

LaRutadelClima

A Mandate from Sharm

Unpacking the Transitional Committee
on Loss and Damage

Report

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Credits

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Asociación La Ruta del Clima.

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INTRODUCTION

Last year's UN climate conference in Egypt (COP27) will be best remembered for the decision to establish the loss and damage fund, as well as funding arrangements, for responding to climate-induced losses and damages. Decisions 2/CP.27 and 2/CMA.4 broke 30 years of deadlock on this contentious issue in a major win for developing nations.

Key is the establishment of a Transitional Committee (TC) to oversee the operationalization of the new funding arrangement and the fund. The 24-member committee will be tasked with giving this broad mandate form. It will determine the structure of the fund, areas of funding, the sources of finance, and how comprehensive the fund will be.

For a successful outcome at COP28, the TC's work must pave the way for the swift operationalization of "new, additional, predictable, precautionary and adequate" financing.¹ The fund must address the whole spectrum of losses and damages, such as slow-onset events, economic and non-economic losses, as well as rapid or disaster responses, including recovery, rehabilitation, and reconstruction. It must be financed through low-cost capital and be able to scale quickly to reach the USD 400 billion floor identified by the *Loss and Damage Collaboration's* recent report.² What's more, the fund should be rooted in human rights, allow for public participation, and be designed to deliver to frontline communities in the whole Global South.

¹UNFCCC, "Decision 2/CP. 27, Funding arrangements for responding to loss and damage associated with the adverse effects of climate change, including a focus on addressing loss and damage" (2022) UN Doc FCCC/CP/2022/10/Add.1, accessed at:

https://unfccc.int/sites/default/files/resource/cp2022_10a01_adv.pdf#page=11.

² Julie-Anne Richards, Liane Schalatek, Leia Achampong, and Heidi White, "The Loss and Damage Finance Landscape" (Loss and Damage Collaboration, May 2023), https://uploads-ssl.webflow.com/605869242b205050a0579e87/6462710b127e29f1b1e74ee7_The_Loss_and_Damage_Finance_Landscape_HBF_L%26DC_15052023.pdf, 6.

A HISTORIC COP

COP27 not only established an agreement on the loss and damage fund, but also laid out the next steps for what should be considered in the operationalization of the committee, elements that will inform the TC, and some basic aspects of how the TC will be governed.

Decisions 2/CP.27 and 2/CMA.4 set forth that the operationalization of funding arrangements for loss and damage should consider establishing institutional arrangements, modalities, structure, governance, and terms of reference for the fund. Parties also agreed to consider defining the elements of new funding arrangements, identifying, and expanding sources of funding, and ensuring coordination and complementarity with “existing” funding arrangements.

With that in mind, parties decided that the TC will be informed by the following:

- a. The current landscape of institutions, including global, regional and national, that are funding activities related to addressing loss and damage, and ways in which coherence, coordination and synergies among them can be enhanced;
- b. The gaps within that current landscape, including the type of gap, such as relating to speed, eligibility, adequacy and access to finance, noting that these may vary depending on the challenge, such as climate-related emergencies, sea level rise, displacement, relocation, migration, insufficient climate information and data, or the need for climate-resilient reconstruction and recovery;
- c. The priority gaps for which solutions should be explored;
- d. The most effective ways in which to address the gaps, especially for the most vulnerable populations and the ecosystems on which they depend;
- e. Potential sources of funding, recognizing the need for support from a wide variety of sources, including innovative sources.

What's more, parties agreed that the TC would be chaired by two co-chairs from both developed and developing countries. It was agreed that the recommendations of the committee would be adopted by consensus, and it was determined that at least three meetings would be held.

A 24-MEMBER BODY

The TC is composed of members of 24 countries, 14 from developing countries and 10 from developed nations. The committee is chaired by Richard Sherman of South Africa and Outi Honkatukia of Finland, both of whom were elected on the first day of the first TC meeting.

Latin America and the Caribbean occupy three of the seats, which are shared by two independent parties. Independent Alliance of Latin America and the Caribbean (AILAC) parties Chile and Colombia are sharing one seat while another is shared by the Dominican Republic and Brazil. Venezuela and Barbados hold the third with the Bridgetown Initiative architect Avinash Persuad occupying Barbados' spot.

