

Fund for responding to Loss and Damage

FLD/B.3/6

16 September 2024

Third meeting of the Board
18-20 September 2024
Baku, Republic of Azerbaijan
Agenda item 8

Additional rules of procedure of the Board

Expected actions of the Board

The Board will be invited to:

- (a) Take note of the report from the ad hoc subcommittee on additional rules of procedure.
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I. Background

1. The Governing Instrument of the Fund for responding to loss and damage (the “Governing Instrument”)¹ provides certain rules of procedure of the Board in chapter III.D. Paragraph 31 of the Governing Instrument states that “The Board will develop additional rules of procedure”.
2. At its first meeting (B.1), the Board established an ad hoc subcommittee on the additional rules of procedure of the Board (the “Committee”) to support the Board in the development and adoption of the additional rules of procedure of the Board.² The Committee produced an initial report with draft rules of procedure which was circulated in advance of the second meeting of the Board (FLD/B.2/8).
3. At its second meeting (B.2), the Board received a report from the Committee on the progress of its work during the Board meeting (document FLD/B.2/8/Add.1). The Committee had met in person three times during the second meeting of the Board on 9, 10 and 11 July to further progress the issues identified in the initial report referred to in paragraph 3 above. In parallel, the Co-Chairs of the Board took the lead on certain items with overlapping impact on other matters under discussion by the Board, and where wider consultations were undertaken in parallel.
4. At B.2, the Committee also requested additional time to complete the work under its mandate. After B.2, the Committee met two times, conducted a targeted consultation with the Board, and invited views from observers based on the version of the Draft RoP shared with the Board at B.2 (document FLD/B.2/8/Add.1). The Committee Co-Chairs then produced a more advanced draft for consideration by the Committee.
5. This document is structured as follows:
 - (a) Chapter II: A brief update on the work of the Committee since its last report referred to in paragraph 3 above;
 - (b) Chapter III: A summary of the key issues which remain unresolved;
 - (c) Chapter IV: Next steps and recommendation;
 - (d) Annex I: Draft decision of the Board on the adoption of the Rules of Procedure
 - (e) Annex II: Draft additional RoP as presented at B.2 with Co-Chairs Proposals (“Draft RoP”).
 - (f) Annex III: Outcome from consultations with the Board and observers.
6. Despite progress since the second meeting of the Board, there are number of matters where the Committee has not yet reached consensus on the way forward. As of the time of writing of the present report, the Co-Chairs and Committee are considering meeting early during B.3 to discuss the way forward. This report is therefore provided as a snapshot of the progress at the time of its publication.

II. Report of the Committee

7. Since the publication of the last report (document FLD/B.2/8/Add.1), the Committee has met twice virtually, with only the first meeting reaching quorum. As no quorum was achieved during the Committee’s second planned meeting, the Committee members who were present opted to hold an informal discussion.
8. At its first meeting (12 August), the Committee focused its work on the remaining unresolved issues which were flagged in its previous report to the Board. Although the Committee was able to discuss and move closer on a few matters during the meeting, the areas which continued to pose a challenge concerned the definitions of a “Party” and “Regional Groups and Constituencies” (respectively paras. 2(r) and 2(s) of the Draft RoP),

¹ As contained in annex I to decisions 1/CP.28 and 5/CMA.5.

² Decision B.1/D.4.

the rules for replacement of members of the Board within a Board term (para. 4 of the Draft RoP), the possibility to delegate the right to express views within a seat (para. 17 of the Draft RoP), the format of Board meetings (para. 25 of the Draft RoP), the language for the translation of certain documents relating to the Board (para. 43 of the Draft RoP), aspects regarding voting in absence of consensus (para. 51 of the Draft RoP) and certain aspects of decision-making between Board meetings (para. 53 and 54 of the Draft RoP). During that meeting and in subsequent written communications, the Co-Chairs presented to the Committee their plan to hold discussions with the Co-Chairs of the Board and to launch targeted consultations with the Board and with the Active observers.

9. On 14 August the Co-Chairs also met virtually with the Co-Chairs of the Board to discuss the progress of work of the Committee and the matters which the Co-Chairs had previously taken under their consultation.

10. Following these discussions, the Co-Chairs of the Committee launched a written consultation with the Board on a set of items where they felt that the Committee could particularly benefit from a targeted consultation and feedback from the Board (16-26 August). During the period between 23 August and 3 September, the Co-Chairs also invited and received views from the observers on provisions of relevance to them, as provided in the mandate of the Committee. Eight sets of comments were received from Board members and two sets of comments were received from observers. The detailed matrix with responses received during the consultation is provided in annex III.

11. The Co-Chairs of the Committee met virtually and prepared a new “Co-Chairs’ proposal”, taking into account the feedback received during the Committee’s meeting and written consultations. The “Co-Chairs’ proposal” was then shared with the Committee. A second meeting of the Committee was scheduled for 5 September to discuss the comments received during the consultation process and the proposal for Draft RoP which the Co-Chairs prepared on the basis of the consultation. Six out of the ten (10) Committee members who attended the meeting on 5 September were able to hold an informal discussion to further each other’s understanding of the comments, proposals and matters of concern. No decisions were made during that informal discussion. During this meeting, the Co-Chairs proposed to reach out to the Co-Chairs of the Board to seek their guidance and views on how to further advance the work of the Committee.

12. On 10 September, the Co-Chairs of the Committee met virtually with Board Co-Chairs to discuss the work of the AROP Committee, the status of the draft additional Rules of Procedure, exchange views on options for the Committee to consider regarding how the document is advanced further, including discussion at B.3.

13. In conclusion, there remain a number of items where further consideration by the full Board is required and where the Committee has not yet reached agreement. These areas are outlined below.

III. Outstanding areas without agreement

14. Agreement has not yet been reached on the following matters:

(a) The **definitions of “Party”** (para. 2(r) of the Draft AROp) and **Regional Groups and Constituencies** (para. 2(s) of the Draft RoP).

(b) The **rules for notifying replacements at the Board within the same Board term** (Para. 4 of the Draft RoP).

(c) The **rule regarding delegation of right to express views** between a Board member and their alternate (para. 17 of the Draft RoP).

(d) The **format for meetings of the Board** (para. 25 of the Draft RoP).

(e) **Provisions for languages** (para. 43 of the Draft RoP).

15. In addition, the written consultations also yielded inputs from the developing constituency regarding **decision-making in the absence of consensus** as outlined in para. 52 of the Draft RoP detailing that the content of this section could not be agreed developing

the procedures for determining when efforts to achieve consensus have been exhausted, citing that these two elements are interdependent.

16. With respect to **decisions between meetings** (paras. 53 and 54), the developing countries submission to the written consultation process expressed concerns with the lack of a resolution mechanism to allow for addressing the concerns of objecting Board members; the lack of clarity regarding the use of a shortened period for consideration of proposed decisions; as well as the lack of clarity regarding the role of Active observers in this process. In their proposal, the Co-Chairs have put forward language in the draft decision text (annex I) to ensure that the upcoming procedure will address these specific areas of concern.

IV. Next steps and recommendation

17. The Board is invited to take note of the status of the Draft RoP as contained in annex II to this document, noting that the text does not represent Committee consensus on the points flagged in the present report. This includes the Co-Chairs' proposals in conjunction with the options previously presented by the Committee at B.2.

Annex I

Draft decision of the Board

The Board, having considered document FLD/B.X/XX titled “Additional rules of procedure of the Board”:

- (a) Welcomes the work of the ad hoc subcommittee on the additional rules of procedure of the Board;
- (b) Adopts the additional rules of procedure of the Board, as set out in annex II to the document (the “RoP”);
- (c) Decides that, with respect to the RoP:
 - (i) For the purposes of paragraphs [6] and [7] of the RoP, and on an exceptional basis, the first term of Board membership shall be considered to end on 31 December 202[6][7];
 - (ii) With reference to part IV of the RoP, the Board shall decide no later than its fourth meeting on the end date of the term of the Co-Chairs;
 - (iii) With reference to paragraph [18] of the RoP, the guidelines for the participation of Advisers in Meetings and meetings of Committees shall be developed by the Board no later than at its third meeting.
 - (iv) With reference to paragraphs [19] and [24]–[25] of the RoP, for the duration of the first term of Board membership, the Board shall meet at least three times every year, excluding any extraordinary meetings, and that each regular meeting shall be held in person;
 - (v) With reference to paragraph [43] of the RoP, the Board may decide to have [certain documents], [policies adopted and/or decisions taken] by the Board translated into all six official languages of the United Nations, following an estimate on budgetary implications to be provided by the ad hoc subcommittee on Budget.

