



4 November 2023, version of 21:00 hrs

**Fifth meeting 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**

**Abu Dhabi, UAE**

**3 to 4 November 2023**

**Co-chairs' proposal**

**Operationalization of the new funding arrangements, including a fund, for responding to loss and damage referred to in paragraph 2 and paragraph 3 of decisions 2/CP.27 and 2/CMA.4**

*The Conference of the Parties and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement,*

*Recalling decisions 2/CP.27 and 2/CMA.4,*

*Also recalling decisions 2/CP.27 and 2/CMA.4, paragraph 2, that established the new funding arrangements for assisting developing countries that are particularly vulnerable to the adverse effects of climate change, in responding to loss and damage, including with a focus on addressing loss and damage, by providing and assisting in mobilizing new and additional resources, and that these new arrangements complement and include sources, funds, processes and initiatives under and outside the Convention and the Paris Agreement,*

*Further recalling decisions 2/CP.27 and 2/CMA.4, paragraphs 1 and 3, that established, in the context of establishing the new funding arrangements, a fund for responding to loss and damage whose mandate includes a focus on addressing loss and damage to assist developing countries that are particularly vulnerable to the adverse effects of climate change in responding to economic and non-economic loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events,*

*Acknowledging that climate change is a common concern of humankind and that Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to a clean, healthy and sustainable environment, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity,<sup>1</sup>*

*Recalling the understanding of the Conference of the Parties and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement that funding arrangements, including a fund, for responding to loss and damage are based on cooperation and facilitation and do not involve liability or compensation,<sup>2</sup>*

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<sup>1</sup> Decision 1/CMA.4, preamble.

<sup>2</sup> FCCC/CP/2022/10, para 7(b); FCCC/PA/CMA/2022/10, para. 71.

*Expressing* appreciation to the Government of Egypt for hosting the 1<sup>st</sup> and 4<sup>th</sup> meetings, the Government of Dominican Republic for hosting the 3<sup>rd</sup> meeting and Government of the United Arab Emirates for hosting the 5<sup>th</sup> meeting of the Transitional Committee, and to the Governments of Australia, Germany, Norway and the United States of America for providing financial support for the work of the Transitional Committee,

1. *Welcome* the report of the transitional committee<sup>3</sup> on the operationalization of the funding arrangements for responding to loss and damage referred to in paragraph 2, including the fund referred to in paragraph 3, of decisions 2/CP.27 and 2/CMA.4 (“Transitional Committee”), taking note with appreciation of the work of the Transitional Committee in responding to its mandate;<sup>4</sup>
2. *Approve* the governing instrument for the Fund as contained in Annex I;
3. *Decide* that the Fund will be serviced by a new, dedicated and independent secretariat;
4. *Decide* to designate the Fund as an entity entrusted with the operation of the financial mechanism of the Convention that also serves the Paris Agreement, which will be accountable to and function under the guidance of the Conference of the Parties to the Convention and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement;
5. *Decide* that arrangements with the Fund are to be approved by the COP at its 29<sup>th</sup> session and the CMA at its 6<sup>th</sup> session, consistent with the Fund’s governing instrument, to ensure that the Fund is accountable to and functions under the guidance of the COP and CMA;
6. *Request* the Standing Committee on Finance to develop the abovementioned arrangements among the COP, the CMA and the Board of the Fund, consistent with the governing instrument for the Fund, for consideration and approval by the Board of the Fund and subsequent consideration and approval by the COP at its 29<sup>th</sup> session and the CMA at its 6<sup>th</sup> session;
7. *Decide* that the Fund will be governed and supervised by a Board;
8. *Invite* Parties, through their regional groups and constituencies, to submit nominations of representatives for membership of the Board as soon as possible to the UNFCCC secretariat;
9. *Decide* that the alternate Board member for the seat referred to in Annex I, paragraph 16 (g) will rotate among developing countries included in the regional groups and constituencies listed in paragraphs 16(b)-(f) of Annex I;
10. *Request* the UNFCCC secretariat to initiate arrangements for convening the first meeting of the Board of the Fund once all voting member nominations have been submitted, but no later than 31 January 2024, and subsequent meetings until the Secretariat of the Fund is operational;
11. *Urge* the Board to promptly select the Executive Director of the Fund through a merit-based, open and transparent process;
12. *Urge* developed country Parties to continue to provide support *and encourage* other Parties to provide, or continue to provide support, on a voluntary basis, for activities to address loss and damage;<sup>5</sup>
13. *Invite* financial contributions with developed country Parties continuing to take the lead to provide financial resources for commencing the operationalization of the Fund;
14. *Welcome* the offers of **XXX** to contribute to the Fund;

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<sup>3</sup> FCCC/CP/2023/9 – FCCC/PA/CMA/2023/9.