The TC is scheduled to meet four times a year, interspersed with Glasgow Dialogue sessions, Secretariat workshops, and other events in the leadup to COP28. The first meeting took place from March 27 to 29 in Luxor Egypt, concluding with the adoption of a work plan towards COP28.

Table 1: Transitional Committee Members

Member	Country	Constituency
Mr. Mohamed Nasr	Egypt	Developing country Parties Africa, representative of the President of COP 27
Mr. Richard Sherman	South Africa	Developing country Parties Africa
Ms. Sumaya Zakieldeem Mr. David Kaluba (second meeting)	Sudan Zambia	Developing country Parties Africa
Ms. Hana AlHashimi	United Arab Emirates	Developing country Parties Asia and the Pacific, representative of the incoming President of COP 28
Mr. Kunal Satyarathi (first meeting) Ms. Rosa Perez (second meeting) Mr. Abdelrahman M. Al-Gwaiz (third meeting)	India Philippines Saudi Arabia	Developing country Parties Asia and the Pacific
Mr. Yingzhi Liu (first meeting)	China	Developing country Parties Asia and the Pacific

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Member	Country	Constituency
Ms. Hyekyoung Jung (second meeting) Mr. Ali Waqas Malik (third meeting)	Republic of Korea Pakistan	
Mr. Jaime Tramón (January to June 2023) Ms. Angela Rivera Galvis (July to December 2023)	Chile Colombia	Developing country Parties Latin America and the Caribbean
Ms. Milagros De Camps (January to June 2023) Mr. Matheus Bastos (July to December 2023)	Dominican Republic Brazil	Developing country Parties Latin America and the Caribbean
Mr. Carlos Méndez (January to June 2023) Mr. Avinash Persaud (July to December 2023)	Venezuela Barbados	Developing country Parties Latin America and the Caribbean
Ms. Diann Black-Layn	Antigua and Barbuda	Developing country Parties Small island developing States
Ms. Khadeeja Naseem	Maldives	Developing country Parties Small island developing States
Mr. Adao Soares Barbosa	Timor-Leste	Developing country Parties Least developed countries
Mr. Sonam Phuntsho Wangdi	Bhutan	Developing country Parties Least developed countries
Ms. Gayane Gabrielyan	Armenia	Developing country Parties Developing country Party not included in the categories listed above
Mr. Georg Børsting	Norway	Developed country Parties
Ms. Christina Chan	United States of America	Developed country Parties
Mr. Jean-Christophe Donnellier	France	Developed country Parties
Mr. David Higgins	Australia	Developed country Parties
Ms. Outi Honkatukia	Finland	Developed country Parties
Mr. Steven Kuhn	Canada	Developed country Parties

Member	Country	Constituency
Ms. Lotte Machon (first meeting) Mr. Jens Fugl (second meeting) Mr. Jaime de Bourbon de Parme (third meeting)	Denmark Denmark Netherlands	Developed country Parties
Ms. Debbie Palmer Ms. Sarah Metcalf (First two days of second meeting)	United Kingdom of Great Britain and Northern Ireland	Developed country Parties
Ms. Sinead Walsh (first and second meeting) Ms. Heike Henn (third and fourth meeting)	Ireland Germany	Developed country Parties
Mr. Jun Yamazaki	Japan	Developed country Parties

Source: [UNFCCC](https://unfccc.int/sites/default/files/resource/HR%20as%20a%20compass%20LD%20Fund%20-%20TC2%20submission%20Amnesty%20and%20CIEL%20-%20April%202023.docx.pdf)

THE ROLE OF CIVIL SOCIETY

An engaged civil society is key to ensuring that community needs are indeed being prioritized, human rights safeguards are in place, and the funding arrangements are indeed fit to scale. The lack of civil society organization (CSO) participation was a major issue in the leadup to the first TC meeting with CSOs limited to three per constituency. CSO representatives who made the journey to Luxor were forced to watch the negotiations via live stream from a separate room.³ While the meeting was live streamed and recorded, those following along remotely were unable to participate.

Fortunately, the TC vowed to improve public participation in future meetings after this initial debacle.⁴ While remote observers were not invited to participate, CSOs at the meeting were allowed into the discussions room and allocated more space to speak.