Co-Chairs proposal: delete paragraph (v) above.

- (vi) Pending adoption of the procedures referred to in paragraph [50] of the RoP, the Co-Chairs shall jointly determine when all efforts at exhausting consensus have been exhausted;

Co-Chairs proposal: add the following paragraph:

For the purposes of paragraphs [53] and [54] of the RoP, the guidelines to be adopted by the Board shall provide guidance, inter alia, on the use of reduced time for consideration of proposals, and on a mechanism for addressing and resolving objections;

- (vii) For the purposes of paragraph [57] of the RoP, the policy on conflicts of interest to be developed by the Board may take into account the policies regulating the same matters of similar funds, and of the institution that is expected, pursuant to relevant decisions of the Conference of the Parties and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement, to host the secretariat of the Fund.

Annex II

Additional rules of procedure

Provisions from the Governing Instrument of the Fund

A. Rules of procedure of the Board

1. Co-chairs

23. The Board will elect two Co-Chairs from within its membership, one from a developed country and one from a developing country, who will serve a term of one year. The Co-Chairs may be re-elected. If a Board member is elected as Co-Chair, that member may request their alternate member to express the respective regional group's or constituency's viewpoint in Board deliberations. However, the Board member retains the right to vote.

2. Term of membership

24. Members and alternate members of the Board are to serve for a term of three years and are eligible to serve additional terms, as determined by their regional group or constituency, for a maximum of two consecutive terms.

3. Quorum

25. A three-fourths majority of Board members must be present at a meeting to constitute a quorum.

4. Decision-making

26. Decisions of the Board will be taken by consensus. If all efforts at reaching consensus have been exhausted and no consensus is reached, decisions will be taken by a four-fifths majority of the members present and voting. The Board will develop procedures for determining when all efforts at reaching consensus have been exhausted. The Board will adopt procedures for taking decisions between meetings.

5. Observers

27. 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. Stakeholder input and participation

28. 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 nongovernmental 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.

29. 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.

7. Expert and technical advice

30. The Board may establish expert and technical panels to support its work and to provide inputs to the Fund's activities. These panels may include representatives of relevant constituted bodies established under the Convention and the Paris Agreement.

8. Additional rules of procedure

31. The Board will develop additional rules of procedure.

Draft additional rules of procedure of the Board
including relevant provisions of the Governing Instrument and decisions 1/CP.28 and 5/CMA.5

Part I. Scope and applicability

1. These rules of procedure shall apply to the conduct of business of the Board of the Fund and, except as otherwise decided by the Board, mutatis mutandis to Committees, Panels, and expert bodies established by the Board.

Part II. Definitions

2. For the purpose of these rules:

(a) “Active observer” means any representative invited to participate in Board meetings and related proceedings pursuant to paragraph 20 of the Governing Instrument;

(b) “Adviser” means an expert providing advice to a member and/or alternate member during or in connection with Board meetings and similar activities related to the Fund;

(c) “Alternate member” means any one of the 26 alternate members of the Board referred to in paragraph 18 of the Governing Instrument;

(d) “Board” means the Board of the Fund;

(e) “Board member” means any one of the 26 members of the Board referred to in paragraph 17 of the Governing Instrument, and includes an Alternate member serving as the Board member pursuant to paragraph 18 of the Governing Instrument;

(f) “CMA” means the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement;

(g) “Co-Chair” means either one of the two Co-Chairs elected by the Board pursuant to paragraph 23 of the Governing Instrument;

(h) “Committee” means any standing or ad hoc subcommittee established by the Board pursuant to paragraph 22(h) of the Governing Instrument;

(i) “Convention” means the United Nations Framework Convention on Climate Change adopted in 1992, which entered into force on 21 March 1994;

(j) “COP” means the Conference of the Parties to the Convention;

(k) “Executive Director” means the Executive Director of the Fund referred to in paragraph 33 of the Governing Instrument;

(l) “Fund” means the fund established by decisions 2/CP.27 and 2/CMA.4 and operationalized by decisions 1/CP.28 and 5/CMA.5;

(m) “Governing Instrument” means the Governing Instrument of the Fund as contained in the annex to decisions 1/CP.28 and 5/CMA.5;

(n) “Meeting” means any formal meeting of the Board;

(o) “Observer” means any representative of a State, organization, or other entity accredited to participate in Board meetings as observer(s) pursuant to paragraph 27 of the Governing Instrument;

(p) “Panel” means any panel established by the Board pursuant to paragraphs 22(h) or 30 of the Governing Instrument;

(q) “Paris Agreement” means the Paris Agreement, adopted on 12 December 2015, which entered into force on 4 November 2016;

(r) (r) [“Party” or] “Parties” mean[s] part[y] [(ies)] to the Convention and [/or to] the Paris Agreement;

Co-Chairs proposal: “Party” or “Parties” means party(ies) to the Convention and/or to the Paris Agreement;

(s) Option 1: “Regional groups or constituencies” means any of the five United Nations regional groups, least developed countries and small island developing States]

Option 2: “Regional Groups or Constituencies” means any of the regional groups and constituencies referred to in paragraph 17 of the Governing Instrument;

Co-Chairs proposal: delete the definition of “Regional Groups and constituencies”

(t) “Secretariat” means the independent secretariat referred to in paragraph 32 of the Governing Instrument and, until the establishment of the independent secretariat, the interim secretariat referred to in paragraph 26 of decisions 1/CP.28 and 5/CMA.5;

(u) “Trustee” means the trustee of the Fund.

Part III. Selection and Term of Board members and Alternate members

Relevant paragraphs of the Governing Instrument³

17. The Board will comprise 26 members, as follows:
 - (a) 12 members from developed countries;
 - (b) 3 members from African States;
 - (c) 3 members from Asia-Pacific States;
 - (d) 3 members from Latin American and Caribbean States;
 - (e) 2 members from small island developing States;
 - (f) 2 members from the least developed countries;
 - (g) 1 member from a developing country not included in the regional groups and constituencies referred to in paragraph 17(b)–(f) above.
18. Each Board member will have an alternate member, with alternate members entitled to participate in the meetings of the Board only through the principal member, without the right to vote, unless they are serving as the member. During the absence of a member from all or part of a meeting of the Board, its alternate will serve as the member.
19. The relevant regional groups and constituencies will nominate representatives with the appropriate technical, finance, loss and damage, and policy expertise, with due consideration given to gender balance, to serve as Board members, including alternate members.
24. Members and alternate members of the Board are to serve for a term of three years and are eligible to serve additional terms, as determined by their regional group or constituency, for a maximum of two consecutive terms.

Decisions 1/CP.28 and 5/CMA.5, common paragraph 9

9. The alternate member for the seat on the Board of the Fund referred to in paragraph 17(g) of annex I will rotate among the developing country Parties in the regional groups and constituencies listed in paragraph 17(b–f) of annex I.

3.1. Nominations for each new Board term

3. For each new term, each Regional Group or Constituency referred to in paragraph 17 of the Governing Instrument shall submit the nomination of their respective Board members and Alternate members, representing Parties, to the Secretariat. The nomination shall confirm that it is being made with the agreement of all members of the Regional Group or Constituency in accordance with their own respective consultation processes.

³ As an alternative to copy pasting the text of the Governing Instrument and COP/CMA decisions relevant to each part of these additional rules of procedure at the beginning of each part, an alternative, which will increase the readability and usability of the text, could be to introduce the relevant Governing Instrument COP/CMA paragraphs as separate paragraphs in the additional rules of procedure in a more structured manner so that the provisions all flow logically one after the other. The Governing Instrument COP/CMA text could be coloured differently (together with references to the relevant provisions of the Governing Instrument COP/CMA decisions) to clearly differentiate those provisions, and the additional rules of procedure.

3.2. Board member and Alternate member vacancies during a term

4. Option 1: Any replacement of the Board member or Alternate member within a term shall be made and notified to the Secretariat by the Regional Group or Constituency that selected the Board member or Alternate member.

Option 2: If a Board member or Alternate member resigns or is otherwise unable to complete the assigned term or functions, an individual from the same Party shall be nominated by that Party to replace that Board member or Alternate member for the remainder of that term. That Party may also, after consultation with the relevant Regional Group or Constituency, as applicable, name an individual from another Party in the same Regional Group or Constituency, as applicable, to replace the Board member or Alternate member. The Party shall notify the Secretariat, in writing, of the name and contact details of the nominated Board member or Alternate member, which will be subsequently communicated to the Board by the Secretariat.

