

# Fund for responding to loss and damage

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FLD/B.2/16/Rev.1

7 July 2024

## **Second meeting of the Board**

9 – 12 July 2024

Songdo, Republic of Korea

Provisional agenda item 16

## **Note by the Co-Chairs on matters under consultation by the Co-Chairs**

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### *Expected actions by the Board*

The Board will be invited to consider the information provided by the Co-Chairs.

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## I. Background and mandate

1. The first meeting of the Board of the Fund for responding to loss and damage was held from 30 April to 2 May 2024 in Abu Dhabi, United Arab Emirates. In adopting the agenda of its first meeting, the Board agreed to exclude two items from the provisional agenda, namely “Travel policy” and “Name of the Fund”, to be delegated for informal consultation by the Co-Chairs with their respective constituencies.<sup>1</sup>
2. In order to facilitate the participation of members and alternate members of the Board and advisers in meetings of the Board and any ancillary meetings decided by the Board, the Board will require a policy on travel.
3. The COP 28 President, in presenting to 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 the decision to approve the report of the Transitional Committee, recommended that, once operational, the Board take up the matter of naming the Fund referred to in decisions 1/CP.28 and 5/CMA.5.2
4. The Board at its first meeting requested the Co-Chairs to present a workplan for 2024 with a clear sequence and specific milestones, for adoption by the Board at the second meeting of the Board, taking into account the views of the Board members expressed during the first meeting of the Board and the work of the ad hoc subcommittees, including via open, inclusive and transparent consultations.<sup>3</sup> In adopting its workplan, the Board decided to work on a prioritized set of issues during its second meeting in 2024, which includes issues under consultation by the Co-Chairs. These issues were further elaborated as the travel policy, the name of the Fund, and other items under consultation by the Co-Chairs.<sup>4</sup>
5. The annex to this document contains a note from the Co-Chairs on matters under their consultation, suggesting approaches to the work and a way forward on the matters referred to in paragraphs 1–3 above.

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<sup>1</sup> Document FLD/B.1/12, para. 5.

<sup>2</sup> FCCC/CP/2023/11, para. 102, and FCCC/PA/CMA/2023/16, para. 82.

<sup>3</sup> Decision B.1/D.3, para. (b).

<sup>4</sup> Decision B.1/D3, para. (a)(ix).

## Annex

### Note by the Co-Chairs on matters under consultation by the Co-Chairs

#### A. Report on travel policy consultations

1. The matter of the travel policy was originally placed on the provisional agenda for the first meeting of the Board (B.1). However, the Co-Chairs proposed that there was a further need to consult on this matter and the Board agreed that discussions on this matter be deferred to B.2, to allow for consultations led by the Co-Chairs.

2. Having completed the consultations, the Co-Chairs have identified the following issues and proposals:

(a) The number of Board meetings per year, noting that, at least for the first two years, at least four meetings per year may be needed in order to deal with the policy and operational mandates in the Governing Instrument of Fund for responding to loss and damage<sup>1</sup> to make the Fund ready to approve and disburse resources;

(b) The need for a Board travel policy to ensure the effective and equal participation of all members and alternate members of the Board. This would include financial support for both members and alternate members from developing countries, as well as funded support for developing country advisers for both members and alternate members of the Board;

(c) The need to limit the environmental impacts of the activities of the Board and to ensure the resources of the Fund are used in the most cost-efficient manner;

(d) Some members have linked these needs (para. (c) above) to the use of a number of pre-determined virtual meetings in order to save money for ensuring the effective and equal participation in the Board (para. (b) above), particularly support to the advisers of alternate members. However, there are very divergent views on the use of virtual decision-making meetings;

(e) Requests for financial support for developing country active observers from civil society, pending the outcomes of those matters as agreed by the Board;

(f) Fairness, equality and a “one policy” approach for the Board and the secretariat;

(g) Allowing members to opt out of travel support, if they do not need this support;

(h) That the Board apply the standard United Nations system rules regarding travel over a certain time period for members and alternate members of the Board, and the rules for the UNFCCC Trust Fund for Participation for advisers’ travel, with a review every three years of the cost-efficiency of the policy;

(i) That the Co-Chairs be requested to prepare a paper setting out options and the scope for various meeting formats that will be adopted by the Board before the end of 2024, subject to the outcome of deliberations on the additional rules of procedure, including various options for in-person, hybrid and virtual meetings.

3. The Co-Chairs worked on a number of options for addressing the outstanding matters, including the following approaches:

(a) Placing the Co-Chairs report on travel policy consultations on the formal agenda of B.2;

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

(b) Using the contingency budget to address the need for support for the advisers of alternate members of the Board from developing countries for B.2 only, to be confirmed via a formal Board decision;

(c) Acknowledging that at this stage there does not seem to be convergence on a travel policy;

(d) Ensuring that for B.2 the Co-Chairs will facilitate an open discussion of views on the travel policy, with a view to circulating a draft decision on the policy for consideration and approval by the Board.

