



# The Loss and Damage Finance Facility

## Why and How

Discussion Paper

# Acknowledgements

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CAN International, Christian Aid; Heinrich Böll Stiftung (Washington, DC); Practical Action & Stamp Out Poverty.

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Front cover image by Gideon Mendel: Ahmed stands in the centre of the town of Khairpur Nathan Shah which had been totally submerged by floodwaters. These floods in Pakistan caused huge economic damage and damage to infrastructure. More than 20 million people were affected and around 1.8 million homes destroyed.

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# Acronyms

<b>AR6</b>	Sixth Assessment Report
<b>AF</b>	Adaptation Fund
<b>AOSIS</b>	Alliance of Small Island States
<b>CBRD-RC</b>	Common but Differentiated Responsibilities and Respective Capabilities
<b>CCRIF</b>	Caribbean Catastrophe Risk Insurance Facility
<b>CESCR</b>	Committee on Economic, Social and Cultural Rights
<b>CMA</b>	Conference of the Parties serving as the meeting of the Parties to the Paris Agreement
<b>COP</b>	Conference of the Parties
<b>CVF</b>	Climate Vulnerable Forum
<b>ExCom</b>	Executive Committee
<b>GCF</b>	Green Climate Fund
<b>GD</b>	Glasgow Dialogue
<b>GEF</b>	Global Environment Facility
<b>GFC</b>	Global Financial Crisis
<b>GIA</b>	German Insurance Association
<b>Global Fund</b>	The Global Fund to Fight AIDS, Tuberculosis and Malaria
<b>IPCC</b>	Intergovernmental Panel on Climate Change
<b>L&amp;D</b>	Loss and Damage
<b>LDC</b>	Least Developed Countries
<b>LDFF</b>	Loss and Damage Finance Facility
<b>NDC</b>	Nationally Determined Contributions
<b>PA</b>	Paris Agreement
<b>Santiago Network</b>	Santiago Network for Loss and Damage
<b>SBI</b>	Subsidiary Body for Implementation
<b>SDGs</b>	Sustainable Development Goals
<b>SDRs</b>	Special Drawing Rights
<b>UNFCCC</b>	United Nations Framework Convention on Climate Change
<b>WG</b>	Working Group
<b>WIM</b>	Warsaw International Mechanism
<b>WMO</b>	World Meteorological Organization

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# Executive Summary

We are in the era of Loss and Damage (L&D). The hard limits to adaptation are being realised and the scale of the challenge ahead is significant as impacts of climate change are greater than previously expected. The recent IPCC impacts report (IPCC, 2022a) shows extreme climatic events have been observed in all regions, with unprecedented consequences, especially related to 127 key risks identified by the IPCC. Complex, compounding and cascading risks are sweeping across sectors and regions and amongst this “atlas of human suffering” it is those regions and people with considerable development constraints who have the highest vulnerability and who have contributed the least to climate change that are suffering the disproportionate impacts.

At the climate change conference, COP26, the negotiating bloc G77 & China proposed a solution to the gap in finance available to address their needs in the form of a L&D Finance Facility (LDFF) which will be able “to provide new financial support under Article 9 of the Paris Agreement (PA), in addition to adaptation and mitigation finance, to developing countries to address loss and damage”. However, agreement could not be secured for the LDFF’s establishment or a process to do so. Instead, the Glasgow Dialogue (GD) was established which presently remains to be defined with clear milestones and outcomes.

The objective of this paper is to contribute to achieving the establishment and operationalization of an LDFF that delivers on the needs of developing countries at speed and scale by explaining the why and how. The paper explains why the LDFF is necessary before turning to an analysis of the governing arrangements and core operational functions for the LDFF. Scenarios that elucidate the potential transformative value of the LDFF are described before the paper concludes with recommendations and a way forward to COP27 and beyond with the GD delivering concrete actions.

## Why a L&D Finance Facility?

The Warsaw International Mechanism (WIM) was established in 2013 to address L&D associated with the impacts of climate change, including extreme events and slow onset events, in developing countries who are particularly vulnerable to the adverse effects of climate change.