Co-Chairs proposal: Any replacements of the Board members or Alternate members within a term shall be made and notified to the Secretariat in a manner agreed by the Regional Group or Constituency that selected the Board member or Alternate member and communicated to the Secretariat.

5. Any replacement Board member or Alternate member notified to the Secretariat pursuant to paragraph 4 above shall hold the position for the remainder of the unexpired term and shall, unless otherwise notified to the Secretariat, assume the position of the outgoing Board member or Alternate member on any Committees.

3.3. Term of membership

6. The term of the Board members and Alternate members shall start on 1 January of the calendar year immediately following their nomination. Board members and Alternate members continue their functions until their successors have been nominated and their terms have commenced.

7. For each new term of Board membership, the term of the relevant Board members and Alternate members shall be considered to have begun on 1 January, notwithstanding delays in the nomination process.

3.4. Secretariat acknowledgement

8. Nominations under paragraphs 3 and 4 above shall contain the names and contacts details of the Board member or Alternate Member, as the case may be, as well as the effective date of any replacement under paragraph 4 above. Any such communications shall be acknowledged by the Secretariat, and copied to all Board members and Alternate members.

Part IV. Co-Chairs

Relevant paragraph of the Governing Instrument

- 23 The Board will elect two Co-Chairs from within its membership, one from a developed country and one from a developing country, who will serve a term of one year. The Co-Chairs may be re-elected. If a Board member is elected as Co-Chair, that member may request their alternate member to express the respective regional group's or constituency's viewpoint in Board deliberations. However, the Board member retains the right to vote.

4.1. Co-Chair replacement

9. In the event that one Co-Chair or both Co-Chairs are unable to attend a Meeting, the Board shall elect (an) other Board member(s) to assume the functions of Co-Chair(s) for the duration of the Meeting.
10. Where one Co-Chair or both Co-Chairs are unable to attend two consecutive Meetings, the Board shall elect (a) new Co-Chair(s) for the remainder of the term of the predecessor(s).

4.2. Co-Chair duties in the conduct of meetings

11. In the conduct of Board meetings, the Co-Chairs shall be guided by the best interest of the Fund.
12. The Co-Chairs shall share and allocate between themselves responsibility for chairing Meetings.
13. The Co-Chairs shall be responsible for the opening, conduct, suspension and adjournment of the Meeting and for dealing with all procedural matters, including, but not limited to, issues regarding formal decision-making procedures, putting questions to a vote if all efforts at reaching consensus have been exhausted, and according the right to speak. They are responsible for ensuring the observance of the rules of procedure of the Board and adherence to the agenda. The Co-Chairs shall rule on points of order and any such determination shall be final unless a majority of Board members object. In that case, the Board shall consider the course of action to be taken.

4.3. Co-Chair external duties

14. The Co-Chairs may, after consultation with the Board, represent the Board at external meetings and shall report back to the Board on those meetings. They may delegate that function acting jointly.

4.4. Co-Chair transition

15. Co-Chairs shall continue their functions until the terms of their successors has commenced or, if later, once they have been elected.
16. For proper knowledge transfer, the Secretariat shall prepare briefing materials and arrange regular engagement with incoming Co-Chairs, including engagements with the current Co-Chairs.

Part V. Participation of alternates and advisers

5.1. *Participation of Alternate members*

<u>Relevant paragraph of the Governing Instrument</u>

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| <p>18. Each Board member will have an alternate member, with alternate members entitled to participate in the meetings of the Board only through the principal member, without the right to vote, unless they are serving as the member. During the absence of a member from all or part of a meeting of the Board, its alternate will serve as the member.</p> |
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17. A Board member may delegate their right to express the views of the seat to their Alternate member during all or part of a Meeting. Any such arrangement shall be declared at the opening of each relevant agenda or subagenda item and shall apply for the duration of that agenda or subagenda item. Such a delegation by the Board member shall have the effect that the Board member is deemed to be absent from the Meeting in respect of that agenda or subagenda item for the purposes of paragraph 18 of the Governing Instrument.

5.2. *Participation of Advisers*

18. The Board shall develop guidelines for the participation of Advisers in Meetings and meetings of Committees.

Part VI. Meetings

6.1. *Meeting frequency*

19. The Board shall meet as frequently as it deems necessary.

6.2. *Meeting location*

20. In-person Meetings shall take place in the host country of the Board or at an alternative location decided upon by the Board.

6.3. *Meeting dates and notification*

21. No later than 30 September each year, the Board shall decide upon dates for regular Meetings of the Board for the subsequent year, while retaining flexibility to amend dates, as appropriate.

22. The Secretariat shall notify all Board members, Alternate members, Advisers and Observers of the dates and venue of the Meetings and circulate a formal invitation for any regular Meeting at least six weeks before the first day of each Meeting. A notification shall also be posted on the Fund's website.

6.4. *Extraordinary Meetings*

23. Extraordinary Meetings may be convened to address extraordinary circumstances. In the case of an extraordinary Meeting, the Co-Chairs, acting jointly, shall determine the date by which notification to the Board members and Alternate members has to be made, taking into account the urgency of the matter, and the format of the meeting. The Board shall develop guidelines for convening extraordinary Meetings that shall be annexed to these additional rules of procedure. Such meetings may be held in person, virtually, or with virtual participation in hybrid format.

6.5. *Format of Meetings*

24. The Board shall decide on the format of each Meeting, which may be held in person, virtually, or with virtual participation in hybrid format.

25. Option 1: If the number of Meetings in a given calendar year exceeds two, at least one Meeting shall be held virtually or with virtual participation in hybrid format. Such virtual Meetings, or meetings with virtual participation held in hybrid format, shall focus on administrative issues, reporting and formal Board approval issues.

Option 2: One regular Meeting in a given calendar year, or an extraordinary Meeting, may be held virtually or with virtual participation in hybrid format.

Co-Chairs proposal: If the number of Meetings in a given calendar year exceeds two, one regular Meeting or an extraordinary Meeting should be held virtually.

26. If a Meeting, or part thereof, scheduled to be held in person cannot in the light of the circumstances be held in person, the Co-Chairs in consultation with the Board may decide to hold the Meeting, or part thereof, virtually or with virtual participation in hybrid format.

27. Meetings that are held virtually shall be deemed to have been held in the host country of the Board.

6.6. *Meeting agenda*

28. The Secretariat shall, in consultation with the Co-Chairs, prepare and distribute the provisional agenda for each regular Meeting at least 30 calendar days before the first day of each Meeting.

29. The Board shall, at the beginning of each Meeting, adopt the agenda for the Meeting.

6.7. Meeting documents

30. The Secretariat is responsible for preparing Meeting documents and shall transmit to Board members and Alternate members, copying all Advisers, the documentation relating to items on the provisional agenda at least 21 calendar days before the first scheduled day of the Meeting, except in the case of extraordinary Meetings and in exceptional circumstances where, in the view of the Co-Chairs, a shorter period for the transmission of documentation is warranted. In any such cases, the Secretariat shall inform the Board at least 21 calendar days before the Meeting of the date by which the said documentation shall be transmitted.

31. Meeting documents shall be posted on the website of the Fund on the same day they are released to Board members, except for Board documents classified as confidential.

32. Comments of Board members on Meeting documents shall be transmitted promptly by the Secretariat to all Board members and Alternate members.

6.8. Meeting attendees

33. In addition to Board members and Alternate members, Meetings, other than executive sessions referred to in paragraph 35, shall be open to attendance by designated Advisers of Board members and Alternate members, Secretariat staff, representatives of the Trustee, Active observers and other Observers pursuant to the procedures to be developed by the Board pursuant to paragraphs 20 and 27 of the Governing Instrument, and such other persons as the Board may authorize from time to time.

34. At the invitation of the Board, representatives of relevant thematic or constituted bodies under and/or serving the Convention and Paris Agreement and/or other relevant organizations, bodies, funds or funding arrangements, may attend Meetings, and may be invited to speak by the Co-Chairs.

6.9. Executive sessions

35. In exceptional circumstances, the Board may decide to hold all or part of its Meeting in executive session. Unless otherwise decided by the Board, executive sessions shall be open only to Board members, Alternate members, Advisers, necessary representatives of the Secretariat, and such other persons or institutions and organizations authorized or requested by the Board to attend, including the Trustee.

6.10. Quorum

<u>Relevant paragraph of the Governing Instrument</u>

25. A three-fourths majority of Board members must be present at a meeting to constitute a quorum.
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36. Board members participating virtually shall be considered to be present at a Meeting.