<sup>4</sup> Decisions 2/CP.27 and 2/CMA.4, paragraph 4.

<sup>5</sup> This paragraph is without prejudice to any future funding arrangements or any positions by Parties in current or future negotiations, understandings, and interpretations under the Convention and Paris Agreement.

15. *Decide* that the Board of the Fund will be conferred with legal personality and legal capacity as necessary for the discharge of its roles and functions, in particular the legal capacity to negotiate, conclude and enter into a hosting arrangement with the World Bank as interim trustee and host of the Fund secretariat;

16. *Request* the Board to select the host country of the Board through an open, transparent and competitive process, with the host country of the Board conferring to the Board legal personality and legal capacity as necessary for the discharge of its roles and functions;

17. *Invite* the World Bank, subject to paragraphs 20–24 below, to operationalize the Fund as a World Bank-hosted Financial Intermediary Fund (FIF) for an interim period of 4 years starting from the sessions of the COP and CMA at which the Board confirms that the conditions referred to in paragraph 20 below can be met, with the Fund to be serviced by a new, dedicated and independent secretariat hosted by the World Bank;

18. *Confirm* its expectation that, as a FIF, the Fund will operate through the legal personality and legal capacity of the World Bank, and the privileges and immunities accorded to the World Bank will apply to the officials, property, assets, archives, income, operations and transactions of the Fund;

19. *Also invite* the World Bank to take the necessary steps for the prompt operationalization of the Fund as a FIF and to submit to the Board of the Fund the relevant FIF documentation as approved by the World Bank Board of Directors, which includes a hosting arrangement between the Board of the Fund and the World Bank, no later than 8 months after the conclusion of COP 28 based on consultations with, and guidance from, the Board of the Fund as further elaborated in paragraph 25 below;

20. *Decide* that, as further set out in paragraphs 21–24 below, the continued operationalization of the Fund during the interim period will be conditional upon the World Bank hosting the FIF in a manner which:

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

(k) Ensures a cost recovery methodology that is reasonable and appropriate;

21. *Also decide*, notwithstanding paragraph 17 above, that if the World Bank has not confirmed that it is willing and able to meet the conditions set out in paragraphs 20 (a) to (k) above within six months of COP 28, then the Board will launch the selection process for the host country of the Fund, and the COP and CMA, at their next sessions, will approve the necessary amendments to the governing instrument;

22. *Further decide* that, if the Board has determined that the relevant FIF documentation referred to in paragraph 19 above and adopted by the World Bank Board of Directors does not ensure that the conditions set out in paragraphs 20 (a) to (k) above can be met during the interim period, the COP and CMA, on a recommendation of the Board of the Fund, will take the necessary steps to operationalize the Fund as an independent standalone institution, including approving necessary amendments to the governing instrument and providing guidance to the Board of the Fund with respect to the selection process for the host country of the Fund, or any other course of action as deemed appropriate by the COP and CMA;

23. *Decide* that if the conditions set out in paragraphs 20 (a) to (k) above have not been met, as determined by the Board following an independent performance assessment of the World Bank as host of the Fund's secretariat, the COP and CMA will take steps at the end of the interim period referred to in paragraph 17 above to establish the Fund as a standalone institution, including with respect to necessary amendments to the governing instrument, and to provide guidance to the Board with respect to the selection process for the host country of the Fund, or to take any other course of action as deemed appropriate by the COP and CMA;

24. *Also decide* that if the conditions set out in paragraphs 20 (a) to (k) above have been met, as determined by the Board following an independent performance assessment of the World Bank as host of the Fund's secretariat, the COP and CMA will take steps at the end of the interim period referred to in paragraph 17 above to invite the World Bank to continue operationalizing the Fund as a FIF, with or without conditions, as appropriate;

25. *Further decide* that, prior to the establishment of the FIF, the Board of the Fund will provide guidance to the World Bank as it takes the necessary steps to establish the FIF;

26. *Decide* to establish an interim secretariat for the Fund to provide support to the Board, including administrative support, during the transitional period until the establishment of an independent Secretariat, and *requests* the secretariats of the UNFCCC and the Green Climate Fund, and *invites* the United Nations Development Programme, to jointly form this secretariat;

27. *Welcome and confirm* the recommendations of the Transitional Committee in relation to the funding arrangements (contained in Annex II).