³ Lien Vandamme and Chiara Ligouri, "Human Rights as a Compass for Operationalizing the Loss and Damage Fund" (Amnesty International and Center for International Environmental Law, April 2023), <https://unfccc.int/sites/default/files/resource/HR%20as%20a%20compass%20LD%20Fund%20-%20TC2%20submission%20Amnesty%20and%20CIEL%20-%20April%202023.docx.pdf>, 3.

⁴ Vandamme and Ligouri, 3.

BREAKING DOWN THE FUNDING ARRANGEMENTS

FINANCING THE LOSS AND DAMAGE FUND

Key to the fund will be determining the “new, additional, predictable and adequate financial resources” that developing countries will need to address loss and damage.

What is clear is that the loss and damage fund must be designed to scale up quickly. The Synthesis Report released after the TC’s second meeting cited economic costs in the range of USD 290 – USD 580 billion by 2030, with these projections rising to USD 1 trillion by 2050.⁵ The authors of the recent discussion paper, *The Loss and Damage Finance Landscape*, lock in a floor of USD 400 billion that will increase over time.

Determining the sources of funding and financial instruments that could be deployed are key to the TC’s work. The TC’s first two Synthesis Reports focus on cataloging and synthesizing information on existing funding arrangements and innovative sources relevant to addressing loss and damage.

The second Synthesis Report identifies five relevant areas in which existing funding arrangements for finance flows have been associated with dealing with the adverse effects of climate change: adaptation finance, financial stability, humanitarian assistance, risk insurance, and domestic funds and trusts. Concessional loans, lines of credit as contingencies, guarantees, grants, insurance and risk pooling, catastrophe (cat) bonds, and domestic taxation were all identified as financial instruments that were used to address the problem.

Innovative sources identified by the TC in the second Synthesis Report include debt-for-nature swaps and impact bonds. The report also looks at the use of international solidarity levies, using a French air ticket levy that generates 210 million Euros a year as a model.

⁵ UNFCCC Transitional Committee, “Synthesis report on existing funding arrangements and innovative sources relevant to addressing loss and damage associated with the adverse effects of climate change” (2023) TC2/2023/3, accessed at: https://unfccc.int/sites/default/files/resource/TC2_SynthesisReport.pdf.
4.

The cost of capital for the financial flow and innovative sources is a subject of concern. The second Synthesis Report notes that loans have played a dominant role, with concessional and non-concessional loans accounting for 72 percent of public climate finance, a significant issue with *ActionAid* finding that 93% of the countries most vulnerable to climate change are in debt distress, or at significant risk of debt distress.⁶

The first Synthesis Report breaks down funding arrangements by their cost of capital. Instruments flagged as low in costs include grants, taxes/solidarity levies, debt swaps, and social marketing.

Table 2. Major funding types by cost of capital

Cost of Capital	Category	Illustrative Examples
Low	Grants	- UN Central Emergency Response Fund (CERF) - World Bank IDA grants - IOM Migration Emergency Funding Mechanism (MEFM)
	Taxes/solidarity levies	Air-ticket surcharge for UNITAID
	Debt swaps	Global Fund Debt2Health
	Social marketing	PRODUCT (red)
Medium	Concessional loans	- World Bank Immediate Response Mechanism (IRM) - IMF Resilience and Sustainability Trust (RST)
	Impact bonds	
Medium/High	Guarantees	
	Bonds	- Ford Motor Company Green Bond
	Risk insurance	- Africa Risk Capacity (ARC)
High	Commercial loans	

⁶ ActionAid, "The Vicious Cycle: Connections Between the Debt Crisis and Climate Crisis" (April 2023), https://actionaid.org/sites/default/files/publications/The_vicious_cycle.pdf, 2.

Cost of Capital	Category	Illustrative Examples
	Equity investments	
	Co-financing	
	Co-investment	

Source: [Synthesis Report](#)

DETERMINING THE SCOPE

Critical to the debate will be determining the scope of the loss and damage fund and whether the fund's structure should include multiple funding windows or areas of finance. However, the existence of windows should not allow that money flows coming from third parties are designated to a specific window but that it is distributed based on a human-rights approach with objective, transparent, participatory and science-based criteria. Ensuring a broad mandate for the fund will be important to make sure it addresses not only slow-onset events, but also responses to disasters and other events historically covered by humanitarian aid.

