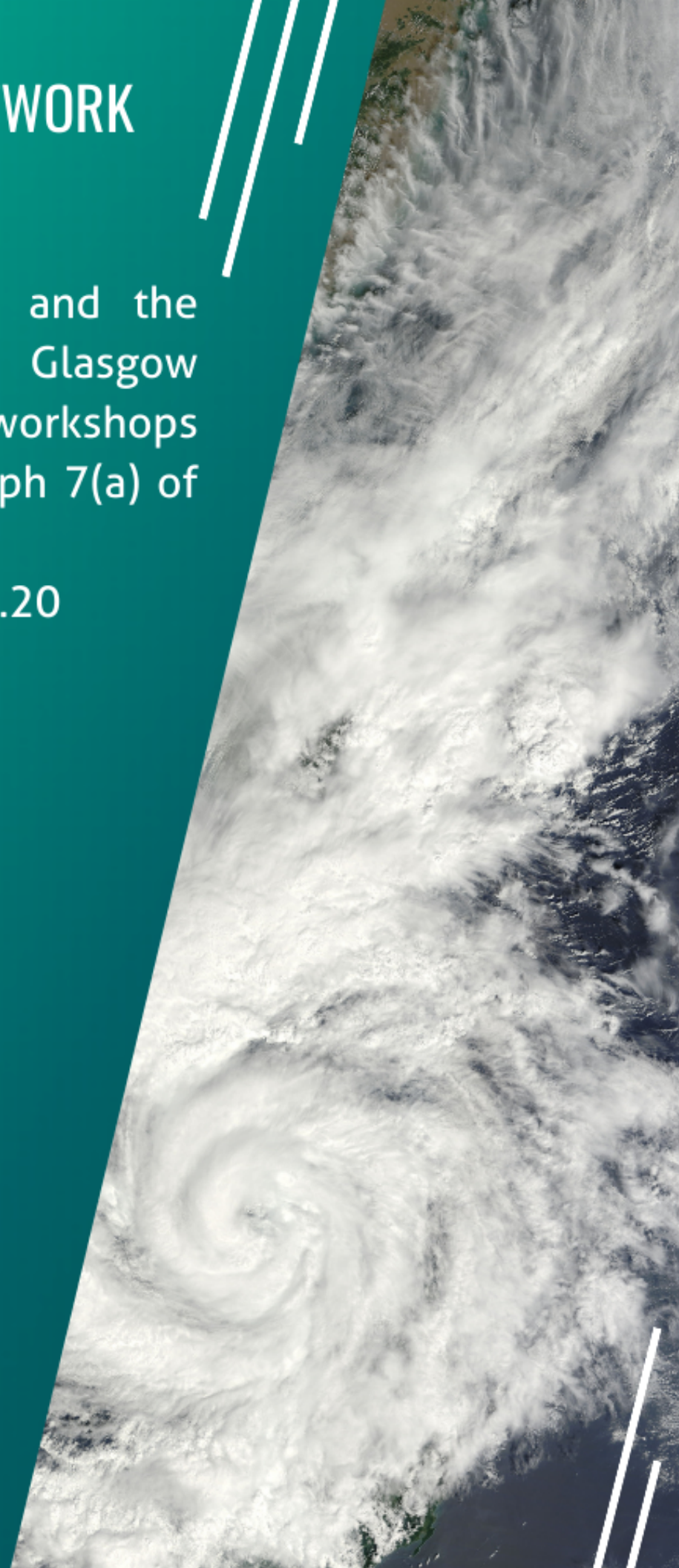


CLIMATE ACTION NETWORK SUBMISSION

Views on topics for and the structure of the 2nd Glasgow Dialogue and the workshops referred to in paragraph 7(a) of FCCC/CP/2022/L.18–FCCC/PA/CMA/2022/L.20

FEBRUARY 2023



Climate Action Network (CAN) Submission on views on topics for and the structure of the second Glasgow Dialogue and workshops