## **Annex I: Governing Instrument**

### **Governing Instrument for the Fund**

The Fund is hereby operationalized in accordance with the following provisions:

#### **I. Objectives and purpose**

1. The purpose of the Fund is to assist developing countries that are particularly vulnerable to the adverse effects of climate change in responding to economic and non-economic loss and damage associated with the adverse effects of climate change, including extreme weather events and slow-onset events.
2. Acknowledging the urgent and immediate need for new, additional, predictable, and adequate financial resources to assist developing countries that are particularly vulnerable to the adverse effects of climate change in responding to economic and non-economic loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events, especially in the context of ongoing and ex-post (including rehabilitation, recovery, and reconstruction) action, the Fund aims to be a new channel for multilateral finance to assist those countries to respond to loss and damage associated with the adverse effects of climate change. The Fund will also endeavor to assist in the mobilisation of external financing to strengthen efforts to respond to loss and damage while supporting the achievement of international goals on sustainable development and efforts to eradicate poverty.
3. The Fund should operate in a manner which promotes coherence and complementarity with new and existing funding arrangements to respond to loss and damage associated with the adverse effects of climate change across the international financial, climate, humanitarian, disaster risk reduction, and development architecture. In accordance with section VI below, the Fund will develop new coordination and cooperation mechanisms to help enhance complementarity, and facilitate linkages between various funding sources and related vertical funds, as appropriate, including to promote access to available funding, avoid duplication, and reduce fragmentation.
4. The Fund will operate in a transparent and accountable manner guided by efficiency and effectiveness and sound financial management. The Fund will pursue a country-owned approach to programmes and projects, and seek to promote and strengthen national response systems, including through effective involvement of relevant institutions and stakeholders, including non-state actors. The Fund should be scalable and flexible and should be a continuously learning institution, guided by processes for monitoring and evaluation. The Fund should strive to maximize the impact of its funding for responding to loss and damage associated with the adverse effects of climate change, while promoting environmental, social, economic, and development co-benefits, and taking a culturally sensitive and gender-responsive approach.

#### **II. Scope**

5. The Fund will provide finance for addressing a variety of challenges associated with the adverse effects of climate change, such as climate-related emergencies, sea level rise, displacement, relocation, migration, insufficient climate information and data, and the need for climate-resilient reconstruction and recovery.
6. The Fund will focus on priority gaps within the current landscape of institutions, including global, regional and national, that are funding activities related to responding to loss and damage. To this end, the Fund will provide complementary and additional support and improve the speed and adequacy of access to finance by particularly vulnerable developing countries in responding to loss and damage.

7. The Fund will provide support for responding to economic and non-economic loss and damage associated with the adverse effects of climate change. This may include funding complementary to humanitarian actions taken immediately after an extreme event; intermediate or long-term recovery, reconstruction, or rehabilitation actions; and actions to address slow onset events.

8. This support may include the development of national response plans; addressing insufficient climate information and data, and promoting equitable, safe and dignified human mobility in the form of displacement, relocation, and migration, in cases of temporary and permanent loss and damage.

### **III. Governance and institutional arrangements**

#### **A. Legal Status**

9. The Fund will possess international legal personality and appropriate legal capacity as is necessary for the exercise of its functions, the fulfilment of its objective, and the protection of its interests, in particular, the capacity to enter into contracts, to acquire and dispose of movable and immovable property, and to institute legal proceedings in defence of its interests. The Fund will enjoy such privileges and immunities as are necessary for the independent fulfilment of its purposes. The officials of the Fund Secretariat will similarly enjoy such privileges and immunities as are necessary for the independent exercise of their official duties.

#### **B. Relationship to the COP and CMA**

10. The Fund will be designated as an entity entrusted with the operation of the financial mechanism of the Convention, that also serves the Paris Agreement, and will be accountable to and function under the guidance of the Conference of the Parties to the Convention (COP) and the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA).

11. Arrangements will be concluded between the COP, the CMA and the Fund at the 29<sup>th</sup> session of the COP and the 6<sup>th</sup> session of the CMA, consistent with this Governing Instrument, so that the Fund is accountable to and functions under the guidance of the COP and CMA.

12. The Board will:

- (a) Receive guidance from the COP and CMA on its policies, programme priorities and eligibility criteria;
- (b) Take appropriate action in response to the guidance received;
- (c) Submit annual reports to the COP and CMA for their consideration.

13. The Board may review the periodicity of the guidance from the COP and CMA and make a recommendation for consideration by the COP and CMA.

#### **C. The Board**

##### **1. Composition**

14. The Fund will be governed and supervised by a Board that is its decision-making body with responsibility for setting the strategic direction, governance and operational modalities, policies, frameworks and work programme, including relevant funding decisions.

15. The Board of the Fund will have an equitable and balanced representation of all Parties within a transparent system of governance.

16. The Board will comprise 26 members as follows:

- (a) 12 members from developed countries;
- (b) 3 members from the Asia-Pacific States;
- (c) 3 members from the African States;
- (d) 3 members from the Latin American and the Caribbean States;
- (e) 2 members from small island developing States;
- (f) 2 members from the least developed countries;
- (g) 1 member from developing countries not included in the regional groups and constituencies above.

