

31 May 2024

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

Recalling Article 11 of the Convention and Article 9.8 of the Paris Agreement,

Further recalling decisions 2/CP.27 and 2/CMA.4, paragraphs 2–3, decisions 1/CP.28 and 5/CMA.5, as well as the governing instrument contained in annex I of decisions 1/CP.28 and 5/CMA.5 (the “Governing Instrument”) for the Fund referred to in paragraph 3 of decisions 2/CP.27 and 2 CMA.4 (the “Fund”),

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

Further recognizing, pursuant to paragraph 6 of decisions 1/CP.28 and 5/CMA.5, the arrangements between the COP, CMA and the Board of the Fund, are to be consistent with decisions 1/CP.28 and 5/CMA.5 and the Governing Instrument,

The COP, the CMA and the Board of the Fund hereby reach the following arrangements:

Purpose of these arrangements

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

Determination and communication of guidance from the COP and the CMA

2. The Board will receive guidance from the COP and the CMA on its policies, programme priorities and eligibility criteria.¹

¹ Governing Instrument, paragraph 13(a).

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3. The Board will submit annual reports to the COP and the CMA for their consideration.²
 4. The COP and the CMA will adopt decisions providing guidance to the Board at each of their sessions, unless otherwise decided by the COP and the CMA.
 5. The COP and the CMA will provide guidance based, inter alia, upon a thorough consideration of the annual reports of the Board.
 6. The Board may review the periodicity of the guidance from the COP and the CMA and make a recommendation thereon for consideration by the COP and the CMA.³

Conformity with guidance of the COP and the CMA

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

Reconsideration of funding decisions

8. These arrangements reaffirm that the Board has responsibility for setting the strategic direction of the Fund and for the Fund's governance and operational modalities, policies, frameworks and work programme, including relevant funding decisions.⁴
9. The COP and the CMA may provide additional guidance to clarify policies, programme priorities and eligibility criteria as they impact funding decisions.
10. Further modalities by which a particular funding decision may be reconsidered as per Article 11, paragraph 3(b) of the Convention, will be developed by the Board, as appropriate.⁵

Financial Instruments

11. In its provision of finance, the Fund will take into account guidance from the COP and the CMA, pursuant to paragraphs 57-59 of the Governing Instrument.⁶

Reports from the Board to the COP and the CMA

12. The Board's annual reports to the COP and the CMA are to include information on the implementation of policies, programme priorities and eligibility criteria, including information on the action taken by the Board in response to guidance provided by the COP and the CMA.
13. The Board will include in its annual reports a synthesis of the different activities under implementation and a list of the activities approved, as well as a financial report.

² Governing Instrument, paragraph 13(c).

³ Governing Instrument, paragraph 14.

⁴ Governing Instrument, paragraph 15.

⁵ With reference to Article 11, paragraph 3(b) of Convention.

⁶ Governing Instrument, section VIII.

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14. The Board will also include in its annual reports information on all activities financed by the Fund.
15. The Board will indicate in its annual reports actions it has undertaken to develop, operate and review the resource allocation system described in paragraphs 60-61 of the Governing Instrument.
16. The reports of the Board should include any reports of the independent evaluations of the performance of the Fund, as per paragraphs 64 and 65 of the Governing Instrument.
17. The Board will also include information in its annual reports on how it has drawn on appropriate expert and technical advice, including from the relevant bodies established under the Convention and Paris Agreement, as appropriate.
18. The Board will report on the high-level dialogue referred to in paragraph 11, Annex II to decisions 1/CP.28 and 1/CMA.5, through its annual reports to the COP and the CMA as described in paragraph 12 of Annex II to decisions 1/CP.28 and 1/CMA.5.
19. The Board will provide information in its annual reports on action taken to enhance coordination and complementarity pursuant to paragraphs 51-53 of the Governing Instrument, including any recommendations as described in paragraph 22(s) of the Governing Instrument.
20. The Board is encouraged to include information in its annual reports on how it has established consultative forums to engage and communicate with stakeholders, pursuant to paragraph 28 of the Governing Instrument, and how it has developed and managed mechanism to promote the input and participation of stakeholders, pursuant to paragraph 29 of the Governing Instrument.
21. The COP and the CMA may request additional information from the Board via its guidance.

Determination of funding necessary and available

22. The Board will include information in its annual reports to the COP and the CMA on its long-term fundraising and resource mobilization strategy, as appropriate.⁷

Periodic review of the Fund

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

⁷ Governing Instrument, paragraph 56.

Amendments to the Governing Instrument

24. The Board may recommend amendments to this Governing Instrument for consideration by the COP and the CMA.⁸

Termination of the Fund

25. The Board may recommend the termination of the Fund for consideration by the COP and the CMA.⁹

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

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

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

Final clauses

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

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

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

⁸ Governing Instrument, section XV.

⁹ Governing Instrument, section XVI.