1. What should the Transitional Committee accomplish

The Transitional Committee has a clear, timebound objective as follows: ‘The work of the Transitional Committee will be concluded with the adoption no later than at COP 28 and CMA 5 of decision(s) related to the new funding arrangements responding to Loss & Damage associated with the adverse effects of climate change, including a focus on addressing Loss & Damage, and the fund established in paragraph 3 of this decision¹’

It is crucial that the Transitional Committee leads to a concrete outcome that is centered around the new Fund focused on providing financing for addressing Loss & Damage and the task of the Transitional Committee should therefore be to recommend by COP28 a draft Governing Instrument for the Loss & Damage Fund that sets out its structure, governing arrangements, eligibility and core operational modalities to be confirmed by a decision of the COP/CMA, similarly to the precedent of the Green Climate Fund’s (GCF) Transitional Committee with the adoption of its Governing Instrument by COP17 in Durban. The Transitional Committee need not start from a blank page. The Adaptation Fund (AF) and the GCF already have replicable elements and precedent setting procedures which can be grandfathered. With this in mind, the second Glasgow Dialogue and the workshops should contribute to this purpose.

The Transitional Committee will need to answer:

1.1 What are the constituent costs to be funded and what is the subsequent cost?

The vector of impacts associated with Loss & Damage to address would need to be clearly laid out. This would offer a framework through which to then begin the exercise of quantification of costs for how economic and non-economic Loss & Damage are assessed as needed. Appropriate measures will require a needs- and science-based assessment anchored in human rights and community driven approach to ensure that the costs are captured in a manner that is accurate to the lived experience on the ground. It is extremely difficult to have a robust estimate for the costs of addressing these impacts that takes into account adequacy and the precautionary principle.

Science- and needs-based assessment anchored in community driven and human rights based approach² would be a necessary addition to any quantification framework. This is necessary to ensure the total amount the fund oversees is representative of overall needs. Such needs will fluctuate, generally upwards.

The exercise of quantification must be centered on people and their human rights and would be one that requires social, gender, cultural, environmental and economic costs considerations and their intersectionalities. Econometrics has much to offer but the parameters of social costs can only be represented by impacted communities.

¹ FCCC/CP/2022/L.18–FCCC/jPA/CMA/2022/L.20

² See ActionAid, ADDRN, & CANSA (2019), [Loss & Damage Handbook for community-led assessment of climate-induced Loss & Damage: A 7 step guide](#)

1.2 How the fund/ing arrangements differ from humanitarian finance, adaptation/mitigation finance and development finance?

The Fund should become the main multilateral channel for finance to address Loss & Damage and would be providing oversight over and coordination with the wider landscape of funding arrangements for addressing Loss & Damage from within existing funds under the Financial Mechanism, as well as for funding mobilised and disbursed outside of the UNFCCC framework. Loss & Damage finance would need to be new and additional and not just a relabelling or a diversion of Official Development Assistance (ODA) or climate finance. For example, humanitarian assistance to extreme weather events can only be considered part of what is additional Loss & Damage finance if it exceeds the level of humanitarian assistance in previous years.

1.3 Who can access the fund/ing arrangements finance?

Developing countries that are particularly vulnerable to the adverse effects of climate change should be eligible to receive funding support, irrespective of a potential contribution to the fund, to cover economic and non-economic losses and damages.

The fund should offer enhanced direct access modalities that devolve individual financing decisions for specific activities to the sub-national and local levels, aided by national-level coordinating entities or distribution mechanisms (for example building on and utilising existing structures, such as national implementing entities already accredited with the AF or GCF). Such devolved funding should be directly accessible to affected communities and disproportionately impacted population groups differentiated for fast-and slow-onset events, as one core access modality at the Loss & Damage Fund level and overseen by the Secretariat for response measures to both rapid-onset (with triggered release of fast funding) and slow-onset, as well as non-economic losses and damages (through simplified submission and approval procedures). It should build on best practice experiences such as the Dedicated Grant Mechanism for Indigenous Peoples and local communities under the Forest Investment Program or the GEF-UNDP Small Grant Programme³. The fund should have as an objective to ensure effective remedies for climate-related human rights violations, in line with international human rights law⁴. This includes violations of the rights of children and their families, and remedies which may include resources supporting gender-transformative⁵ and child-centered social protection in communities affected by Loss & Damage.