17. 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.

18. Board Members, including alternate members of the Board, with the appropriate technical, finance, loss and damage, and policy expertise, will be nominated by the relevant regional groups, and constituencies, with due consideration given to gender balance.

19. The Board will enhance the engagement of stakeholders in Board proceedings by inviting active observers, inter alia, youth and women, Indigenous Peoples and environmental non-governmental organizations, to participate in Board meetings and related proceedings.

## **2. Roles and functions of the Board**

20. The Board will serve the objectives and purpose of the Fund and steer the Fund's operations so that they evolve with the Fund's scale and maturity. The Board will exercise strategic leadership and flexibility to allow the Fund to evolve over time.

21. The Board will:

- (a) Oversee the operation of all relevant components of the Fund;
- (b) Develop and approve operational modalities, access modalities, financial instruments and funding structures;
- (c) Approve funding in line with the Fund's criteria, modalities, policies and programmes;
- (d) Approve a policy for the provision of grants, concessional resources and other financial instruments, modalities, and facilities taking into account access to other financial resources and debt sustainability;
- (e) Approve specific operational policies and frameworks, including for programming and project cycle;
- (f) Develop a mechanism to help ensure the activities financed by the Fund are implemented based on high-integrity environmental and social safeguards and fiduciary principles and standards;
- (g) Develop, approve and periodically review its results measurement framework;
- (h) Establish subcommittees, panels, and expert bodies and define their terms of reference, as appropriate;
- (i) Develop an accountability framework for funding approvals which may be delegated by the Board to the Executive Director, subject to the relevant policies of the hosting institution;
- (j) Develop a system for allocation of resources as outlined in paragraph 59 below;
- (k) Establish additional thematic substructures to address specific activities, as appropriate;

- (l) Develop relevant indicators and triggers to clarify access to different sources of support provided through the Fund;
- (m) Establish, as appropriate, procedures for the monitoring and evaluation of performance and the financial accountability of activities financed by the Fund, and for any necessary external audits;
- (n) Review and approve the administrative budget and work programme of the Fund and arrange for performance reviews and audits;
- (o) Oversee the operation of all relevant organs of the Fund, including the trustee, secretariat, sub-committees, and expert, advisory and evaluation panels, with respect to the Fund's activities;
- (p) Prepare a long-term fund raising and resource mobilization strategy and plan for the Fund to mobilize financial resources from the sources mentioned in paragraph 53 below;
- (q) Select the Executive Director of the Fund;
- (r) Ensure the expeditious disbursement of funds by the host institution in line with the policies and procedures of the Fund;
- (s) Provide recommendations to the COP and CMA, including information on means to enhance consistency, coordination and coherence with other sources, funds, initiatives and processes under and outside the Convention and the Paris Agreement;
- (t) Exercise other functions, as appropriate, to fulfil the objectives of the Fund.

## **D. Rules of Procedure of the Board**

### **1. Board Co-chairs**

22. The Board will elect two Co-chairs from within its membership, with 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 constituency's or regional group's viewpoint in the Board deliberations. However, the Board member retains the right to vote.

### **2. Term of membership**

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

### **3. Quorum**

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

### **4. Decision making**

25. 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 further 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**

26. The Fund will make arrangements, including developing and operating an observer accreditation process, to allow for the effective participation of observers in its meetings.



## **6. Stakeholder input and participation**

27. The Fund will establish consultative forums to engage, communicate and consult with stakeholders. The forums will be open to a wide range of representatives, including to representatives of civil society organizations, environmental and development NGOs, trade unions, and Indigenous Peoples, youth and women, climate-induced migrants, representatives of impacted industries and sectors, community-based organizations, bilateral and multilateral development cooperation agencies, technical and research agencies, the private sector, and governments. Such representation should reflect a balance among United Nations geographic regions.

28. The Fund will develop mechanisms to promote the input and participation of stakeholders, including private-sector actors, civil society organizations, and 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**

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

## **8. Additional rules of procedure**

30. The Board will develop additional rules of procedure.

## **E. Secretariat**

### **1. Establishment of the secretariat**

31. The Fund will have a new, dedicated, and independent Secretariat to service and be accountable to the Board. It will have effective management capabilities to execute the day-to-day operations of the Fund. The Secretariat will be staffed with professional staff with relevant experience, including on a range of issues relevant to responding to loss and damage and to financial institutions. The staff selection will be managed by the Executive Director and be open, transparent and based on merit, taking into account geographical and gender balance and cultural and linguistic diversity.

32. The Secretariat will be headed by an Executive Director with the necessary experiences and skills, who will be selected by the Board. The Board will approve the job description and qualifications for the Executive Director. The Executive Director will be selected through a merit-based, open and transparent process.