Developed countries such as the United States have shown a strong preference to focus on slow-onset events (i.e. sea level rise),⁷ and have pointed to their efforts in humanitarian assistance as ways to respond to disasters and other rapid responses.⁸

A recent submission by Heinrich Böll Stiftung Washington, DC and supporting organizations pushes for not only a rapid or disaster response window and a slow-onset angle, but also a grant community window to "allow for direct access for subnational and local actors, in particular affected communities and civil society

⁷ Loss and Damage Collaboration @LossandDamage, "16/34. Whereas developed countries shared a vision for the #LossAndDamage Fund & Fund Arrangements that "fill the gaps" with Parties including #NewZealand 🇳🇿 & #USA 🇺🇸 sharing a preference for a Fund focused on slow onset events (e.g. #SeaLevelRise) and/or non-economic L&D (NELD)," Twitter, June 8, 2023 <https://twitter.com/LossandDamage/status/1666871201484947456>

⁸ Sam Goodman and Adrian Martinez, "Beyond Humanitarian Aid: The Need for a Robust Loss and Damage Finance Facility" (La Ruta del Clima, October 2022), https://uploads-ssl.webflow.com/605869242b205050a0579e87/63b6b39c054cfe6e8dc73090_HumanitarianAid-EN_LRC.pdf, 5.

organizations working directly with them for both fast-response and slow-onset activities.”⁹

The participation of affected communities in the structure of the fund is essential, including having a seat the loss and damage fund board. Participation of communities is intrinsic to the context oriented nature of the fund and to the fact that it is dealing with human systems. Vulnerable communities must be participants in the governance of the fund but also direct beneficiaries have to be part of the process of determining the loss and damage suffered and the most adequate means to address it. Furthermore, effective participation of vulnerable communities and civil society is essential to guarantee the effective functioning of social and environmental safeguards, including a complaint and remedy mechanism that serves to avoid re-victimization and harm.

⁹ Heinrich Böll Stiftung Washington, DC and supporting organizations, “Submission on views regarding paragraph 5 of 2/CP.27 and 2/CMA.4 to inform the discussions at the 2nd meeting of the Transitional Committee (TC2) in response to the invitation in TC1/2023/3/Rev.3” (2023), https://unfccc.int/sites/default/files/resource/hbsDC%20and%20others%20submission%20to%20inform%20the%20work%20of%20the%20Transitional%20Committee_for%20TC2_FINAL.pdf, 5.

A PATH FORWARD

BEYOND HUMANITARIAN AID

Ensuring that the loss and damage fund addresses both slow-onset events and disasters and rapid responses should be a top priority for the TC. Confining the fund's scope to slow-onset events would have devastating consequences for communities seeking assistance in a climate-induced disaster.

As we noted in *Beyond Humanitarian Aid*, finance for loss and damage must be distinguished from the voluntary, unpredictable, and transitory nature of humanitarian aid.¹⁰ Humanitarian aid is deployed as a response to a direct event and is largely ephemeral in nature. What's more, humanitarian aid tends to take a reactive approach rather than a proactive one that addresses its root cause.

"You can talk yourself out of the obligation by just pointing to humanitarian finance," Liane Schalatek, Associate Director at the Heinrich Boell Stiftung's Washington office, told us last year. "In terms of the differentiation, I think it's a very big deal in terms of whether you provide finance under the UNFCCC framework, with the related obligation and some related accountability, which we really don't have for humanitarian finance.

OPERATIONALIZATION BY COP28

With financial flows directed toward loss and damage virtually non-existent, it is clear that the fund must be operationalized by the end of COP28. As Professor Saleemul Huq eloquently put it, we cannot afford to operate on "UNFCCC time."¹¹

We cannot follow the example of other multilateral UNFCCC funds that have scaled up at a snail's pace. Although the Green Climate Fund was established under the Cancún Agreements in 2010, the first project was not approved until 2015. Cumulative

¹⁰ Goodman and Martinez, 6.