37. The existence of a quorum shall be verified by the Co-Chairs at the beginning of a Meeting and at the time of the adoption of any decision at a Meeting, as well as at the time of adoption of the Meeting report, and at the request of a Board member.

6.11. Meeting record/summary report

38. The Co-Chairs shall present a joint summary of the main discussions and conclusions of the meeting within 5 business days after the Meeting. Any decision

approved by the Board at a Meeting shall be appended to the Co-Chairs' joint summary. The Co-Chairs' joint summary and the decisions, other than those classified as confidential, shall be a public document.

6.12. *Webcasting and maintaining permanent records of Meetings*

- 39. Meetings of the Board, other than any executive sessions, shall be webcast.
- 40. The Secretariat shall keep meeting records and arrange for the preservation and custody of documents for the Meetings on behalf of the Board in accordance with applicable policies and relevant rules and procedures.

6.13. *Languages*

- 41. The working language for the Board shall be English. The Board may authorize or facilitate the interpretation of Meetings in one or more of the six United Nations languages for Board members and Alternate members in individual cases, if requested by a Board member in advance of a Meeting.
- 42. Documents for the Meetings shall be provided in English.
- 43. Option 1: Decisions taken and policies adopted by the Board shall be made publicly available via the Fund website in all six official languages of the United Nations.

Option 2: The Board may decide to have certain documents translated into all six official languages of the UN.

Co-Chairs proposal: The Board may decide to have certain documents, inter alia, operational policies and procedures, translated into other languages building on the agreed, where appropriate, United Nations languages, supporting a multilinguistic approach.

6.14. *Arrangements for Meetings*

- 44. The Secretariat shall make the necessary arrangements for Meetings, including by providing secretariat services for the Board, and managing relevant support services and logistics.

Part VII. Committees, panels and expert bodies

Relevant paragraphs of the Governing Instrument

- 22 The Board will:
[...]
(h) Establish subcommittees, panels and expert bodies, as appropriate, and define their terms of reference;
- 30 The Board may establish expert and technical panels to support its work and to provide inputs to the Fund's activities. These panels may include representatives of relevant constituted bodies established under the Convention and the Paris Agreement.

45. The Board may establish Committees from among its Board members and/or Alternate members and panels and expert bodies as may be required for the conduct of its business.

Co-Chairs proposal: The Board may establish Committees from among its Board members and/or Alternate members as may be required for the conduct of its business.

46. Committees shall assist the Board in its decision-making, and shall exercise any authority delegated to them by the Board, subject to revocation at the Board's discretion.

47. Except for standing Committees, all Committees established *ad hoc* should have a clearly defined timeline and end date, related to the execution of their functions. All Committees should be subject to review at regular intervals.

48. The Board may establish, on a permanent or temporary basis, panels and/or expert bodies to assist it in the performance of its functions. Panels and expert bodies may include but need not be limited to Board members and Alternate members. They generally shall have advisory functions only and shall not have any decision-making authority.

Part VIII. Observers, Active observers

Relevant paragraphs of the Governing Instrument

- 20 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.
- 27 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.
- 28 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 nongovernmental 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.
- 29 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.

49. The participation of Active observers and other Observers in Meetings shall be set out in the procedures to be developed by the Board pursuant to paragraphs 20 and 27 of the Governing Instrument. Such procedures shall aim at ensuring wide participation of stakeholders from developing countries while considering geographical balance between stakeholders.

Part IX. Decision-making and voting

Relevant paragraph of the Governing Instrument

26. Decisions of the Board will be taken by consensus. If all efforts at reaching consensus have been exhausted and no consensus is reached, decisions will be taken by a four-fifths majority of the members present and voting. The Board will develop procedures for determining when all efforts at reaching consensus have been exhausted. The Board will adopt procedures for taking decisions between meetings.

9.1. *Determining when all efforts to reach consensus have been exhausted*

50. The Board shall develop procedures for determining when all efforts at reaching consensus have been exhausted, which shall take into account the joint judgment and determination by the Co-Chairs regarding when all efforts at reaching consensus have been exhausted.

9.2. *Decision-making in the absence of consensus*

51. If all efforts at reaching consensus have been exhausted and no consensus is reached, the following voting procedures apply, as a last resort:

(a) Prior to any votes being cast, the Co-Chairs provide a final draft decision to each Board member. The draft decision shall be the version that, in the Co-Chairs' judgment, was supported by the greatest number of Board members;

(b) The Co-Chairs retain their right to vote;

(c) Option 1: Each Board member has one vote;

(d) Option 2: Each Board member representing a Regional Group or Constituency shall have one vote, except in cases where the Board member is a representative of a regional economic integration organization, in which case such Board member shall refrain from voting as a representative of member States of such organization that are also represented on the Board; Decisions will be taken by a four-fifths majority of Board members present and voting.

52. For the purpose of this rule, the phrase "Board members present and voting" means Board members present at the meeting at which voting takes place and casting an affirmative or negative vote, including those Board members participating virtually. Board members abstaining from voting are considered as not voting for the purpose of determining the four-fifths majority.

9.3. *Decisions between meetings*

53. Decisions without a Meeting may occur when in the judgment of both Co-Chairs, including following a recommendation from the Executive Director, a decision needs to be taken by the Board that should not be postponed to the next Meeting. The Secretariat shall in such circumstances transmit to Board members and Alternate members a proposed decision with the invitation to Board members to approve the decision on a non-objection basis, within a prescribed period (generally 14 days but in urgent cases no less than 7 days and in urgent and exceptional cases no less than 2 days). Copies of such proposal shall be provided to the Active observers for their information, unless otherwise determined by the Co-Chairs in accordance with applicable rules. At the expiration of the period prescribed for replies, the decision shall be deemed approved unless there is an objection in writing. If an objection has been received, the proposed decision shall be considered by the Board at the following Meeting unless otherwise provided for in the guidelines referred to in paragraph 4 below.

54. The Board shall develop guidelines to, among other things, determine in which cases decisions without a Board meeting may be requested. Prior to the adoption of such guidelines, the Co-Chairs shall determine on a case-by-case basis which decisions may be requested without a Board meeting.

55. Decisions approved between meetings shall be recorded in the report of the following Board meeting.

Part X. Informal consultations

56. The Co-Chairs may invite all Board members and Alternate members to informal consultations between sessions of the Board with a view to advancing proposals for adoption at a Meeting. Such consultations may be conducted through in-person meetings and/or hybrid/virtual means of communications in coordination with the Secretariat. Summary reports of such consultations shall be posted on the Fund's web page, except where such deliberations are considered confidential.

Part XI. Conflicts of interest

57. The Board shall develop a conflicts of interest policy to safeguard against conflicts of interest in fulfilling its duties. Board members, Alternate members, Advisers, and Active observers are required to adhere to the Fund's conflict of interest policy as adopted by the Board.

58. At each meeting, Board members and Alternate members shall disclose any conflict of interest they may have in relation to any items on the agenda.

59. Board members and Alternate members shall recuse themselves by withdrawing from participation in deliberations or decision-making connected with a matter with respect to which they have a conflict of interest.

60. Active observers who participate in Board meetings shall also disclose any conflict of interest they may have in relation to any items on the agenda and recuse themselves from participating in the proceedings of that item.

Part XII. Amendments to the rules of procedure

61. The additional rules of procedure, except for those that reproduce provisions from the Governing Instrument or COP or CMA decisions, may be amended by the Board pursuant to the rules set out in Part IX above.

Part XIII. Overriding authority of the Governing Instrument

62. In the event of any conflict between any provision of these rules and any provisions of the Governing Instrument, the provisions of the Governing Instrument shall prevail.