33. The Secretariat staff will include regional desks for all relevant United Nations geographic regions, who will build and maintain relationships with relevant actors in their respective regions, to facilitate regionally informed decision-making, assessments and planning, as the Secretariat undertakes its functions. Regional desks may also support and facilitate access to the Fund, as appropriate. The Secretariat should also seek to enable multilingual engagement, as appropriate.

### **2. Secretariat functions**

34. The Secretariat will be responsible for the day-to-day operations of the Fund and will:

- (a) Organize and execute all relevant operational and administrative duties;
- (b) Report information on the activities of the Fund to the Board;
- (c) Develop and implement procedures to coordinate with relevant funding arrangements;
- (d) Prepare performance reports on the implementation of activities financed by the Fund;

- (e) Develop the work programme and administrative budget of the Secretariat, and the administrative budget of the trustee, and submit them for consideration and approval by the Board;
- (f) Operationalize the project and programme cycle;
- (g) Prepare financial agreements related to the specific financing instrument to be concluded with an implementing entity;
- (h) Monitor the financial risks of the Fund's portfolio;
- (i) Work with the trustee to support the Board to enable it to carry out its responsibilities;
- (j) Coordinate monitoring and evaluation of programmes, projects and activities financed by the Fund;
- (k) Establish and run effective knowledge management practices;
- (l) Establish modalities to allow recipients to use implementing entities, including international entities, regional organizations, national systems or local institutions, as appropriate, based on functional equivalency with World Bank safeguards and standards;
- (m) Assist countries to engage with the Fund processes and procedures;
- (n) Coordinate with the Santiago network to support countries seeking to access the Fund through technical assistance;
- (o) Take a regionally-informed approach in responding to context-specific operational needs, capabilities, and priorities of recipient countries;
- (p) Perform any other functions assigned by the Board.

## **F. Trustee**

35. The trustee will administer the assets of the Fund only for the purpose of, and in accordance with, the relevant decisions of the Board. The trustee will hold the assets of the Fund separate and apart from the assets of the trustee, but may commingle them for administrative and investment purposes with other assets maintained by the trustee. The trustee will establish and maintain separate records and accounts in order to identify the assets of the Fund.

36. The roles and responsibilities of the trustee include the receipt of contributions, implementing the terms of contribution arrangements, holding and investing of funds, transfer of funds to implementing entities and/or other relevant recipients as well as accounting, reporting, financial and fiduciary management, and ensuring compliance with established procedures and internal controls. The trustee will maintain appropriate financial records and prepare financial statements and other reports required by the Board, in accordance with internationally accepted fiduciary standards.

37. The trustee will be accountable to the Board for the performance of its responsibilities as trustee for the Fund.

38. The trustee should ensure that the Fund can receive financial inputs from philanthropic foundations and other non-public and alternative sources, including new and innovative sources of finance.

39. The trustee will arrange for the Secretariat or another appropriate mechanism to undertake due diligence to allow for the receipt of non-sovereign contributions.

## **IV. Operational Modalities**

40. The Fund will have a streamlined and rapid approval process with simplified criteria and procedures, while also maintaining high fiduciary standards, environmental and social

safeguards, financial transparency standards, and accountability mechanisms. The Fund will avoid disproportionate bureaucratic obstacles to the access of resources.

## **V. Eligibility, country ownership and access**

### **A. Eligibility**

41. Developing countries that are particularly vulnerable to the adverse effects of climate change are eligible to receive resources from the Fund.

### **B. Country Ownership and Access Mechanisms**

42. The Fund will seek to promote and strengthen national responses for addressing loss and damage through pursuing country-led approaches, including through effective involvement of relevant institutions and stakeholders, in particular women, vulnerable communities and Indigenous Peoples.

43. The Fund will be responsive to country priorities and circumstances. The Fund will seek to utilise, where appropriate and available, existing national and regional systems and financial mechanisms.

44. The Fund will promote, in all its operations, direct engagement with the national and, where appropriate, with subnational and local levels to facilitate efficiency and concrete results.

45. The Fund will involve developing country Parties that are particularly vulnerable to the adverse effects of climate change during all stages of the Fund's programming cycle, insofar as their respective projects are concerned.

46. The Fund may provide support to activities relevant to preparing and strengthening national processes and support systems. This may include support for the development of proposed activities, projects and programmes, such as loss and damage planning activities, the estimation of financial requirements for implementing loss and damage activities, and the establishment of national loss and damage finance systems.

47. Developing countries may designate a national authority or national focal point responsible for overall management and implementation of activities, projects and programmes supported by the Fund. The authority or focal point will be consulted on any requests for funding through any of the access modalities including those referred to in paragraph 48 below.