Currently, the mechanisms available under the United Nations Framework Convention on Climate Change (UNFCCC) are geared towards averting and minimising L&D through mitigation and adaptation; however they do not provide

means for addressing L&D, i.e. for helping people recover from the impacts of climate change that go beyond their ability to adapt. As such, the LDFF is critical for the missing third pillar of climate finance. Given the rising scale of climate-related damages documented by the IPCC there is no time to lose.

## How the LDFF’s Governing Arrangements can be designed

**Six overarching principles are proposed to guide the mobilisation of L&D finance, in line with a climate justice-oriented approach.** Overarchingly, L&D finance should adhere to the principles of:

1. International cooperation and solidarity, historical responsibility and the polluter pays principle;
2. New and additional;
3. Needs-based, adequate, predictable and precautionary;
4. Locally driven with subsidiarity – enveloping gender responsiveness and equitable representation;
5. Public and grant-based;
6. Balanced and comprehensive.

## Functions

The LDFF should make a significant and ambitious contribution to combat climate change by focusing exclusively on addressing L&D. It must be established as an operating entity acting as the third pillar of the Financial Mechanism of the UNFCCC which also serves the PA. As both a coordination and financing mechanism, it should be the primary vehicle to coordinate, mobilise and channel new, additional, adequate and predictable financial resources to address L&D for developing countries and affected communities and people. It should be driven by country- and in particular local-level ownership, and be capable of receiving and administering financial inputs on an ongoing basis from a variety of public, private, as well as innovative/alternative sources, which could include share of proceeds and revenue from targeted taxes and levies applying the polluter pays principle, as well as philanthropic contributions.

## Situated

While the LDFF should be an operating entity, it should be situated under the WIM to perform

its functions. This will allow alignment with the WIM's existing mandate, including by building on the work and activities of the WIM Executive Committee (**ExCom**) and the Santiago Network for L&D. Whilst the Santiago Network for L&D will catalyse technical assistance to implement the functions of the WIM, the LDFF will contribute by providing the necessary finance. As an operating entity of the Financial Mechanism it should be accountable to the Conference of the Parties (**COP**) and Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (**CMA**) as well as the WIM and function under their guidance to support projects, programmes, policies, planning, coordination and other activities to address L&D in developing countries. Some of the existing bodies under the UNFCCC financial mechanisms can complement the LDFF by building off their existing roles and functions.

### Eligibility

All developing country Parties to the Convention and the PA should be eligible to receive funding support from the LDFF, irrespective of a potential contribution to the LDFF and its scale, to cover economic and non-economic losses and damages.

### Decision-making body composition and functions

The LDFF should be governed by a decision-making body with equitable representation composed with a majority of members from developing country Parties. The LDFF decision-making body should make decisions by consensus.

### Secretariat

The day-to-day operations of the LDFF would be run by a Secretariat with professional staff providing administrative, financial and technical expertise and serving and accountable to the decision-making body.

### Financial instruments

Addressing L&D is a human rights issue. Developing countries should not have to bear the cost alone. The LDFF should primarily provide full-cost grant funding. Instruments such as insurance models and market-based solutions have not been able to scale to success with limitations including unaffordable premiums, and the inability to reach the uninsured, or informal sectors, protect human rights and development gains, or prepare for future displacement and livelihood losses.

### Funding windows and LDFF structure

The LDFF could start out initially with two distinct funding windows with differentiated 'fit-for-purpose' programming modalities and application procedures to be developed in response to differing needs and time-frames for funding:

1. Urgent response to rapid-onset events in the aftermath of climate disasters (such as storms and floods);
2. Slow-onset events and L&D planning and policy frameworks and transformative programming (such as for permanent relocation and addressing the loss of culture, language etc.).

### Access modalities

The LDFF should provide simplified access to funding, allowing for both international access (through international entities) and direct access (through regional, national and sub-national entities) as needed and requested by recipient countries. To the extent possible, the LDFF should prioritise direct access.