Annex III
Additional Rules of Procedure (“AROP”, “RoP”): Board consultation matrix
In order they appear in the current draft RoP, including spontaneous and/or additional comments

Rule (or issue)	Current draft proposal	Comments received // proposals
Part II. Definitions <i>2. For the purpose of these rules:</i>	<p>2. For the purpose of these rules:</p> <p>(s) <u>Option 1</u>: “Regional groups or constituencies” means any of the five United Nations regional groups, least developed countries and small island developing States]</p> <p><u>Option 2</u>: “Regional Groups or Constituencies” means any of the regional groups and constituencies referred to in paragraph 17 of the Governing Instrument;</p>	<p>Note: On 13 August the AROP Co-Chairs received from Armenia spontaneous comments on the definition of “regional group and constituency”:</p> <p>Armenia:</p> <p>Alt proposal [ARM] (s) “Regional groups” means any of the five United Nations regional groups. (s) (bis) “Constituencies” means any of the constituencies referred to in paragraph 17 of the Governing Instrument</p> <p>Rationale: The main concern is that the original [option 2] implies that the EEG will not have the right to nominate to the Board, as in paragraph 17 of the GI there is no reference to the EEG.</p> <p>The alternative proposal Alt [ARM] to separate the definitions of “regional groups” and “constituencies” will help ensure the right of five UN regional groups (including the EEG) to nominate to the Board in accordance with the GI (as paragraph 19 of GI implies the right of EEG to nominate) while keeping the UN fundamental principle of equitable geographic distribution. At the same time the term “constituencies” can be addressed separately to find the most suitable formulation that works for all interested sides in line with the paragraph 17 of the GI.</p>
Part III. Selection and Term of Board members and Alternate members		<p>Armenia: “3.1. Nominations for each new Board term – paragraph 3 to read as follows:</p>

<p>3.1. Nominations for each new Board term</p>	<p>3. For each new term, each Regional Group or Constituency referred to in paragraph 17 of the Governing Instrument shall submit the nomination of their respective Board members and Alternate members, representing Parties, to the Secretariat. The nomination shall confirm that it is being made with the agreement of all members of the Regional Group or Constituency in accordance with their own respective consultation processes.</p>	<p><i>“3. For each new term, each Regional Group or Constituency referred to in paragraph 17 [and paragraph 19: ARM] of the Governing Instrument shall submit the nomination of their respective Board members and Alternate members, representing Parties, to the Secretariat. The nomination shall confirm that it is being made with the agreement of all members of the Regional Group or Constituency in accordance with their own respective consultation processes.”</i></p> <p>Rationale: <i>The rationale of this proposal is again to make sure that all five regional groups of the UN have the right to nominate, as the paragraph 17 does not have any direct reference to the EEG, however, the paragraph 17g in conjunction with the paragraph 19 give the understanding that the EEG is also eligible to nominate to the Board.”</i></p>
<p>Part III. Selection and Term of Board members and Alternate members</p> <p>3.2 Board member and Alternate member vacancies during a term</p>	<p>4. <u>Option 1</u>: Any replacement of the Board member or Alternate member within a term shall be made and notified to the Secretariat by the Regional Group or Constituency that selected the Board member or Alternate member.</p> <p><u>Option 2</u>: If a Board member or Alternate member resigns or is otherwise unable to complete the assigned term or functions, an individual from the same Party shall be nominated by that Party to replace that Board member or Alternate member for the remainder of that term. That Party may also, after consultation with the relevant Regional Group or Constituency, as applicable, name an individual from another Party in the same Regional Group or Constituency, as applicable, to replace the Board member or Alternate member. The Party shall notify the Secretariat, in writing, of the name and contact details of the nominated Board member or Alternate member, which will be subsequently communicated to the Board by the Secretariat.</p>	<p>Armenia: commented on Para 3, not on 4</p> <p>Canada and New Zealand: Option 2 (“as it is likely to be the most efficient in practice”)</p> <p>EU/Ireland: Option 2 “We have a preference for option 2 in order to prioritize efficiency at the Board”</p> <p>Germany: Option 2 “We have a preference for option 2 which seems more pragmatic and efficient.”</p> <p>Japan: Option 2 “Japan prefers Option 2 as this option elaborates on the procedure for nomination in the case that BM/ABM change during the assigned term. Those procedural details should be explicitly mentioned to avoid any confusion and delay in smoothly succeeding the role of leaving BM/ABM to the incoming BM/ABM.</p>

	<p><i>Note: Whichever option is selected in para 4, Japan strongly requests that Option 2 in para 2(s) be adopted as the definition of “regional groups or constituencies.” Japan has a strong concern about the proposed definition in Option 1 as it does exclude developed countries from the definitional scope of “regional groups or constituencies.” This could result in the lack of procedure in nominating BMs/ABMs from developed countries because, in this case, para 3 (3.1 Nomination for each new Board term) comes only to cover developing countries as its scope, despite the stipulation of para 17(a) of the Governing Instrument. This can make developed countries confused in nominating their BMs/ABMs. To make sure that para 3 has a scope to cover both developing and developed countries, para 2(s) needs to adopt Option 2.”</i></p> <p>Portugal and Spain: Option 2</p> <p>USA: Option 2 “The U.S. strongly prefers option 2, which provides greater nuance and clarity.”</p> <p>Developing countries constituency: Option 1 <i>“On the matter of nominations for replacement members, the ARoP should maintain the practice as set out in the COP/CMA decisions (1/CP.28 and 5/CMA.5) that “invited Parties, through their regional groups and constituencies, to submit nominations of representatives for membership of the Board of the Fund to the UNFCCC secretariat as soon as possible.” We note that this practice is used by Co-Chairs to confirm the replacement of members and has been used on several occasions since the original nominations were submitted. As representatives of regional groups and constituencies representing developing countries, the Fund must recognize the established formal procedures and practices in place to elect representative to various Bodies and Funds. The Fund for responding to Loss and Damage must respect such processes and not introduce conflicting</i></p>
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		<p><i>procedures. We do not support any rules that create separate and unequal treatment for different groups and constituencies, as witnessed in other Funds. We are therefore in support of Option 1, and note that Option 2 is not an option that our groups and constituencies can consider as this would conflict with agreed procedures and practice in our groups.”</i></p>
<p>Part VI. Meetings</p> <p>6.5. Format of Meetings</p>	<p>24. The Board shall decide on the format of each Meeting, which may be held in person, virtually, or with virtual participation in hybrid format.</p> <p>25. <u>Option 1</u>: If the number of Meetings in a given calendar year exceeds two, at least one Meeting shall be held virtually or with virtual participation in hybrid format. Such virtual Meetings, or meetings with virtual participation held in hybrid format, shall focus on administrative issues, reporting and formal Board approval issues.</p> <p><u>Option 2</u>: One regular Meeting in a given calendar year, or an extraordinary Meeting, may be held virtually or with virtual participation in hybrid format.</p>	<p>Armenia: <i>did not comment on this provision</i></p> <p>Canada and New Zealand: <i>“Virtual meetings are important and should be used, without limits to what they can potentially cover. We would though like to keep the door open for hybrid meetings, but understand there are some details that need to be worked through for them to used[sic] effectively and appropriately.”</i></p> <p>EU and Ireland: <i>“We would agree with the third option proposed by Germany:</i></p> <p><i>“One regular Meeting in any given calendar year, or an extraordinary Meeting should be held virtually.”</i></p> <p><i>Or, as an alternative:</i></p> <p><i>“If the number of meetings in a given calendar year exceeds two, at least one Meeting shall be held virtually”</i></p> <p><i>Our position is to make a reasonable use of virtual meetings to increase cost effectiveness in the functioning of the Fund. We acknowledge connectivity difficulties, but believe that innovative solutions should be pursued in the set-up of this specific Fund (satellite connections, use of the offices of the WB as secretariat, etc.).</i></p> <p>Germany: <i>“We don’t like both options since we are not in favor of hybrid meetings. Virtual and hybrid meetings are two different formats and should be assessed separately.</i></p>