48. The Board will develop various modalities to facilitate access to the Fund's resources. These may include:

(a) Direct access via direct budget support through national governments, or in partnership with entities whose safeguards and standards have been judged functionally equivalent to those of the MDBs;

(b) Direct access via subnational, national, and regional entities or in partnership with entities accredited to other funds, such as the GCF, GEF and the Adaptation Fund;

(c) International access via multilateral or bilateral entities;

(d) Access to small grants to support communities, Indigenous Peoples and vulnerable groups and their livelihoods, including with respect to recovery after climate-related events;

(e) Rapid disbursement modalities, as appropriate.

49. The Fund will develop simplified procedures and criteria for fast-tracked screening to determine the functional equivalency with internationally recognized standards of national and/or regional funding entities' safeguards and standards to manage funded programmes and projects in-country, as appropriate.

## **VI. Complementarity and coherence**

50. The Fund will play a key role in coordinating a coherent global response to loss and damage between the Fund and the funding arrangements. The Fund will promote efforts which enhance complementarity and coherence, including exchanging information, good practices, and consultations among existing and new mechanisms.

51. The Fund will develop methods to enhance complementarity between the work of the Fund and the activities of other relevant bilateral, regional and global funding mechanisms and institutions, to better mobilize the full range of financial and technical capacities.

52. The Fund will also promote coherence in programming at the national level. The Fund will engage in partnerships with other funding arrangements to address priority gaps in their activities, with the aim of reinforcing these activities and leveraging their resources and, as appropriate, to provide additional and complementary sources of finance.

## **VII. Financial inputs**

53. The Fund is able to receive contributions from a wide variety of sources of funding, including grants and concessional loans from public, private and innovative sources, as appropriate.<sup>6</sup>

54. The Fund will have a periodic replenishment every four years and will maintain the flexibility to receive financial inputs on an ongoing basis.

55. The Board will prepare a long-term fund raising and resource mobilisation strategy and plan for the Fund to mobilise new, additional, predictable and adequate financial resources from all sources of funding.

## **VIII. Financial instruments**

56. The Fund will provide financing in the form of grants and highly concessional lending, based on the Board's policy on the provision of grants, concessional resources and other financial instruments, modalities, and facilities using, inter alia, triggers, climate impact relevant indicators, debt sustainability, and other criteria developed by the Board, and based on guidance from the COP and CMA.

57. The Fund may deploy a range of additional financial instruments that take into consideration debt sustainability (grants, highly concessional loans, guarantees, direct budget support and policy-based finance, equity, insurance mechanisms, risk sharing mechanisms, pre-arranged finance, performance-based programmes, and other financial products where appropriate) to augment and complement national resources provided for addressing loss and damage.

58. The Fund should also be able to facilitate a blending of different financial tools to optimize the use of public funding, especially for ensuring effective results in vulnerable populations and ecosystems on which they depend.

## **IX. Allocation**

59. The Board will develop and operate a resource allocation system. This system will take into account, inter alia:

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<sup>6</sup> This paragraph is without prejudice to any future funding arrangements or any positions by Parties in current or future negotiations, understandings, and interpretations under the Convention and Paris Agreement.

(a) The priorities and needs of developing countries that are particularly vulnerable to the adverse effects of climate change, while taking into consideration the needs of climate vulnerable communities;

(b) Considerations of the scale of impacts of particular climate events relative to the national circumstances, including but not limited to, response capacities of the impacted countries;

(c) The need to safeguard against the overconcentration of support provided by the Fund in any given country, group of countries or region;

(d) The best available data and information from entities such as the Intergovernmental Panel on Climate Change, and/or pertinent knowledge from Indigenous Peoples and vulnerable communities on exposure and sensitivity to the adverse effects of climate change and on loss and damage, recognizing that such data, information or knowledge may be limited for specific countries and regions;

(e) Estimates of recovery and reconstruction costs based on data and information from relevant entities, in particular from national and/or regional entities, recognizing that such data or information may be limited for specific countries and regions; and

(f) A minimum percentage allocation floor for LDCs and SIDS.

60. The allocation system will be dynamic and will be reviewed by the Board.

## **X. Monitoring**

61. Programmes, projects and other activities financed by the Fund will be regularly monitored for impact, efficiency and effectiveness. The use of participatory monitoring involving stakeholders is encouraged.

62. A results measurement framework with guidelines and appropriate performance indicators will be developed, considered and approved by the Board. Performance against these indicators will be reviewed periodically in order to support the continuous improvement of the Fund's impact, effectiveness and operational performance.