### Allocation

In allocating LDFF resources, funding should be divided between the two initial funding windows for response measures for rapid-onset events and slow-onset events as needed.

### How can the LDFF be delivered?

The Glasgow Dialogue is the process through which the LDFF must be launched and operationalised. The civil society demands that the three year dialogue deliver:

- **In its first year** – the establishment of the LDFF with clear functions and core institutional arrangements; and a process to identify L&D funding needs.
- **In its second year** – reporting and confirming progress on defining governing arrangements and delivery structure of LDFF; and conducting a process for needs-based resource mobilisation for the LDFF.
- **In its third year** – the full operationalization of the LDFF, with finance starting to flow to developing countries.

If the delivery of the LDFF is not achieved, the international climate regime will be at risk. This is an opportunity to further strengthen international cooperation and solidarity whilst delivering on justice and protecting human rights.

# Introduction

In 2022, the losses and damages that are being suffered by nature and people as a result of human-induced climate change are more visible than ever before as, for many vulnerable communities, this suffering has become a part of daily life. The Working Group II (WGII) contribution to the Intergovernmental Panel on Climate Change (IPCC) Sixth Assessment Report (AR6) on Impacts, Adaptation and Vulnerability published in February 2022 (IPCC, 2022a) is clear in its findings that the adverse impacts of climate change and related L&D are disproportionately affecting vulnerable and marginalised people and systems, with some impacts irreversible. This is the result of historical emissions and a failure of response from developed countries as prolonged inaction across the spectrum of mitigation and adaptation has magnified the urgent need for action in the form of new and additional finance to address L&D which are becoming increasingly complex and more difficult to manage.

The Working Group III (WGIII) contribution to the IPCC AR6 Report on Mitigation of Climate Change reports with high confidence that “[p]ublic and private finance flows for fossil fuels are still greater than those for climate adaptation and mitigation”. The “overwhelming majority” of global tracked climate finance is targeted to mitigation and a small proportion is targeted to adaptation (IPCC, 2022b). WGII highlights that although adaptation planning and implementation have continued to increase, adaptation gaps exist between current levels of adaptation and levels needed to respond to impacts and reduce climate risks. A significant driver of those gaps is the inadequate finance provided both in terms of its quantity and quality (illustrated by the failure of developed countries to meet the annual USD\$100 billion target by 2020) as although global tracked climate finance has shown an upward trend, current global financial flows “are insufficient for and constrain implementation of adaptation options especially in developing countries” (IPCC, 2022a), including due to the fact that a substantial part of adaptation finance is provided in the form of loans. These inadequate and unbalanced flows of climate finance have caused delays in climate action that could have averted and minimised L&D.

A 2019 technical paper prepared as an input to the review of the WIM by the UNFCCC secretariat reported that finance associated with L&D is not currently explicitly tracked or reported as a distinct category. The secretariat assessed sources of and modalities for accessing financial support for addressing L&D and inter alia concluded that “[c]urrently no financial instrument that explicitly aims

at supporting transformational approaches has been reported in the context of addressing loss and damage.” This is a significant issue as without a standardised method through which to monitor, assess or report L&D, it would be difficult to assign flows. It is in that context that this discussion paper presents a why and how for the LDFF that the G77 & China asked to be established at COP26 “under the Financial Mechanism pursuant to Article 11 of the Convention”. The LDFF must be brought into existence at the earliest possible time and resourced at the scale necessary to transform outcomes for people suffering from the adverse effects of climate change. Establishment and full operationalization of the LDFF will help make the UNFCCC and Paris Agreement multilateral regime for international cooperation on climate change “future-ready” by putting in place another key pillar in the regime’s L&D institutional architecture under the WIM – i.e. the WIM Executive Committee as the policy discussion and research pillar, the Santiago Network on L&D as the implementation and technical assistance pillar, and the LDFF as the financing pillar (UNFCCC Secretariat, 2019).