1.4 What is meant by fund/ing arrangements?

Beginning with the basis that the Fund would also be providing oversight over and coordination of funding arrangements for addressing Loss & Damage enables the unpacking of its functions and how the funding arrangements can be defined through this operational lens.

The way in which the fund is set up – as a separate independent institution with its own governing arrangements and secretariat or as a facility within an existing institution – affects the way it can operate, its ability to seek initial resource mobilization and replenishment and will determine its utility and

³ CAN International, Christian Aid; Heinrich Böll Stiftung (Washington, DC); Practical Action & Stamp Out Poverty (2022), [Loss & Damage Finance Facility - Why and How](#)

⁴ Amnesty International and the Center for International Environmental Law (2023). [Human Rights as a Compass for Operationalizing the Loss & Damage Fund](#)

⁵ Gender Transformative can be defined as programming designed around a fundamental aim of addressing root causes of gender inequality within society - refer to: UNFPA (2021). [Gender responsive and/or transformative approaches](#)

ability to respond to the needs of impacted communities. As an operating entity of the financial mechanism of the UNFCCC/Paris Agreement it must be focused on providing full-cost grant finance, and would thus be different from a bank. This is a critical determination from the outset that will need to be clarified.

Any Loss & Damage finance should adhere to the principles of: 1) international solidarity, duty to provide international cooperation and assistance, historical responsibility and the polluter pays principle; 2) new and additional; 3) needs-based anchored in a community driven and human rights-based approach, adequate, predictable and precautionary; 4) locally driven with subsidiarity - enveloping gender transformational, child sensitivity⁶ and equitable representation; 5) public and grant-based; 6) balanced and comprehensive⁷.

1.5 What are the acceptable forms of 'innovative' sources of finance?

These must be non-debt inducing instruments and must be grant-based. Innovative sources can and must be equitable, placing the highest burden on those most responsible and most able to pay.

It is beyond time that governments start to hold fossil fuel companies to account for the harm their products cause. The Transitional Committee needs to explore and recommend innovative sources of finance which embody the polluter pays principle and Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC), by generating finance from those responsible for the climate crisis to support those least responsible and hardest hit. In the near term, a windfall tax on fossil fuel company profits needs to be a first order priority, as well as the redirection of fossil fuel subsidies towards funding for climate actions, including for addressing Loss & Damage. The lens of justice, rights and responsibility also points us to the direction of other acceptable solutions including: a climate damages tax (fossil fuel extraction levy), a levy on international shipping and aviation emissions⁸, Financial Transaction Tax and taxing high net-worth individuals. All innovative sources must adhere to the principle of CBDR-RC.

1.6 Who pays and how much?

Countries, corporations and individuals most responsible for climate change, and most able to pay, should contribute Loss & Damage finance.

We find ourselves today in a world of unbridled and deepening inequality which is further being exacerbated by climate change. The distribution of wealth within and between countries, to non-state actors and individuals point to an endemic in market failures. To be able to address this question of who

⁶ *Child sensitive finance* entails that investments follow child rights as a guiding principle, ensure that children's rights and vulnerabilities are considered, ensure that children's voices are considered and ensure equity for children. See [Climate proof children: Putting the child first in climate finance. UNICEF 2011.](#)

⁷ In [Loss & Damage Finance Facility - Why and How](#) - 'Balanced and Comprehensive' is unpacked as: "in addition to providing support for rapid-onset events in the aftermath of climate disasters, Loss & Damage finance should also be available for continued recovery, rehabilitation and alternative livelihoods provision for communities facing slow-onset events. Funding should also be available for addressing non-economic losses and damages, such as by financially supporting active remembrance programmes. Importantly, in contrast to humanitarian assistance, L&D finance should be iterative and enable and support longer-term recovery from climate impacts. As such, the conventional project-based model currently employed within much of climate finance is likely to be unsuitable for a significant portion of Loss & Damage finance provision, particularly rapid-onset events."

