, in line with due diligence considerations;
- (j) Confirms that the Fund's assets and its secretariat have the necessary privileges and immunities;
- (k) Ensures a cost recovery methodology that is reasonable and appropriate.

3. COP 28 and CMA 5 confirmed their expectation that, as a financial intermediary fund, the Fund will operate through the legal personality and legal capacity of the World Bank, and the privileges and immunities accorded to the World Bank will apply to the officials, property, assets, archives, income, operations and transactions of the Fund.<sup>2</sup>

4. COP 28 and CMA 5 invited the World Bank to take the steps necessary to promptly operationalize the Fund as a financial intermediary fund and submit to the Board of the Fund by no later than eight months after the conclusion of COP 28 the relevant financial intermediary fund documentation, approved by the World Bank Board of Directors, including

---

<sup>1</sup> Para. 17 of decisions 1/CP.28 and 5/CMA.5.

<sup>2</sup> Para. 18 of decisions 1/CP.28 and 5/CMA.5.

a hosting agreement between the Board of the Fund and the World Bank based on consultations with and guidance from the Board of the Fund.<sup>3</sup>

5. COP 28 and CMA 5 decided that, notwithstanding the invitation referred to in decisions 1/CP.28 and 5/CMA.5, paragraph 17, if the World Bank has not confirmed that it is willing and able to meet the conditions set out in paragraph 20 of the same decisions within six months after the conclusion of COP 28, the Board will launch the selection process for the host country of the Fund and COP 29 and CMA 6 will approve the necessary amendments to the Governing Instrument of the Fund.<sup>4</sup>

6. COP 28 and CMA 5 also decided that, if the Board of the Fund determines that the relevant financial intermediary fund documentation approved by the World Bank Board of Directors does not ensure that the conditions (see para. 2 above) can be met during the interim period, the Board of the Fund will recommend to the COP and the CMA that they take the necessary steps to operationalize the Fund as an independent stand-alone institution, including approving the necessary amendments to the Governing Instrument of the Fund and providing guidance to the Board with respect to the selection process for the host country of the Fund, or the COP and the CMA may take any other course of action deemed appropriate.<sup>5</sup>

7. COP 28 and CMA 5 further decided that, if the above-mentioned conditions have not been met, as determined by the Board of the Fund following an independent assessment of the performance of the World Bank as host of the Fund's secretariat, the COP and the CMA will take steps at the end of the interim period to establish the Fund as an independent stand-alone institution, including with respect to any necessary amendments to the Governing Instrument of the Fund and providing guidance to the Board with respect to the selection process for the host country of the Fund, or take any other course of action deemed appropriate.<sup>6</sup>

8. COP 28 and CMA 5 decided that, prior to the establishment of the financial intermediary fund, the Board of the Fund will provide guidance to the World Bank as it takes the necessary steps to establish the Fund as a financial intermediary fund.<sup>7</sup>

9. At its first meeting, the Board adopted a statement and requested the interim secretariat to transmit it to the World Bank on behalf of the Board.<sup>8</sup> Furthermore, the Board requested the Co-Chairs to engage with the World Bank on the scope, structure and elements of the financial intermediary fund documentation, hosting agreement and the trustee agreement between the Board and the World Bank in accordance with paragraph 19 of decisions 1/CP.28 and 5/CMA.5.

10. The Board also requested the Co-Chairs, after each engagement with the World Bank, to report to, and seek input from the Board, in a transparent and inclusive manner through appropriate means, including through virtual meetings, with a view to enabling the Board to:

(a) Confirm that the relevant financial intermediary fund documentation ensures that the conditions set out in paragraph 20 of decisions 1/CP.28 and 5/CMA.5 can be met during the interim period;

(b) Endorse the hosting agreement and the trustee agreement.<sup>9</sup>

11. The Board also confirmed that the Co-Chairs' engagement with the World Bank will be in full accordance with decisions 1/CP.28 and 5/CMA.5 and the Governing Instrument.<sup>10</sup>

---

<sup>3</sup> Para. 19 of decisions 1/CP.28 and 5/CMA.5.

<sup>4</sup> Para. 21 of decisions 1/CP.28 and 5/CMA.5.

<sup>5</sup> Para. 22 of decisions 1/CP.28 and 5/CMA.5.

<sup>6</sup> Para. 23 of decisions 1/CP.28 and 5/CMA.5.

<sup>7</sup> Para. 25 of decisions 1/CP.28 and 5/CMA.5.

<sup>8</sup> Decision B.1/D.7.

<sup>9</sup> Decision B.1/D.8, para. (b).

<sup>10</sup> Decision B.1/D.8, para. (c).

## **II. Updates from the World Bank during the period between the first and second meetings of the Board**

12. In response to the invitation from COP and CMA the World Bank transmitted a letter to the Board on 11 June 2024 through the COP 28 Presidency, informing the Board of the decision taken by the Board of Executive Directors of the World Bank approving their role as interim host of the secretariat and trustee of the Fund, and further confirming its willingness and ability to meet the conditions set out in paragraph 20 of decisions 1/CP.28 and 5/CMA.5.

13. In accordance with the request from the Board to the Co-Chairs referred to in paragraphs 9–11 above, the Co-Chairs of the Board have engaged with the World Bank on matters concerning the operationalization of the financial intermediary fund as outlined in document FLD/B.2/4.

14. Representatives of the World Bank will be invited to provide any oral or written updates to the Board at its second meeting.

---