The urgency cannot be overstated. As negotiations continue, people on the ground are increasingly being impacted. For instance, Madagascar and other neighbours in southern Africa have already been hit by five cyclones in 2022. Tropical Storm Ana and Cyclones Batsirai and Emnati have devastated thousands of houses and fields causing significant losses and damages. Estimates in the aid community are that a total of 230 people have lost their lives whilst more than 1 million people have been affected in southern Africa including Madagascar since the beginning of 2022. In Southern Madagascar, whole communities are on the edge of starvation, back-to-back droughts have left more than 1.14 million people food insecure with 28,000 estimated to be in catastrophic conditions by October 2022.

This is just one example of a crisis and climate injustice unfolding before our eyes. There are many more. The IPCC impacts report shows that vulnerable communities in global hotspots are highly exposed to the rising threats from climate change noting that in “such hotspots, deaths from floods, drought and storms were 15 times higher than those in more resilient countries over the last decade” (IPCC, 2022a). In the South Pacific in 2020, severe cyclone Harold cut a path of destruction through the island nations of Vanuatu, Fiji, the Solomon Islands and Tonga. In the most affected province of Sanma in Vanuatu an estimated 90 per cent of the population lost their homes, and more than half of all schools and almost a quarter of health centres were

damaged (WMO, 2020). March 2022 was the warmest on record in India and in parts of Pakistan with the heatwave pushing the limits of human livability, peaking at 49.5 degrees Celsius in Pakistan on May 1st 2022. Whilst the eastern Horn of Africa is currently experiencing the driest conditions and hottest temperatures since satellite record-keeping began. 13 million people are experiencing acute food and water shortages, growing to a projected 25 million people by mid-2022.

## A short history of Loss and Damage under the UNFCCC

The idea of a financial mechanism under the UNFCCC to support developing countries to address L&D can be traced back over 30 years to December 1991. As the governments of the world negotiated what would by 1992 become the UNFCCC, Vanuatu on behalf of members of the Alliance of Small Island States (AOSIS) proposed a financial mechanism to deal with the consequences of sea level rise. The source of revenue would be contributions levied on industrialised developed countries that would be calculated in such a way as to ensure that the financial burden of L&D suffered by “the most vulnerable small island and low-lying developing countries... as a result of sea level rise” would be distributed in an equitable manner amongst industrialised developed countries, and that revenue would be “new, additional and adequate”. At the time, finance was proposed to be for the consequences of sea level rise but AOSIS also foreshadowed the possibility of financial assistance to address other types of losses and damages caused by desertification and drought (INC 1991).

The financial mechanism proposed by AOSIS was never established but it marked the beginning of international discourse on L&D. However progress has been highly contested with disagreements over issues including liability and compensation (a notion that developed country parties are firmly opposed to because of the risk that it will open unlimited liability and compensation claims), whether addressing L&D should be part of adaptation policy making, and whether the UNFCCC or UN Disaster Risk regime is better placed to address L&D (Vanhala et al., 2021: 146). It wasn't until 2013, as the tragedy of Super Typhoon Haiyan in the Philippines “cast a shadow” over negotiations at COP19 in Warsaw, Poland, that calls by developing country parties for an international coordinated response to tackle the challenge of “long-term changes brought by global warming” resulted in a tangible outcome on L&D (LDC Climate Change, 2013; Earth Journalism Network, 2021).

Developing countries succeeded in galvanising support for an agreement to establish the WIM under the UNFCCC to address L&D in developing countries that are particularly vulnerable to the adverse effects of climate change. An Executive Committee (ExCom) was also established to guide the implementation of the functions of the WIM. Two years later, L&D was recognised in the PA as a standalone article (Article 8). However that achievement must be acknowledged in the context of paragraph 51 of the decision adopting the PA, decision 2/CP.21, which records an agreement that Article 8 does not “involve or provide a basis for any liability or compensation”.