		<p><i>While the format of virtual meetings sets equal conditions for all participants in the sense that everybody will participate on-line, an undefined hybrid format might lead to a disbalance regarding the physical presence of some of the groups. So before introducing a hybrid format into the ARoP we would first need to clarify the rules of hybrid participation with the goal to maintain a balanced representation of our constituencies. Our concern is that this would overcomplicate the process. Since we are strongly in favor of virtual meetings, we would suggest a third option with the following text:</i></p> <p><i>„One regular Meeting in a given calendar year, or an extraordinary Meeting should be held virtually. “</i></p> <p><i>In that sense, our position is to make use of virtual meetings to reduce costes [sic] and increase efficiency of the fund. To find a compromise on how to set a default for virtual meetings, is a very important part of our position on the ARoP outcome. But just to be very clear: without a clear understanding on how hybrid meetings would be organised, we would always prefer in- person meetings over hybrid format.”</i></p> <p>Japan: “Japan also does NOT like either option, as expressed by Germany and New Zealand as well. Virtual format should be further utilized as a default format for the Board Meetings. This is mainly because to keep as much amount of resources as possible to the actual projects and programs themselves by restricting administrative cost, including travel cost, and efficiently using the resources of the Fund. Virtual meeting is one of the solutions for that. Virtual meetings should have equal status with in-person meetings. As such, the type of agenda items should not be restricted, when a Board meeting is held in virtual format.</p>
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		<p>In this sense, Japan is supportive of the amendment proposed by Germany to the Option 2 as follows: <i>“One regular Meeting in a given calendar year, or an extraordinary Meeting, should be held virtually.”</i></p> <p>Or, Japan can live with the Option 1 if revised as follows: <i>“If a number of Meetings in a given year exceeds two, at least one Meeting shall be held virtually.”</i></p> <p>In terms of hybrid format, Japan shares the view with New Zealand that we would like to keep the door open for hybrid meeting, while it is necessary to enact rules for hybrid meeting as Germany makes the case. In particular, such rules should ensure equal treatment for the participants in sharing information and allocating opportunities for intervention during the meeting. Once such meeting rules are in place, virtual format should be available in every Board meeting if there are participants who can only attend the meeting virtually.</p> <p>Portugal and Spain: (ref. Germany): <i>“We support virtual meetings and also prefer not to have limits to the scope. Regarding hybrid meetings we share the view of the German seat, since we also see virtual and hybrid meetings as two different formats that we should address separately. However, we are open to further discuss this option.”</i></p> <p>USA: Option 2 “The U.S. strongly prefers option 2, as there does not appear to be a reason to limit hybrid participation to issues only focused on administration, reporting and formal Board approval process issues.”)</p> <p>Developing countries constituency: <i>“On the matter of the format of meetings, we believe that meetings of the Board</i></p>
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		<i>should be in-person as a default, and that the Board should have the ability to change the format through a decision in response to any circumstance that may reasonably prevent in-person meetings from taking place. We believe the current formulation in the draft rules of procedures may unnecessarily cause lengthy negotiations on the format of meetings during board meetings.”</i>
<p>Part VI. Meetings</p> <p>6.13 Languages</p> <p>Note: Only Para. 43 is commented on, the rest is provided for context</p>	<p>41. The working language for the Board shall be English. The Board may authorize or facilitate the interpretation of Meetings in one or more of the six United Nations languages for Board members and Alternate members in individual cases, if requested by a Board member in advance of a Meeting.</p> <p>42. Documents for the Meetings shall be provided in English.</p> <p>43. <u>Option 1</u>: Decisions taken and policies adopted by the Board shall be made publicly available via the Fund website in all six official languages of the United Nations. <u>Option 2</u>: The Board may decide, to have certain documents translated into all six official languages of the UN.</p>	<p>Armenia: no comments on this provision</p> <p>Canada and New Zealand: “We prefer Option 2. It is important to make key decisions available in appropriate languages, but translating all decisions and policies into all 6 languages without discretion is likely an ineffective use of our resources at this moment.”</p> <p>EU/Ireland: “We have a preference for option 2 in order to prioritize cost effectiveness in the functioning of the Fund. However, further flexibility should be included in the article to provide for certain documents to be translated into any (or all) of the six official languages of the UN. We propose the following language:</p> <p>“The Board may decide to have certain documents translated into any of the six official languages of the UN and made publicly available.”</p> <p>As discussed at B.2, it would be good to have some information on the cost implications of these different options.”</p> <p>Germany: “We have a preference for option 2. We would further encourage the committee and the interim secretariat to work out options with selected languages instead of all six official UN language (f.e. french and spanish only like in other funds).”</p>

		<p>Japan: “Japan prefers Option 2. Translation should be done when there is an actual need for multi-lingualization. At this stage, it is uncertain if, and where, there are such needs for translation to what languages. In order for the Board to keep as much amount of resources as possible to the approved projects and programs, we should not decide from the beginning to translate Board decisions into 6 UN official languages.”</p> <p>Portugal and Spain: “<i>Our preference is option 2. However, we would prefer to see more flexibility on the language selection by the board, among the six official languages</i>”.</p> <p>USA: “<i>USA prefers option 2, but also welcomes another option which may designate specific documents – e.g., those that facilitate access to financing and/or redress – as being translated into relevant languages, while also allowing for the flexibility for the Board to decide whether other documents or categories of documents should be translated on a case-by-case basis.</i>”</p> <p>Developing countries constituency: “<i>On the matter of languages, in order for the Fund to support all developing countries it will be critically important for the Fund’s operational policies and procedures to be made available in accessible languages, and therefore, we support a multilingual approach that builds on agreed, where appropriate, United Nations languages.</i>”</p>
<p>Part VII. Committees, panels and expert bodies</p> <p>Paragraphs 45-48</p>	<p>45. The Board may establish Committees from among its Board members and/or Alternate members and panels and expert bodies as may be required for the conduct of its business.</p>	<p>Developing countries constituency:</p> <p>“<i>On the matter of committees, committees shall be made up only of Board members and alternate members as committees represent a body with delegated authority to discuss issues and provide recommendations for the Board</i>”</p>

		<i>consideration. Expert bodies and panels may be created to serve committees upon a decision by the board, however expert bodies and panels cannot form part of the committee itself and take part in its decision-making.”</i>
Part IX. Decision-making and voting 9.1. Determining when all efforts to reach consensus have been exhausted	50. The Board shall develop procedures for determining when all efforts at reaching consensus have been exhausted, which shall take into account the joint judgment and determination by the Co-Chairs regarding when all efforts at reaching consensus have been exhausted.	<i>Note:</i> <i>this article is provided only for context and ease of reading of the comments provided below.</i>
Part IX. Decision-making and voting 9.2. Decision -making in the absence of consensus	51. If all efforts at reaching consensus have been exhausted and no consensus is reached, the following voting procedures apply, as a last resort: <ul style="list-style-type: none"> (a) Prior to any votes being cast, the Co-Chairs provide a final draft decision to each Board member. The draft decision shall be the version that, in the Co-Chairs’ judgment, was supported by the greatest number of Board members; (b) The Co-Chairs retain their right to vote; (c) <u>Option 1</u>: Each Board member has one vote. <u>Option 2</u>: Each Board member representing a Regional Group or Constituency shall have one vote, except in cases where the Board member is a representative of a regional economic integration organization, in which case such Board member shall refrain from voting as a representative of member States of such organization that are also represented on the Board; (d) Decisions will be taken by a four-fifths majority of Board members present and voting. 	Developing countries constituency: <i>“On the matter of decision-making in the absence of consensus, a final decision on the content of this section cannot take place reasonably without developing the procedures for determining when efforts to achieve consensus have been exhausted as these two elements are interdependent. We further understand that this has been mandated to Co-Chairs to consult on and report to the Board.”</i>

	52. For the purpose of this rule, the phrase “Board members present and voting” means Board members present at the meeting at which voting takes place and casting an affirmative or negative vote, including those Board members participating virtually. Board members abstaining from voting are considered as not voting for the purpose of determining the four-fifths majority	
Part IX. Decision-making and voting 9.3 Decisions between Board meetings	54. The Board shall develop guidelines to, among other things, determine in which cases decisions without a Board meeting may be requested. Prior to the adoption of such guidelines, the Co-Chairs shall determine on a case-by-case basis which decisions may be requested without a Board meeting.	Developing countries constituency: <i>“On the matter of decision-making between Board meetings, the section does not outline a resolution mechanism that may allow the concerns of an objecting Board member to be addressed and resolved without the need to postpone the matter to the next board meeting. Furthermore, a specific policy will be required to determined when and why the 14 / 7 / 2 days are utilized. Finally, the reference to active observers in the context of this procedure is unclear and requires further elaboration. We further understand that this has been mandated to Co-Chairs to consult on and report to the Board.”</i>

Additional Rules of Procedure (“AROP”, “RoP”): Observers consultation matrix
In order they appear in the current draft RoP, including spontaneous and/or additional comments