⁸ ActionAid, (2019). [Market solutions to help climate victims fail human rights test Finance through innovative and public sources must be raised to address loss & damage and protect human rights](#)

pays and how much should they pay can be elucidated through the framework of equity and fairshares, including historical responsibility in global greenhouse gas emissions and per capita wealth. Through this basis and the lens of climate justice and human rights which are so foundational to understanding the issue of Loss & Damage, we can begin to unravel this big question.

2. Observer Participation

The inclusion of observer organizations on the Transitional Committee and their meaningful participation in all proceedings and meetings of the Transitional Committee would be integral in several ways. These include ensuring transparency and accountability in the committee's decision-making processes and work arrangements, such as in possible parallel work streams. This is necessary to build trust and confidence in the committee's work, its ability to draw on a wide-set of expertise and experience, including reflecting realities on the ground, and its ability to design an effective and equitable fund which allows for the effective and adequate mobilization of resources to address Loss & Damage.

Looking within and beyond the UNFCCC, there are precedents to ensure such meaningful participation both for the design phase of the fund and during its future full operationalization, with the mandate to develop comprehensive procedures for the engagement of observers and stakeholders in the fund's governing instrument/TORs.

- **Regarding the design of a fund**, the precedents set by the Global Fund to Fight HIV, TB, and Malaria (Global Fund) and the transitional committee for the design of the GCF to ensure a transparent and open process in setting up the fund with the meaningful participation of observers;
- **Regarding the operation of a fund**, the best practice set by the Global Fund in including representatives from affected communities in the Board's decision making. There is also the good practice by the Climate Investment Funds (including in the Clean Technology Fund, the Special Climate Fund and its respective sub-funds such as the Pilot Program for Climate Resilience) to include active observers in proceedings of fund committees, as well as the practice followed by the GCF with respect to the proceedings of its Board;
- the usual practice to open meetings of committees under the UNFCCC to observer constituencies to ensure transparency and inclusivity, and also to allow valuable inputs from constituencies, especially given WGC, YOUNGO, and IPO are also official members of the Santiago Network Advisory Body, as well as in acknowledgement of the crucial role constituencies played in securing the Loss & Damage Fund;

In addition paragraph 6 in draft decision FCCC/CP/2022/L.18–FCCC/jPA/CMA/2022/L.20 details the Transitional Committee will be informed by global and regional institutions, as well as gaps in the current landscape. We emphasize the importance of observer organizations in actively (beyond the scope of workshops and submissions) and accurately representing such global and regional institutions and gaps within the Transitional Committee with no prejudice to domestic politics.

In this vein, the active inclusion of Indigenous Peoples and civil society stakeholders in the Transitional Committee is necessary to ensure the recommendations put forward by the Committee are based on rights, urgent needs, key findings, and inclusive perspectives and expertise on the impacts of climate change on vulnerable communities and the effectiveness of different approaches to addressing these impacts. This is critical to ensure that subsequent funding arrangements are in fact relevant to the people it is mandated to serve and not disconnected from the real world. Observer organizations are able to represent and create space for communities to be heard and informed on how their inputs will be considered in decision-making. This is essential in a process that is meant to directly respond to their needs. There is no time for the processes that are designed to aid them to fail them.

3. Topics and Structure of the Glasgow Dialogue and Workshops - 2023

It is with these considerations that the following topics and structure are suggested for the second Glasgow Dialogue and the two workshops for 2023, stressing further that **the Transitional Committee ought to offer recommendations on the operationalising of the Fund foremost:**

a) Topics for and the structure of the 2nd Glasgow Dialogue

The principles and operational modalities of the Fund, its central role within broader funding arrangements and governance considerations

Sub-topics:

a) Purpose, principles and modalities

Guiding questions could include:

- What are the guiding principles and objectives?
- How must this Fund learn from and be different from existing climate funds?
- In what ways can a central coordinating role of the Fund in the emerging Loss & Damage finance landscape be secured? How can complementarity and coherence with existing funds be established without compromise to the principles and especially additionality?
- What is its relationship with and accountability to the UNFCCC/PA?
- How will a rights-based and climate justice lens fundamentally underpin this Fund and any funding arrangements?
- How can the core operational modalities be country-led, people-centered and gender-responsive?