¹¹ Saleemul Huq, "I'm a COP Veteran. Here Are 3 Suggestions for the New Loss and Damage Fund," *Climate Home*, March 27, 2023, <https://www.climatechangenews.com/2023/03/27/cop-veteran-3-suggestions-new-loss-and-damage-fund/>.

pledges to the fund only recently surpassed USD 25 billion in its second replenishment, and it remains to be seen if these pledges will actually be fulfilled.¹²

“We must ensure that the operationalization of a new fund exclusively for losses and damages due to climate change does not require a long process and extend beyond COP28,” said Angela Rivera, Colombia’s lead negotiator on adaptation and loss and damage.

Rivera continued:

“The loss and damage fund requires a different approach to designating operating entities. We look forward to having the fund as an operating entity of the Financial Mechanism of the Convention and Paris Agreement. This should be separate from the Green Climate Fund and Global Environment Facility. Core common elements build on several aspects of the existing Funds. However, addressing loss and damage will require an entirely different governance architecture and operational support to developing countries due to the unique nature of loss and damage funding requirements that developing countries face, such as delivering funding to address loss and damage in the ex-post response and ongoing/continuing contexts arising from the adverse effects of climate change.”

A USD 400 BILLION FLOOR

Given the urgency to address loss and damage and lack of ambition shown by rich nations, with climate finance efforts continuing to fall short of the USD 100 billion goal, it is clear that we must push for an ambitious target to help frontline communities in the Global South address the crisis.

We believe the Loss and Damage Collaboration’s estimate of USD 400 billion per year fits the bill to adequately deal with slow-onset events, disasters and other rapid responses, and a functional grant community window. Insurance broker Aon calculated the total economic losses from natural disasters, many of which were climate-induced, to be USD 313 billion in 2022.¹³ Damages and economic losses from

¹² Joe Thwaites, “Green Climate Fund Pledge Tracker,” *Natural Resources Defense Council*, May 9, 2023, <https://www.nrdc.org/bio/joe-thwaites/green-climate-fund-pledge-tracker>.

¹³ “Natural Disasters Caused \$313 Bln Economic Loss in 2022 - Aon,” *Reuters*, January 25, 2023, [https://www.reuters.com/business/environment/natural-disasters-caused-313-bln-economic-loss-2022-aon-2023-01-25/#:~:text=Jan%2025%20\(Reuters\)%20-%20Natural,less%20than%20half%20was%20insured.](https://www.reuters.com/business/environment/natural-disasters-caused-313-bln-economic-loss-2022-aon-2023-01-25/#:~:text=Jan%2025%20(Reuters)%20-%20Natural,less%20than%20half%20was%20insured.)

devastating flooding in Pakistan was estimated to be at USD 30 billion plus an additional 16 billion in reconstruction.¹⁴

LEVERAGING LOW-COST CAPITAL

To minimize the burden on frontline communities in the Global South, sources of funding should be public grant resources from historical emitters. While, taxes/solidarity levies, debt swaps, and alternative sources of finance could play an important role at the national or regional level as a source of funding to enable big greenhouse gas country emitters to fulfill financial obligations derived from Article 4.7 of the UNFCCC.

At the UNFCCC level, the developed Parties' responsibilities on funding the loss and damage fund derives from their non-fulfillment of the obligations stated in Article 4 of the convention. This is reinforced by Article 8 and 9 of the Paris Agreement and Decision 2/CMA.4.¹⁵ The loss and damage fund and its funding arrangements should be in line with the principle of common but differentiated responsibilities and respective capabilities and enable remedies for transboundary environmental harm. During the second TC meeting, CARE France's Fanny Petitbon broke down several alternative sources of finance that could complement public grant resources.¹⁶ She flagged a tax on the fossil fuel industry proposed by the UN Secretary General that could potentially raise USD 100 to 200 billion a year. She also discussed the prospects of a shipping levy that could raise approximately USD 30-140 billion per year, and a tax on estimated airfares. Levies have also been proposed by Bridgetown Initiative architect Avinash Persaud, who will represent Barbados during the final two TC meetings.¹⁷

¹⁴ World Bank Group, "Pakistan: Flood Damages and Economic Losses over USD 30 Billion and Reconstruction Needs over USD 16 Billion - New Assessment," World Bank, October 28, 2022, <https://www.worldbank.org/en/news/press-release/2022/10/28/pakistan-flood-damages-and-economic-losses-over-usd-30-billion-and-reconstruction-needs-over-usd-16-billion-new-assessment#:~:text=Pakistan:%20Flood%20Damages%20and%20Economic,USD%2016%20billion%20-%20New%20Assessment>.