Rule (or issue)	Current draft proposal	Comments received // proposals
Part VI. Meetings 6.3 Meeting dates and notification	22. The Secretariat shall notify all Board members, Alternate members, Advisers and Observers of the dates and venue of the Meetings and circulate a formal invitation for any regular Meeting at least six weeks before the first day of each Meeting. A notification shall also be posted on the Fund’s website.	Heinrich Böll Foundation Washington, DC and Oxfam (*) : “22. The Secretariat shall notify all Board members, Alternate members, Advisers, <u>Active Observers</u> and <u>accredited observer organisations</u> Observers of the dates and venue of the Meetings and circulate a formal invitation for any regular Meeting at least six weeks before the first day of each Meeting. A notification shall also be posted on the Fund’s website.”
Part VI. Meetings 6.4. Extraordinary Meetings	23. Extraordinary Meetings may be convened to address extraordinary circumstances. In the case of an extraordinary Meeting, the Co-Chairs, acting jointly, shall determine the date by which notification to the Board members and Alternate members has to be made, taking into account the urgency of the matter, and the format of the meeting. The Board shall develop guidelines for convening extraordinary Meetings that shall be annexed to these additional rules of procedure. Such meetings may be held in person, virtually, or with virtual participation in hybrid format.	Heinrich Böll Foundation Washington, DC and Oxfam : “Extraordinary Meetings may be convened to address extraordinary circumstances. In the case of an extraordinary Meeting, the Co-Chairs, acting jointly, shall determine the date by which notification to the Board members, and Alternate members, <u>Advisers and Active observers</u> has to be made, taking into account the urgency of the matter, and the format of the meeting. The Board shall develop guidelines for convening extraordinary Meetings that shall be annexed to these additional rules of procedure. Such meetings may be held in person, virtually, or with virtual participation in hybrid format.” Comment:

		<p><i>“As a matter of transparency, accredited observer organisations, at minimum as represented through the Active Observers, shall be likewise notified about the meeting and the format of the meeting. It should not be assumed that extraordinary meetings would exclude the engagement or participation of at minimum the Active Observers, depending on the format and the focus of the meeting (such as for example additional informal board meetings separate from a decision-making meeting)”</i></p>
<p>Part VI. Meetings</p> <p>6.5. Format of Meetings</p>	<p>24. The Board shall decide on the format of each Meeting, which may be held in person, virtually, or with virtual participation in hybrid format.</p> <p>25. <u>Option 1</u>: If the number of Meetings in a given calendar year exceeds two, at least one Meeting shall be held virtually or with virtual participation in hybrid format. Such virtual Meetings, or meetings with virtual participation held in hybrid format, shall focus on administrative issues, reporting and formal Board approval issues.</p> <p><u>Option 2</u>: One regular Meeting in a given calendar year, or an extraordinary Meeting, may be held virtually or with virtual participation in hybrid format.</p>	<p>Heinrich Böll Foundation Washington, DC and Oxfam:</p> <p><i>“Format of meetings: Hybrid format should be the standard, as this option in particular would decrease barriers to in-person participation for observers that might face cost, visa or time- constraints to in-person participation, such as representatives from local communities and community-based organizations (paras. 24 and 25 of the ARoP).”</i></p> <p><i>Comment to para. 24: “Allowing for virtual participation in an in-person meeting should be the standard/default, not an exception to be negotiated on a case-by-case basis.”</i></p> <p><i>Comment to para 25: “It is concerning that in both options hybrid format is only provided as an alternative to solely virtual meetings which would be the exception. Hybrid format should be the standard, especially for observers, in particular to decrease barriers to in-person participation for observers that might face cost, visa or time- constraints to in-person participation, such as representatives from local communities and community-based organizations.”</i></p>

<p>Part VI. Meetings</p> <p>6.7 Meeting documents</p>	<p>30. The Secretariat is responsible for preparing Meeting documents and shall transmit to Board members and Alternate members, copying all Advisers, the documentation relating to items on the provisional agenda at least 21 calendar days before the first scheduled day of the Meeting, except in the case of extraordinary Meetings and in exceptional circumstances where, in the view of the Co-Chairs, a shorter period for the transmission of documentation is warranted. In any such cases, the Secretariat shall inform the Board at least 21 calendar days before the Meeting of the date by which the said documentation shall be transmitted.</p> <p>31. Meeting documents shall be posted on the website of the Fund on the same day they are released to Board members, except for Board documents classified as confidential.</p> <p>32. Comments of Board members on Meeting documents shall be transmitted promptly by the Secretariat to all Board members and Alternate members.</p>	<p>Heinrich Böll Foundation Washington, DC and Oxfam:</p> <p><i>“30. The Secretariat is responsible for preparing Meeting documents and shall transmit to Board members and Alternate members, copying all Advisers, <u>and to Active Observers</u> the documentation relating to items on the provisional agenda at least 21 calendar days before the first scheduled day of the Meeting, except in the case of extraordinary Meetings and in exceptional circumstances where, in the view of the Co-Chairs, a shorter period for the transmission of documentation is warranted. In any such cases, the Secretariat shall inform the Board <u>and the Active Observers</u> at least 21 calendar days before the Meeting of the date by which the said documentation shall be transmitted.</i></p> <p><i>31. Meeting documents shall be posted on the website of the Fund on the same day they are released to Board members, except for Board documents classified as confidential.</i></p> <p><i>32. Comments of Board members on Meeting documents, <u>as well as comments received from the Active Observers</u> shall be transmitted promptly by the Secretariat to all Board members and Alternate members.”</i></p> <p>Comment to para. 32 “And of Active Observers”</p> <p>Comment in e-mail: “Meeting documents: Comments of Active Observers on Meeting documents shall be transmitted promptly, alongside those of Board members, by the Secretariat to all Board members and Alternate members.”</p>
<p>Part VI. Meetings</p> <p>6.8 Meeting attendees</p>	<p>34. At the invitation of the Board, representatives of relevant thematic or constituted bodies under and/or serving the Convention and Paris Agreement and/or other relevant organizations, bodies, funds or funding</p>	<p>Heinrich Böll Foundation Washington, DC and Oxfam:</p> <p>Comment to para. 34: “this should include a reference to affected communities and marginalized groups “</p>

	arrangements, may attend Meetings, and may be invited to speak by the Co-Chairs.	
Part VI. Meetings 6.9 Executive sessions	35. In exceptional circumstances, the Board may decide to hold all or part of its Meeting in executive session. Unless otherwise decided by the Board, executive sessions shall be open only to Board members, Alternate members, Advisers, necessary representatives of the Secretariat, and such other persons or institutions and organizations authorized or requested by the Board to attend, including the Trustee.	Heinrich Böll Foundation Washington, DC and Oxfam: Comment to para. 35 : “ <i>The Board should make clear that the threshold for exceptional circumstances that warrant executive sessions should be high and clearly defined. It should be clear that an executive session should be a rare measure.</i> ”
Part VI. Meetings 6.11 Meeting record/summary report	38. The Co-Chairs shall present a joint summary of the main discussions and conclusions of the meeting within 5 business days after the Meeting. Any decision approved by the Board at a Meeting shall be appended to the Co-Chairs’ joint summary. The Co-Chairs’ joint summary and the decisions, other than those classified as confidential, shall be a public document.	Heinrich Böll Foundation Washington, DC and Oxfam: “38. The Co-Chairs shall present a joint summary of the main discussions and conclusions of the meeting within 5 business days after the Meeting. Any decision approved by the Board at a Meeting shall be appended to the Co-Chairs’ joint summary. The Co-Chairs’ joint summary and the decisions, other than those classified as confidential, shall be a public document <u>and posted on the Fund’s website without delay.</u> ”
Part VI. Meetings 6.12 Webcasting and maintaining permanent records of Meetings	39. Meetings of the Board, other than any executive sessions, shall be webcast. 40. The Secretariat shall keep meeting records and arrange for the preservation and custody of documents for the Meetings on behalf of the Board in accordance with applicable policies and relevant rules and procedures.	Heinrich Böll Foundation Washington, DC and Oxfam: “39. Meetings of the Board, other than any executive sessions, shall be webcast <u>and recorded.</u> 40. The Secretariat shall keep meeting records <u>and video recordings</u> and arrange for the preservation and custody of documents <u>and video recordings</u> for the Meetings on behalf of the Board in accordance with applicable policies and relevant rules and procedures.”
Part VI. Meetings 6.13 Languages Note:	41. The working language for the Board shall be English. The Board may authorize or facilitate the	Heinrich Böll Foundation Washington, DC and Oxfam: Comment to para. 41: “ <i>Interpretation in all UN official [sic] languages should be standard especially to ensure facilitate the participation and</i>

