

CAN and DCJ Workshop - Transitional Committee for Loss & Damage Finance

Workshop Proceedings, January 2023¹

After thirty long years of struggle for incremental steps forward and at times, leaps backwards, COP27 finally provided the long-awaited and historic agreement on a new Loss & Damage Fund for developing countries who are vulnerable to the impacts of climate change. This decision takes the first cautious steps towards addressing the profound climate impacts faced by the most vulnerable communities. The decision acknowledged for the first time that “existing funding arrangements fall short of responding to current and future impacts of climate change and are not sufficient to address the existing funding gaps related to providing action and support in responding to loss and damage associated with the adverse effects of climate change”.

As part of the decision, it was agreed to establish a ‘Transitional Committee’ for the operationalization of the new funding arrangements for responding to Loss & Damage and the fund². 2023 will be a landmark year. It will be critical for advancing technical work to ensure that at the end of the year the Transitional Committee will offer a concrete proposal for the operationalisation of a fit-for-purpose Fund that can urgently deliver new and additional scaled finance as soon as possible.

In January 2023, Climate Action Network International (CAN-I) and Demand Climate Justice (DCJ) held a set of workshops and subsequent discussion to begin addressing some of these conversations. We acknowledge and are grateful for the wealth of knowledge and rich contributions of the workshop members. The below presents key considerations and in many cases points of convergence between participants:

[1 What is a Loss & Damage Fund?](#)

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¹ Please cite as: CAN and DCJ (January 2023). [Workshop Proceedings - Transitional Committee for Loss & Damage Finance](#)

² [FCCC/CP/2022/L.18-FCCC/PA/CMA/2022/L.20](#)

1 WHAT IS A LOSS & DAMAGE FUND?

It is important to define from the outset what a Loss & Damage Fund is. From the workshop, the interpretation of Loss & Damage fund was expressed in the following way:

A Loss & Damage Fund is a key component of finance for the “third pillar” of climate action (in addition to mitigation and adaptation) that focuses specifically on addressing losses and damages caused by climate change. It should be a grant-based and justice-aligned mechanism that provides (primarily financial) means to developing countries facing challenges in meeting development needs due to scarce resources and, on top of that, climate-related losses.

The Fund and any additional funding arrangements would adhere to the principles of: 1) common but differentiated responsibilities and respective capabilities, taking into particular account 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 sensitivity³ and equitable representation; 5) public and grant-based; 6) balanced and comprehensive⁴.

The Fund covers both economic and non-economic losses and damages and is accountable to the COP and CMA. It would receive funds from public and innovative sources of financing, including taxes, some insurance products which are inline with the aforesaid principles and not debt inducing, and non-party polluters (eg. windfall tax, climate damages tax) and will prioritise direct access to vulnerable communities, including Indigenous Peoples.

The Fund will be governed in a rights-based, participatory, and inclusive manner and will include representation of communities. The disbursement process will be simple, not bureaucratic, and able to provide quick financial support to those who need it most.

It should be programmatic and long-term, rather than project based. Small grants and unconditional cash transfers would give more autonomy and decision making power to affected communities. The Fund’s resources will be additional and complementary to humanitarian funding and will receive funding from historical and more recent polluters, based on equity.

The Fund will have a clear structure for immediate funding, with a development and expansion plan. The money will be used for relief, recovery, and rehabilitation efforts,

³ *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.](#)

⁴ 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, Loss & Damage 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.”

including relocation, as appropriate, for those experiencing loss and damage from adverse extreme weather and slow onset impacts.

To deliver Loss & Damage finance to vulnerable communities, non-climate institutions at the national and local levels may play a comparatively bigger role than in other climate finance; e.g. direct cash payments to poor people are often handed out through ministries responsible for poverty alleviation social protection mechanisms. Some issues to unpack would include:

- Defining country ownership (eg. is it that governments receive funds and decide what to do with it?) and community ownership (eg. funds go directly to affected communities through local institutions and decentralised platforms)
- Considering accountability concerns on governance in some States, what might be the local avenues and opportunities to reach affected communities directly?
- Determining the role of private sector involvement and the conditions around it.