Although since 2013 institutional arrangements have existed under the UNFCCC to address L&D in the form of the WIM and its ExCom, still the international coordinated response envisioned by developing country parties has not been realised. Throughout the years, the developing countries that the WIM was established to assist have been hindered in their ability to undertake actions as on the ground support including finance, technology and capacity building to address L&D remains scarce. The ExCom has largely focussed on the first function of the WIM, enhancing knowledge and understanding of L&D, with some attention to the WIM's second function, to strengthen dialogue, coordination, coherence and synergies among relevant stakeholders, and little to the third, to enhance action and support to address L&D (Practical Action 2021). In 2016, Parties agreed to a technical paper being prepared by the secretariat elaborating the sources of financial support, as provided through the Financial Mechanism and outside the Financial Mechanism, for addressing L&D as described in relevant decisions, as well as modalities for accessing such support. The paper was provided as an input to the 2019 review of the WIM and collated information from various sources including the Suva expert dialogue held in 2018 to explore and facilitate expertise and enhance support (UNFCCC Secretariat 2019). In fact submissions for the Suva Expert Dialogue by the African Group of Negotiators (AGN), AOSIS, Least Developed Country (LDC) Group, and Vanuatu in particular offer insights into the parameters of what a L&D finance facility could look like. Common themes include: new, additional and accessible grant based finance, and a toolkit of solidarity based risk transfer/management options.

At COP25 in Madrid, in the context of the review of the 2019 WIM review, developing country parties pressed for institutional arrangements to address the gaps in implementation of the functions of the WIM. This culminated in the establishment of the Santiago Network for L&D (Santiago Network) to catalyse technical assistance to address L&D which parties have continued to develop and

which is an opportunity for something tangible to emerge from the UNFCCC negotiations on L&D. However, a separate finance facility under the WIM did not emerge from Madrid. Instead, the COP25 decision recognised the urgency of enhancing the mobilisation of action and support including finance, technology and capacity building; urged the scaling up of that support by various bodies, organisations, funds and other stakeholders for developing countries; and requested the ExCom to establish, by the end of 2020, an expert group on action and support. The expert group on action and support was mandated in the original five year rolling work plan agreed in 2015; however, it required two decisions from the CMA before the ExCom finally established it.

At COP26 in Glasgow, finance was promised<sup>1</sup> for the operations of the Santiago Network and for the provision of technical assistance. However it remains unclear whether and how much finance will be provided to operationalise the Santiago Network and facilitate technical support to countries, and whether it will be new, additional and adequate. At COP26, developing countries were clear in their demand that the finance needed to address the scale of L&D that they are experiencing, could not be just that which was agreed to be provided for the Santiago Network. Thus, in the final days before the conclusion of COP26, AOSIS proposed text which, if agreed, would launch a process to operationalise a standalone facility on L&D under the Financial Mechanism of the UNFCCC. This proposal for a L&D facility was negotiated within the G77 & China who put forward the following proposed text:

*Decides to establish the Glasgow Loss and Damage Facility under the Financial Mechanism pursuant to Article 11 of the Convention, to provide new financial support under Article 9 of the Paris Agreement, in addition to adaptation and mitigation finance, to developing countries to address loss and damage and requests the Subsidiary Bodies to jointly undertake work in 2022 with the aim of providing recommendations to COP27 on its operationalization.*

Developed countries would not engage with the G77 & China proposal as negotiators for the EU, the US and others indicated that they did not have a mandate to agree to any proposal regarding L&D finance. The G77 & China further refined their proposal to a decision to “launch a process to develop a facility, fund or other financial arrangements for providing financial

support for loss and damage” called the Glasgow Ad-Hoc Working Group on Loss and Damage Finance. That proposal was also rejected. On the final day of COP26, the UK COP Presidency released the draft decision text to be adopted by the CMA which included the GD, which would be “to discuss the arrangements for the funding of activities” to address L&D, “to take place in the first sessional period of each year of the Subsidiary Body for Implementation (SBI), concluding at its sixtieth session” (June 2024). Agreement to establish the GD was accompanied by statements in the closing plenary by developing countries that it must lead to the establishment of the LDFF by COP27. The Chair of the G77 & China stated:

*“the Group expresses its extreme disappointment with paragraphs 73 and 74 of draft decision 1/CMA.3 on a dialogue related to L&D. This is very far from the concrete call for a L&D facility that the Group came together to make and seek an answer for here in Glasgow. But in the spirit of compromise, we will be able to live with these paragraphs as is on the understanding that it does not reflect nor prejudice the unequivocal outcome that we seek on finance for L&D to reach the most vulnerable, which due to history and human rights and basic common decency the G77 & China will continue to pursue. To this end, we understand that the dialogue referred to in Paras 73 and 74 has as its end goal the establishment of the LD facility” (TWN 2021).*

At the time of writing this paper, the scope of the GD has been interpreted by the SBI Chair as a mandated event for SBI 56 in June 2022 with three three-hour sessions allocated in the schedule. These are informal discussions with various stakeholders with no scope for draft decisions or a substantive decision on finance at COP27 but a report by the SBI Chair instead. How this will unfold in June remains unclear as Parties formulate their positions and this paper is intended to assist in that process. The core challenge now is linking the GD to a chain of events that results in a concrete outcome that not only establishes the LDFF but operationalises it in a way that it can deliver the support that is urgently needed.

## Learning from rapid mobilisation of funds at scale: Recent examples

In our recent history there have been numerous examples of the rapid mobilisation of funds

<sup>1</sup> 1/CMA.3 paragraph 67. Decides that the Santiago network will be provided with funds to support technical assistance for the implementation of relevant approaches to avert, minimize, and address loss and damage associated with the adverse effects of climate change in developing countries in support of the functions as set out in paragraph 9 of decision -/CMA.3; Paragraph 68. Also decides that the modalities for the management of funds provided for technical assistance under the Santiago network and the terms for their disbursement shall be determined by the process set out in paragraph 10 of decision -/CMA.3

at scale to meet urgent global needs, some prominent examples are the 2008 Global Financial Crisis (GFC), the 2020 COVID-19 pandemic, and the 2022 Russia-Ukraine war. We see this time and time again in response to a great need. The same can and must occur to pay for the L&D caused by the adverse effects of climate change in developing countries as a global response, led by developed countries.

Whilst it has failings, the grant based finance of the Marshall Plan helped Europe's recovery and reconstruction efforts after World War II by transferring about US\$13.3 billion (equivalent to over \$130 billion today). This addressed the lack of hard currency in Europe which would have limited their participation in an international economy based on liberal trade policies. Unless something was done to help the European currency markets the US economy would suffer. The Bretton Woods system established after WWII launched a new era of global economic cooperation, all the while exposing that solidarity was in fact self-interest on the part of developed countries, with less consideration for the impacts on developing countries.

The GFC and COVID-19 pandemic are two key examples of significant economic shocks which have elicited a global response. Following the GFC there was a national recapitalisation and part nationalisation of the banking systems, central banks had extended powers, whilst the IMF issued 250 billion of Special Drawing Rights (SDRs).<sup>2</sup> However, because of the IMF's quota system, most of the SDRs allocated went to developed countries and boosted their liquidity. The fiscal stimulus packages adopted by countries amounted to 4.3 per cent of the global GDP or approximately US\$2.6 trillion (Massa, 2009). If they did not save the banks, the economy would crash with a threat of civil unrest. Theoretically the GFC led to global cooperation on multilateral financial surveillance, crisis prevention and resolution mechanisms in order to increase the strength and resilience of macroeconomic systems as well as enhancing global policy cooperation (ECB, 2011).

The COVID-19 pandemic was not a liquidity crisis but a cash-flow crisis. People were not spending money and economies were at risk of coming to a standstill, the central banks in developed countries printed bonds and issued guarantees. The pandemic highlighted the lack of resilience of societies and economies against external shocks and how important it is to enhance resilience to better absorb such shocks. Within the first two months of the pandemic, governments announced US\$10 trillion in economic response

(Cassim et al, 2020). By 2021 the global stimulus response was estimated as US\$33.3 trillion representing 38 per cent of global GDP (Kosh, Angus, & Sanger, 2021). The IMF announced US\$1 trillion (Georgieva, 2020) in lending capacity and a general allocation of SDRs equivalent to about US\$650 billion in 2021, though this mainly went to developed countries. The pace at which vaccines were created to control the spread of the virus was unprecedented. This again was self-interest in the guise of solidarity to respond to an urgent need although the support remained inequitable and left out many vulnerable countries and communities.