<p>Only Para. 43 is commented on (the rest is provided for context)</p>	<p>interpretation of Meetings in one or more of the six United Nations languages for Board members and Alternate members in individual cases, if requested by a Board member in advance of a Meeting.</p> <p>42. Documents for the Meetings shall be provided in English.</p> <p>43. <u>Option 1</u>: Decisions taken and policies adopted by the Board shall be made publicly available via the Fund website in all six official languages of the United Nations.</p> <p><u>Option 2</u>: The Board may decide, to have certain documents translated into all six official languages of the UN.</p>	<p><i>engagement of a more diverse pull of observers”</i></p> <p>Comment in e-mail: “Languages and translation: <i>All decisions and core policies should be translated into the 6 UN languages (para 43, option 1 ARoP; also to be reflected in Annex I, draft decision text, para (c)(v). Meeting interpretation in all six languages should be standard, with additional options for expert/community testimony in individual cases (para.41, ARoP).”</i></p> <p>Comment to para. 43 Option 1: <i>“this is what should be adopted. Availability of documents and policies in all six official UN languages is key to facilitate participation and scrutiny”</i></p> <p>Comment to para. 43 Option 2: <i>“this option should be Disregarded”</i></p>
<p>Part VII. Committees, panels and expert bodies</p> <p>Paragraphs 45-48</p>	<p>45. The Board may establish Committees from among its Board members and/or Alternate members and panels and expert bodies as may be required for the conduct of its business.</p>	<p>Heinrich Böll Foundation Washington, DC and Oxfam:</p> <p>Comment in e-mail: <i>“Committees, panels and expert bodies: observer representatives and observer experts should be included in panels and expert bodies (para.48, ARoP). Board committees should allow for the potential input and participation of Active observers at the discretion of the Committee chairs in consultation and with the agreement of Committee members (para. 45, ARoP).”</i></p> <p>Comment to para. 45: <i>“Committees should have the option to allow for the potential input and participation of Active observers at the discretion of the Committee chairs in consultation and with the agreement of Committee members” [sic]</i></p> <p>Comment to para. 48: <i>“: It would be useful if the text included specific mention of observers and</i></p>

	<p>48. The Board may establish, on a permanent or temporary basis, panels and/or expert bodies to assist it in the performance of its functions. Panels and expert bodies may include but need not be limited to Board members and Alternate members. They generally shall have advisory functions only and shall not have any decision-making authority.</p>	<p><i>community members from developing countries”</i></p> <p>Comment to para. 48: <i>“If the text remains, we seek reassurance that the potential inclusion and participation of CSO or Indigenous People’s observers is possible [such as in a Gender or Indigenous Peoples’ Expert Group.]”</i></p>
<p>Part VIII. Observers, Active observers</p>	<p>49. The participation of Active observers and other Observers in Meetings shall be set out in the procedures to be developed by the Board pursuant to paragraphs 20 and 27 of the Governing Instrument. Such procedures shall aim at ensuring wide participation of stakeholders from developing countries while considering geographical balance between stakeholders.</p>	<p>Heinrich Böll Foundation Washington, DC and Oxfam:</p> <p>Comment in e-mail: “Observers and Active Observers: <i>language in para. 49 should include a reference to participation of observers in “Board meetings and related proceedings,” to fully aligned with para. 20 of the governing instrument, with references to procedures developed to address para. 20, 27, 28 and 29 of the governing instrument.”</i></p> <p>“49. The participation of Active observers and other Observers in Meetings <u>and related proceedings</u> shall be set out in the procedures to be developed by the Board pursuant to paragraphs 20 and 27, <u>28 and 29</u> of the Governing Instrument. Such procedures shall aim at ensuring wide participation of stakeholders from developing countries while considering geographical balance between stakeholders.”</p> <p>Comment to para. 49: <i>“It is not clear why reference to paras. 28 and 29 are withheld here. As the mandate from para. 20 is for “meetings and related proceedings” any procedures to be developed should address the full set of relevant paragraphs on observes and active observers in Part VIII. of the governing instrument.”</i></p>

<p>Part IX. Decision-making and voting</p> <p>9.3 Decisions between Board meetings</p>	<p>53. Decisions without a Meeting may occur when in the judgment of both Co-Chairs, including following a recommendation from the Executive Director, a decision needs to be taken by the Board that should not be postponed to the next Meeting. The Secretariat shall in such circumstances transmit to Board members and Alternate members a proposed decision with the invitation to Board members to approve the decision on a non-objection basis, within a prescribed period (generally 14 days but in urgent cases no less than 7 days and in urgent and exceptional cases no less than 2 days). Copies of such proposal shall be provided to the Active observers for their information, unless otherwise determined by the Co-Chairs in accordance with applicable rules. At the expiration of the period prescribed for replies, the decision shall be deemed approved unless there is an objection in writing. If an objection has been received, the proposed decision shall be considered by the Board at the following Meeting unless otherwise provided for in the guidelines referred to in paragraph 4 below.</p>	<p>Heinrich Böll Foundation Washington, DC and Oxfam:</p> <p><i>“53. Decisions without a Meeting may occur when in the judgment of both Co-Chairs, including following a recommendation from the Executive Director, a decision needs to be taken by the Board that should not be postponed to the next Meeting. The Secretariat shall in such circumstances transmit to Board members and Alternate members a proposed decision with the invitation to Board members to approve the decision on a non-objection basis, within a prescribed period (generally 14 days but in urgent cases no less than 7 days and in urgent and exceptional cases no less than 2 days). Copies of such proposal shall be provided to the Active observers for their information <u>at the same time as to the Board in order to allow them to provide comments or inputs to be shared with the Board before the prescribed period expires</u>, unless otherwise determined by the Co-Chairs in accordance with applicable rules. At the expiration of the period prescribed for replies, the decision shall be deemed approved unless there is an objection in writing. If an objection has been received, the proposed decision shall be considered by the Board at the following Meeting unless otherwise provided for in the guidelines referred to in paragraph 4 below.”</i></p> <p>Comment to para. 53: <i>“it shouldn't be just for their information. Inputs from active observers should be sought so that active observers can share and consult with their constituency members and can share comments before the Board makes a decision on a no-objection basis”</i></p> <p>Comment in e-mail: <i>“Decisions between meetings: Active observers should be included in the process and modalities for the decision between meetings, including having the draft decision shared with them not just for their information but</i></p>
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		<i>so that active observers can share and consult with their constituency members and can share comments before the Board makes a decision on a no-objection basis (para. 53, ARoP). ”</i>
Part X. Informal consultation	56. The Co-Chairs may invite all Board members and Alternate members to informal consultations between sessions of the Board with a view to advancing proposals for adoption at a Meeting. Such consultations may be conducted through in-person meetings and/or hybrid/virtual means of communications in coordination with the Secretariat. Summary reports of such consultations shall be posted on the Fund’s web page, except where such deliberations are considered confidential.	Heinrich Böll Foundation Washington, DC and Oxfam: <i>“56. The Co-Chairs may invite all Board members and Alternate members <u>and</u> Active Observers to informal consultations between sessions of the Board with a view to advancing proposals for adoption at a Meeting. Such consultations may be conducted through in-person meetings and/or hybrid/virtual means of communications in coordination with the Secretariat. Summary reports of such consultations shall be posted on the Fund’s web page, except where such deliberations are considered confidential. ”</i>
General		Rights and Resources Initiative: We would like to provide the following comments regarding Document FLD/B.2/8/Add.1: 1. We welcome the Board’s inclusion of Indigenous Peoples as stakeholders, and hope that their stance as rightsholders will be wholly respected and protected in the Board’s processes. 2. However, we note with concern, the lack of any inclusion for Afro-descendant Peoples in the Board’s understanding of stakeholders and the corresponding pieces and rules regarding input and participation. This is particularly concerning that this year is the closing year for the International Decade for People of African Descent , which aimed at recognizing Afro-descendant Peoples as a distinct group whose human rights must be promoted and protected. As a result of this International Decade, the UN Permanent Forum of People of African Descent has prepared a preliminary submission of a draft United Nations

		<p>Declaration on the promotion, protection and full respect of the human rights of people of African descent, including provisions related to the recognition of the collective rights of Afro-descendent Peoples, the right of peoples of African descent in the Americas to recognition of their status as tribal peoples and the right to self-determination of in ancestral territories.</p> <p>3. The document should include explicit references and inclusion of Afro-descendant Peoples' on the bases of their collective rights within key international legal norms. Afro-descendant tribal communities have been recognized as rightsholders of collective rights, including self-determination, particularly in the Americas and the Board should engage with these groups on that understanding and in line with international and regional human rights mechanisms.</p> <p>For more information, please see the declaration released in June of this year by Afro-descendant Peoples in Latin America and the Caribbean regarding the recommendations to include full respect for the rights and contributions of Afro-descendant communities in the processes of the CBD and the UNFCCC. An explanatory blog of this process can also be found here.</p>
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(*) The submission by the Heinrich Böll Foundation Washington, DC and Oxfam is based on the cross-constituency comments that were previously submitted to the Interim Secretariat and the Co-Chairs of the ad-hoc subcommittee on the additional Rules of Procedure on June 12, 2024 in the lead-up to the second meeting of the Board (B.2).