Box 1: Who can access the fund/ing arrangements finance?⁵

Developing countries that are vulnerable 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 Adaptation Fund (AF) or Green Climate Fund (GCF)). Such devolved funding should be directly accessible to affected communities and disproportionately impacted population groups differentiated for the type of climatic 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 Programme⁶. The fund should have as an objective to ensure effective remedies for climate-related human rights violations, in line with international human rights law⁷.

This includes violations of the rights of children and their families, and remedies which may include resources supporting gender-transformative⁸ and child-centred social protection in communities affected by Loss & Damage.

⁵ From [CAN submission on views on topics for and structure of the second Glasgow Dialogue and workshops](#)

⁶ CAN International, Christian Aid; Heinrich Böll Stiftung (Washington, DC); Practical Action & Stamp Out Poverty (2022), [Loss & Damage Finance Facility - Why and How](#)

⁷ Amnesty International and the Center for International Environmental Law (2023). [Human Rights as a Compass for Operationalizing the Loss & Damage Fund](#)

⁸ 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](#)

2 HOW SHOULD FINANCE BE DELIVERED DIFFERENTLY?

It is clear that the Loss & Damage Fund will need to be innovative and fit-for-purpose. Business as usual would not be sufficient and this is an opportunity to begin the sorely needed reform of financial structures to be able to evolve with needs and offer democratic, decentralised finance to address Loss & Damage.

There are many lessons that can be learnt from the humanitarian system (in addition to lessons from the climate finance architecture) and the Transitional Committee would benefit from including such perspectives in its assessment and analysis. Lessons learnt from humanitarian funds would include the need to work with local players and community-based organisations rather than parachuting in aid and support through big NGOs which then helicopter out. The very nature of Loss & Damage is not suited to such an approach where the complex vector of intersecting economic and non-economic loss and damage needs an array of context specific and locally delivered support led by communities.

3 WHAT SHOULD THE TRANSITIONAL COMMITTEE (TC) DELIVER?

The Transitional Committee will be considering the operationalization of the Fund and Funding Arrangements and making recommendations regarding this matter. The Transitional Committee's work is mandated for 2023 and no guarantee of extension unless negotiated.

What should the Transitional Committee do?

- It is crucial that there is an outcome that leads to the adoption of a governing instrument for the Fund at COP28. The Transitional Committee must put forward concrete recommendations to this effect.
- The Transitional Committee must clarify at the onset that they are working towards concrete operationalization of the new Loss & Damage Fund, with additional discussions on broader funding arrangements, e.g. sources and coordination with bodies outside UNFCCC.
- The functioning of the Fund as a grant-based facility must be established early on. For the problem set being addressed, it is clear that Loss & Damage is not a market-based opportunity and funding must be delivered first and foremost as grants.
- Considering the short timeframe of work for the Transitional Committee and the need to operationalise a Fund as soon as possible to ensure money begins to flow, the Transitional Committee could deliver a Governing Instrument, fleshing out the concrete operational modalities by COP28. It is important that funds begin to flow as people are suffering from Loss & Damage now.
 - A key takeaway from the process of the GCF Transitional Committee is that whilst the principles on paper may be a winnable fight – the details will be an ongoing process. The AFand the GCF offer precedents for language, and grandfathering those elements which are appropriate for the Loss & Damage Fund.
 - It will be important to ensure that the Transitional Committee established distinct and separate workstreams on 1) overall funding arrangements and 2) the Fund, to ensure that the latter is offered the critical space necessary to make significant progress simultaneously

- To clarify the Fund's relationship in the post-2020 climate finance architecture, it should be an operating entity of the financial mechanism responsible to the COP and CMA.
- It should deliver recommendations that add to and build momentum for transformative finance and the reform of the global financial architecture through a novel, fast, unencumbered solution informed by science and needs and framed by a rights-based and locally-led approach with the sole objective of addressing economic and non-economic Loss and Damage.

4 OBSERVER PARTICIPATION

Direct civil society participation in the decision making process is already a precedent in the other operating entities of the financial mechanism of the UNFCCC, as well as many other multilateral funds. Such participation must also be ensured for the Transitional Committee proceedings as well as whatever governing body is created for the new L&D Fund.

The access of observer organizations to the Transitional Committee meetings and their meaningful participation in all proceedings 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.