## **B. Report on consultations on the name of the Fund**

4. The report of the transitional committee on the operationalization of the new funding arrangements for responding to loss and damage and the fund established in paragraph 3 of decisions 2/CP.27 and 2/CMA.4<sup>2</sup> (Transitional Committee) did not conclude on matters regarding the name of the Fund. Although there were a number of naming proposals there was no agreement. Some members of the Transitional Committee assumed that the name was implicit in the above-mentioned decisions (i.e. a “fund for loss and damage” or “the Fund” for short). Other members proposed that there should be a new more-specific name for the fund.

5. The COP 28 President, in presenting to 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 the decision to approve the report of the Transitional Committee, recommended that, once operational, the Board take up the matter of naming the Fund referred to in decisions 1/CP.28 and 5/CMA.5.<sup>3</sup>

6. The matter of the naming the Fund was originally placed on the provisional agenda for B.1. However, the Co-Chairs proposed that there was a need for further consultation and that the matter be deferred to B.2.

7. The Co-Chairs note that the following options have been used to name the Fund to date:

(a) The “Fund for responding to loss and damage” (FLD) has been used by the United Nations Framework Convention on Climate Change, the interim secretariat and the World Bank;

(b) The “Fund referred to in decisions 1/CP.28 and 5/CMA.5” was used in the decision on the host country (decision B.1/D.6 annex);

(c) “The Fund” has been used as shorthand for both of the options mentioned in subparagraphs (a) and (b) above;

(d) Some Parties proposed names during the adoption of decisions at the United Nations Climate Change Conference in Dubai, such as the “Fund for climate impact response” as used by the COP 28 Presidency before the adoption of the decision (see para. 5 above).

8. In order to respond to the request from the COP 28 President, the Co-Chairs propose the following options for consideration by the Board:

(a) Confirm the use of the term currently being used, namely the “Fund for responding to Loss and Damage”, which appears to be the most common approach;

(b) Decide on a specific name for the Fund, with or without specifying loss and damage in such name, such as the shorthand version (the Fund), with a reference to the fund established in decisions 1/CP.28 and 5/CMA.5.

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<sup>2</sup> FCCC/CP/2023/9–FCCC/PA/CMA/2023/9.

<sup>3</sup> FCCC/CP/2023/11, para. 102, and FCCC/PA/CMA/2023/16, para. 82.

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## C. Co-Chairs report of nomination-related matters

9. During B.1, some members raised concerns pertaining to the nomination of a member who represents a Party that is a regional economic integration organization (REIO) and requested clarifications on this matter. The Co-Chairs undertook to consult on the matter and report back to the Board on the status of their deliberations.

10. Some members requested written confirmation to clarify that the REIO representative is not representing the member States of this organization but representing the REIO as a Party to the Convention and the Paris Agreement, and that their voting is independent of member States. During B.1, the said member confirmed that they are representing the REIO as a Party to the Convention and the Paris Agreement in the following terms, which is included in the report of B.1: “I am honored to represent the European Union on the Board of this Fund. As you know, the EU is a Party to the Convention and the Paris Agreement, and our pledge is done from the EU budget, which implementation is under the responsibility of the European Commission in line with the EU treaty. I hope that closes the issue.”

11. Some members also questioned how voting rules under Article 18, paragraph 2, of the Convention would apply to any future voting procedure of the Fund, highlighting that the approach followed in this instance might have wider implications within United Nations organizations. In particular, such members raised concerns about the right to vote of the member who is an agent of an REIO, seeking clarification that this member would not vote on behalf of its member States. Other members expressed the view that Article 18, paragraph 2, of the Convention is not applicable in the context of the Fund, and that, in any event, the participation of the representative of an REIO does not add or remove any right to vote to any of the stakeholders because each seat on the Board has a vote regardless of who exercises it. They further expressed the view that members should be seen as representing their constituency as a whole, and not a given country, institution or group.

12. Regarding the use of the terms “Parties” and “countries” in paragraphs 16 and 17 of the Governing Instrument respectively, some members expressed the view that the terms are generally used interchangeably and that their use should not lead to precluding Parties to the Convention and the Paris Agreement that are not countries from having one of their representatives being nominated at the Board. Others expressed the view that the two terms are distinct and that paragraph 16 of the Governing Instrument establishes first the requirement for the member to be a Party, and second that the nominated member must be from a country, rather than from a representative institution, irrespective of whether or not such institution is a Party.

13. If requested, the Co-Chairs can continue to consult on these matters and report back to the Board, until such a time as the assurances and clarifications provided are satisfactory to members.