## **XI. Evaluation**

63. There will be periodic, independent evaluations of the performance of the Fund in order to provide an objective assessment of the results of the Fund, including of the activities financed by the Fund, and its effectiveness and efficiency. The purpose of these independent evaluations is to inform decision-making by the Board, to identify and disseminate lessons learned, and to support the accountability of the Fund. The results of the periodic evaluations will be published by the Secretariat.

64. The results of these evaluations will be provided as part of the annual report of the Board to the COP and CMA.

65. The Fund will be subject to periodic reviews performed by the COP and CMA. The periodic review will be informed by, among other things, the results of the independent evaluation and reports by the Board.

## **XII. Fiduciary standards**

66. The Fund will ensure that high-integrity fiduciary principles and standards are applied to its activities and, to this end, the Secretariat will work towards ensuring that each implementing entity applies such high-integrity fiduciary principles and standards when implementing activities financed by the Fund. The Secretariat will support the strengthening of the capacities of direct access implementing entities, where needed, to enable them to attain functional equivalency with the World Bank's fiduciary standards, based on modalities that will be developed by the Board.

### **XIII. Environmental and social safeguards**

67. The Fund will ensure that best practice environmental and social safeguards policies are applied to its activities and, to this end, the Secretariat will work towards ensuring that each implementing entity applies such best practice environmental and social safeguards policies when implementing activities financed by the Fund. The Secretariat will support the strengthening of the capacities of direct access implementing entities, where needed, to enable them to attain functional equivalency with the World Bank's environmental and social safeguards, based on modalities that will be developed by the Board.

### **XIV. Accountability and Independent mechanisms**

68. Activities financed by the Fund will be subject to the implementing entity's independent integrity unit or functional equivalent, which will work with the Secretariat to investigate allegations of fraud and corruption in coordination with relevant counterpart authorities, and report to the Board on any such investigations.

69. The Fund's operations, including with respect to activities financed by the Fund, will be subject to the host institution's policy on access to information. The activities financed by the Fund will also be subjected by each implementing entity's policy on access to information.

70. Activities financed by the Fund will use the implementing entity's independent grievance redress mechanism to address complaints related to activities financed by the Fund, and take appropriate actions based on any agreements, findings and/or recommendations, and report to the Board on any such actions.

### **XV. Amendment of the Governing Instrument**

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

### **XVI. Termination of the Fund**

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

## **Annex II: Draft recommendations of the Transitional Committee in relation to the new funding arrangements**

### **I. Objective and Scope**

1. The purpose of the new funding arrangements, which include various sources, funds, processes and initiatives under and outside the Convention and the Paris Agreement, is to assist developing countries that are particularly vulnerable to the adverse effects of climate change, in responding to loss and damage, including with a focus on addressing loss and damage by providing and assisting in mobilizing new and additional resources, and that these new arrangements complement and include sources, funds, processes and initiatives under and outside the Convention and the Paris Agreement including extreme weather events and slow onset events, especially in the context of ongoing and ex post action.
2. The new funding arrangements include scaling-up, or enhancing existing, and initiating new funding arrangements for responding to loss and damage.
3. The new funding arrangements will focus on providing and assisting in mobilizing new and additional resources while complementing sources, funds, processes and initiatives under and outside the Convention and the Paris Agreement.

### **II. Coordination and complementarity**

4. The funding arrangements will increase coherence and coordination across the loss and damage finance architecture to avoid duplication of efforts, maximize and leverage comparative advantages, share best practices, and promote synergies across communities of practice related to loss and damage, while continuing to assist in mobilizing new, additional and predictable resources.
5. The funding arrangements should also ensure coordination on a national and regional level, while ensuring coherence at an operational level and in programmatic approaches.
6. The funding arrangements are to work in coherence and complementarity with the fund. This will be enabled through the best use of existing mechanisms, such as the Warsaw International Mechanism and the Santiago network.
7. The Santiago network and its members should contribute to the coherence by aligning technical assistance it catalyzes to build capacity and support programmatic approaches of the fund and the funding arrangements, as appropriate.

#### **A. Relationship with the Fund**

8. The Fund will act as the platform for coordination and complementarity within the funding arrangements through establishing and operationalizing a high level dialogue as outlined in paragraph 11 below.
9. The Board of the Fund is also encouraged to create an approach for developing partnerships with other entities that form part of the funding arrangements.
10. Requests the Board to develop standard procedures, informed, inter alia, by the work of the WIM, to identify sources, funds, processes and initiatives under and outside the Convention and the Paris Agreement that are assisting developing countries in responding to loss and damage from sudden or slow onset events, including economic or non-economic loss and damage (“funding arrangements”), for the purpose of supporting strengthened coordination and complementarity.