This looks across:

- Eligibility
- Fund sub-structures (windows, facilities, programs)
- Access modalities
- Allocation
- Programming and approval processes
- Safeguards
- Monitoring and accountability

b) Governance

Guiding questions could include:

- How can the board be inclusive with equitable representation and what are its roles and functions?
This should include looking at:
 - Equitable representation of developing countries
 - Active civil society and community participation
 - Reflecting intergenerational equity through including input from children and youth
- How can we ensure the Secretariat has adequate technical expertise to deliver its mandate?
- What might a mechanism and framework for the receipt of community based Loss & Damage reports look like?
- Establish the rules of engagement with clear modalities of active civil society participation.

b) Topics for and the structure of the workshops

Structure: Workshops need to be participatory, leading to real inputs and driving the process forward with a diverse range of experts from other UN bodies, civil society, impacted communities, practitioners (etc) sharing insights and lessons on the following topics and sub-topics.

Workshop 1): A human rights centered approach to addressing Loss & Damage

Sub-topics:

a) A community-led assessment of priority Gaps rooted in a human rights-based approach

- Extending an invitation to the UN Special Rapporteur on Climate Change and Human Rights to share views on addressing Loss & Damage as an issue of human rights and climate justice
- Sharing community-driven, science- and needs-based assessments of the current gaps in the landscape anchored in human rights
- Sharing the lived implications for human rights of impacted communities due to these gaps (including women's, Indigenous Peoples', people with disabilities' and children's specific rights, and the human right to health and to a healthy environment) and what this means in terms of providing remedy
- Determining the priority gaps as identified by communities
- Sharing lessons on Community based Monitoring, Assessment and Reporting - looking towards a standardized methodology

b) Sources and Scalability: Scalability and Innovative sources of non-debt instruments and equity in relation to who pays

- Expert led presentations: quantifying the size of the challenge; exploring equitable innovative instruments rooted in polluter pays principle; fair additional allocation and a framework for calculating contributions to the fund and broader funding arrangements

Guiding questions could include:

- What financial mechanisms rooted in the polluter pays principle could contribute Loss & Damage finance at scale? How much could they raise? Which could be implemented nationally and which would require global/multilateral agreement?
- What is the scale of additional finance required?
- What would science-based Loss & Damage finance commitments look like?

c) Unpacking comprehensive approaches to addressing Loss & Damage

- Mapping the constellation of risks and the patchwork of existing instruments and structures directly addressing Loss & Damage
- Understanding the economic and non-economic risks from lived experiences
- Lessons learnt from the GCF and other existing funding structures on approaches that are outside of the scope of addressing Loss & Damage
- As an outcome of the workshop - creating an intervention layering framework
- Examples of how money can be spent through case-studies for example on appropriate risk finance

options such as social protection etc.

Workshop 2): Governance arrangements

Subtopics

a) Operational Modalities

Lessons learnt from existing funds with respect to addressing core operational modalities, in particular:

- Access modalities with simplified and enhanced Direct Access
- Observer participation and representation of groups impacted by L&D
- Eligibility
- Fund sub-structures (windows, facilities, programs”
- Allocation
- Programming and approval processes
- Safeguards
- Monitoring and accountability
- Etc

b) Position in the Climate Finance Architecture: the transformational role of the Fund and its wider position within the NCQG

Guiding questions could include:

- Where must the Fund be situated to enable it to effectively address Loss & Damage?
- How will financing provided for mitigation, adaptation and addressing Loss & Damage be balanced?