¹⁵ Adrian Martinez, "Justice a Radical Demand: Financing Loss and Damage" (La Ruta del Clima, May 2023), <https://larutadelclima.org/wp-content/uploads/2023/05/Justice-a-Radical-Demand.pdf>, 10-11.

¹⁶ "Compilation of Observer Statements: Second 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" (Center for International Environmental Law, May 2023), https://www.ciel.org/wp-content/uploads/2023/05/May-2023_TC2_Loss-and-Damage-Fund_Compilation-of-Observers-Statements.pdf, 11-12.

¹⁷ Steve Herz, "The Global Climate Breakdown: A Reform Agenda for the World Bank and the IMF," *Sierra Club*, May 1, 2023, <https://www.sierraclub.org/sierra/global-climate-breakdown-reform-agenda-world-bank-and-imf>.

Petitbon also raised the prospects of a Global Wealth Tax that could raise USD 1.7 trillion annually and a Financial Transaction Tax on financial instruments or contracts that could include bonds, stocks, options, and derivatives. These are measures that obliged developed countries could take at the national level or outside the UNFCCC to fulfill their financial obligations to operationalize the loss and damage.

PUTTING COMMUNITIES FIRST

We have seen time and time again how financial instruments come up short when community needs are not prioritized in the context of climate finance.

For example, a USD 117 million project backed by the Green Climate Fund to reduce extensive grazing and introduce agroforestry systems in the Bosawás and Rio San Juan biosphere reserves in Nicaragua has been the subject of enormous controversy. The project has led to claims of land grabbing and fueled violence between indigenous communities and settlers.¹⁸

The TC must not repeat past mistakes made with previous funds. A closer focus on communities will be key to an effective operationalization and ensure that effective human rights safeguards are in place. The grant community window could be advantageous for providing direct financing access to frontline communities. Furthermore, the structure of the loss and damage fund and its funding mechanism must be differentiated and additional to adaptation.

Adequate funding for ex-post monitoring and reporting of slow onset or extreme event must be participatory. Community based data generation is resource intensive but essential to assess economic and non-economic loss and damage. Therefore, community-based ex-post monitoring and reporting of slow onset or extreme event must be adequately funded by the loss and damage fund. However, issues related to preparedness and adaptation-related actions must not be introduced into its functioning or funding themes.

¹⁸ Chloé Farand and Sebastian Rodriguez, “Green Climate Fund credibility hangs over response to violence in Nicaragua project,” *Climate Home*, March 17, 2023, <https://www.climatechangenews.com/2023/03/17/indigenous-people-facing-violence-gcf-green-climate-fund-nicaragua/>

A PARTICIPATORY APPROACH ROOTED IN HUMAN RIGHTS.

A context-based, participatory, and human rights-based approach to address loss and damage will be vital to operationalizing a robust loss and damage fund built to adequate scale and scope. As the *Center for International Environmental Law* and *Amnesty International* put it in their recent submission to the TC, public participation, access to information, effective safeguards, and accountability must be part of the core operational modalities.¹⁹

An engaged civil society is necessary to ensure a robust loss and damage fund. As stated in a *Climate Action Network - Latin America* submission on funding arrangements to respond to Loss and Damage and structure for the 2nd Glasgow Dialogues, citizen participation must be a central component in all decision-making processes, from the generation of information to the implementation of actions.²⁰ Vulnerable communities must be part of the governance and implementation of the fund, for which a seat on the loss and damage fund must be created.

¹⁹ Vandamme and Liguori, 3.

²⁰ "CANLA Submission: Funding arrangements to respond to loss and damage and structure for the 2nd Glasgow Dialogues," *Climate Action Network - Latin America*, 2023, <https://larutadelclima.org/english/https-larutadelclima-org-wp-admin-upload-php/>.