## B. High-level dialogue

11. An annual High-level coordination and complementarity dialogue (the dialogue) with representatives from main entities that form part of the funding arrangements established in paragraph 2 of decisions 2/CP.27 and 2/CMA.4 will be organized in order to:

- (a) Facilitate a structured and timely exchange of relevant knowledge and information, including between the funding arrangements and the fund;
- (b) Strengthen capacity and synergies to enhance the integration of measures to respond to loss and damage into sources, funds, processes and initiatives under and outside the Convention and the Paris Agreement by drawing on the experiences of others, exchanging good policy and practice and leveraging research and data systems;
- (c) Promote exchange of experiences from countries' and communities' perspectives on actions undertaken to respond to loss and damage;
- (d) Identify priority gaps, new opportunities for cooperation, coordination and complementarity;
- (e) Develop recommendations on scaling-up or enhancing existing, and initiating new funding arrangements for responding to loss and damage;
- (f) Report on the dialogue, through the annual reports prepared by the Board of the Fund to the COP and CMA, including on actions to follow up and implement the recommendations, as well as recommending new funding arrangements.

12. The dialogue will be co-convened by the Fund and the United Nations Secretary-General, which may designate a high-level representative that has convening power of entities that form part of the funding arrangements engaged in responding to loss and damage.

13. The dialogue will consist of no more than 30 high-level representatives from entities that form part of the funding arrangements engaged in responding to loss and damage, invited by the convener of the dialogue, including representatives of, inter alia:

- (a) The Fund;
- (b) The World Bank and Regional Development Banks;
- (c) The International Monetary Fund;
- (d) Relevant United Nations Agencies, intergovernmental and regional organizations, and bilateral, multilateral and international organizations;
- (e) Relevant multilateral climate funds, such as the Green Climate Fund, the Global Environment Facility, Adaptation Fund, and Climate Investment Funds; and
- (f) The International Organization for Migration;
- (g) The WIM Executive Committee, the Santiago network;
- (h) Experts on Loss and Damage chosen on the basis of their expertise as well as their representation of different regions and perspectives, including those from civil society, Indigenous Peoples and the philanthropic sector.

14. The dialogue is to provide recommendations related to enhancing the implementation of the scope and objective of the new funding arrangements in line with relevant COP and CMA decisions.

15. The dialogue established above will also consider any comments or guidance from the Governing Bodies including a follow up on its previous recommendations.

## III. Recommendations with regards to the funding arrangements

16. Parties and relevant institutions should consider, as appropriate, developing and implementing additional funding arrangements for improvement in such sources, funds, processes and initiatives inside and outside the Convention and the Paris Agreement to



address gaps in speed, eligibility, adequacy and access to finance, especially pre-arranged finance across a variety of challenges, such as climate-related emergencies, slow onset events, displacement, relocation, migration, insufficient climate information and data and the need for climate-resilient reconstruction and recovery.

17. A wide variety of sources, including innovative sources, should be made available to support the new and existing arrangements that complement and include sources, funds, processes and initiatives under and outside the Convention and the Paris Agreement; in ways to ensure that the new and existing funding arrangements target people and communities in climate vulnerable situations (including women, children, youth, Indigenous Peoples and climate-induced migrants and refugees in developing countries that are particularly vulnerable to the adverse impacts of climate change).

18. The Santiago network and its members should contribute to the coherence by aligning technical assistance it catalyzes to build capacity and support programmatic approaches of the fund and the funding arrangements.

19. The entities that form part of the funding arrangements should explore ways for better coordination among all channels, bilateral, regional, and multilateral channels with the aim to improve synergies and coherence among the existing and new arrangements.

20. Initiatives such as Early Warnings for All, Climate Risk and Early Warning Systems (CREWS), Systematic Observations Financing Facility (SOFF) and the Global Shield against Climate Risks are welcome, and relevant actors are encouraged to increase their support for activities to enhance response to loss and damage.

21. The United Nations agencies and the multilateral development banks and bilateral agencies are invited to include, as appropriate, in their annual reports information on efforts on assisting developing countries that are particularly vulnerable to the adverse effects of climate change in responding to loss and damage starting from 2024.

22. Multilateral development banks and relevant organizations such as the World Bank and International Labour Organization are called on to scale up support for social and adaptive protection mechanisms.

23. Relevant actors and contributors are urged to scale up anticipatory approaches through mechanisms such as the Central Emergency Response Fund, Disaster Response Emergency Fund, START Network, country-based pooled funds.

24. Exploring the development of regional sources, funds, initiatives, and processes by relevant regional institutions to enhance approaches focused on unique regional challenges in responding to loss and damage, and in that regard welcoming the establishment of the Pacific Resilience Facility.

25. Multilateral climate finance institutions and funds are encouraged to promote in their funded activities the inclusion of climate-induced migrants and refugees and, consistent with existing investment, results framework and funding windows and structures.

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