5 LESSONS LEARNT FROM THE GCF +

The GCF was a new model but the Governing Instrument took precedents from the Adaptation Fund. Although there is clearly a need for the new L&D Fund to be fit-for-purpose and entirely new and additional, many lessons can still be drawn from the design processes of these other funds. The GCF's governing instrument was designed by its Transitional Committee. It benefited from Observer participation where engagement has been cross-constituency. CSO priorities are reflected in many of the elements of the GCF Governing Instrument. These include on paper but perhaps not always in practice:

- Balanced governance with equal say amongst developed and developing countries
- Active participation of CSOs
- New additional adequate and predictable finance
- Elements of direct access
- Country driven
- Participatory monitoring
- Streamlined approval
- Best-practice environment and social safeguards

We can learn from the elements in the Governing Instrument which need to be done differently, such as not replicating the failing of the GCF in the exploitation of the private sector facility with debt instruments composing the majority of lending. The Loss & Damage Fund will need:

- Alignment of guiding principles and objectives to human rights
- Developed country grant input and full cost grant financing
- An equitable board representation with more developing country and representation of other stakeholders
- Improved observer participation on the Board
- Developing country experts and wider expertise with a focus on non-finance experts
- Significantly improved and simplified access to funding, allowing for both international access and direct access (through regional, national and sub-national entities) as needed and requested by recipient countries. It should prioritise direct access. Access to its rapid-onset finance window should not require countries to work through accredited entities
- Differentiated accreditation
- Being cognizant of the role of Multilateral Development Banks (MDBs) and the risks that brings in undermining direct access. Good governance is therefore essential in channelling the Fund and any arrangements. The governance should also include those who have experienced Loss & Damage.

6 FUNDING ARRANGEMENTS

The instruments selected should be held to the principles and governance of the Fund. These must be non-debt inducing instruments and must be grant-based. Innovative sources can and must be equitable, generating the revenues from those most responsible and most able to pay.

Funding arrangement should be responsive to country needs, with downward accountability and the funding process should have a clear and simple application process, idea of what activities address loss and damage, who is already working on these, and where the funding is needed. We should think about funding arrangements not just in modalities but also in the landscape.

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.

Some elements that may be considered funding arrangements are as follows:

- 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 emissions⁹, Financial Transaction Tax and taxing high net-worth individuals

- Strengthening Early Warning Systems
- Cancellation of illegitimate debt and debt suspension in the aftermath of a climate disaster
- Building on existing small-scale funding arrangements and having a clear process for communities to apply for funding
- Ensuring complementarity with existing funds and coordination with the UN Convention on Taxation discussions
- The role of private finance and insurance will need to be determined in this landscape according to the principles of the Fund.

7 EQUITY

There are two questions that will need to be addressed, who pays and how much?¹⁰ Firstly, science- and needs-based assessment anchored in community driven and human rights based approach¹¹ 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.

To be able to address this question of who pays and how much should they pay can be elucidated through the framework of equity and fairshares (see for instance: [Athanasiou, Kartha & Holz, 2023](#)), including historical responsibility in global greenhouse gas emissions and per capita wealth. These are key factors which need to be considered and applied, as part of the lens of climate justice and human rights which are so foundational to understanding the issue of Loss & Damage, in order to begin to unravel these questions.

8 ANNEX

- Operational modalities refers to how the funding is actually delivered (i.e. whether it is project based, the processes for accreditation, approval and access, how the funding reaches people on the ground)
- Governance has two component - who governs the LDF and how the LDF is governed (accountability, receiving guidance to UNFCCC)
- Funding arrangements is everything related to Loss & Damage funding, of which the LDF (the Fund) would be one piece. Please refer to LDF Why and How for why the Fund must be the central mechanism.

9 RESOURCES

- [GCF Governing Instrument](#)
- [LDF Why and How Paper](#)
- [G77 & China Elements](#)
- [Decision Text](#)
- [Design Process of the GCF](#)

⁹ 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](#)

¹⁰ Athanasiou, Kartha, & Holz (2023). [Loss and Damage Finance: Who pays? For what? In which countries?](#) CAN Discussion Paper V1.1.

¹¹ See ActionAid, ADDRN, & CANSA (2019), [Loss & Damage Handbook for community-led assessment of climate-induced Loss & Damage: A 7 step guide](#)