Another example of the national mobilisation of funds can be seen in the case of the July 2021 floods in Germany. The floods were catastrophic and unprecedented with a loss of life and entire villages were destroyed. Germany, as a developed country, rapidly mobilised funds to deal with the situation. Hundreds of troops from the German army were deployed to assist with clean-up operations. In an article released shortly after the floods, it was reported that only 46 per cent of households in Germany had insurance covering floods and rain – and insured losses were estimated to reach as much as €5 billion. The chief executive of the German Insurance Association (GIA), Jörg Asmussen, commented at the time that "The damage that has now occurred far exceeds the self-help capacities of the municipalities and districts. To alleviate the immediate need, the disbursement of emergency aid therefore makes sense." By August 2021, Germany had earmarked up to €30 billion to rebuild, with costs shared between the federal government and the states – with then Chancellor Angela Merkel calling it a "sign of national solidarity". Merkel and regional leaders also agreed to provide up to €88 million to improve the country's warning systems.

The final example is the war in Ukraine which has resulted in significant and urgent financing needs as loss of life, refugee flows and immense destruction of infrastructure and productive capacity is causing severe human suffering for the people of Ukraine. The Ukraine government has implemented a successful emergency policy response. At the same time, the IMF has approved US\$1.4 billion in emergency financing support; the EU has announced €450 million for the purchase and delivery of arms and other EU member states have provided various financial, humanitarian and military aid; the US has provided nearly €7.6 billion of aid and the Senate has recently voted to approve a further support package of US\$40 billion. Solidarity can justify a significant mobilisation of funds: when it suits a

2 SDRs is an international reserve asset created by IMF to supplement and offer liquidity to official reserves of member countries.

country's purpose, they will mobilise the finance needed to act.

However it must be acknowledged that in many of these responses an emergent theme was that of increasing inequality. For example, the Marshall Plan was to provide a veiled form of corporate welfare for American businesses through the practice of tied aid which would be contingent on transferred funds being used to purchase U.S. products. Such aid enriched many American businesses at the cost of some European industries (DiLorenzo, 1997). Similarly, the General Agreement on Tariffs and Trade (GATT) which sought to liberalise post-war trade, had as its primary beneficiary the US who grandfathered a lot of its own protective arrangements and was able to use the GATT to open markets to US exporters (Kim, 2010). Whilst a legacy of the

GFC was wealth increased inequality through asset price changes (Kuhn, Schularick, & Steins, 2018), with COVID-19 the deepening of inequality has become pervasive and perverse in its moral failing. More than two years into the pandemic, developed countries remain unable to agree on an intellectual property waiver for the vaccine, denying access to lifesaving COVID-19 vaccines and treatments to millions around the world (Lawder & Shalal, 2022). It is clear that lessons need to be learnt on how we have constructed and systematically reinforced a global economy wherein inequality reigns. On one hand developed countries make lofty commitments in one regime and especially in relation to furthering their own interest, but measures which can lead to real progress in developing countries are often blocked and fail to address structural challenges.

## Why a L&D Finance Facility is needed

### Five reasons to establish the L&D Finance Facility with urgency

Now is the time for increased global solidarity. Now is the time for courage to stand up for the greater good. We know that money at scale can be mobilised when the political will exists. Fundamentally L&D is a climate justice issue posing a severe threat to the human rights of affected people, communities and future generations. This moral argument is reason enough to act. The urgency to act can be further supported by the following five opportunities.

#### 1. The costs will add up

The [Global Assessment Report on Disaster Risk Reduction](#) (2022) states that the reality of disasters are not in line with the prevailing perceptions of risk which are "optimism, underestimation and invincibility". The report warns of a projected increase in disasters, as a whole, from 400 in 2015 to 560 per year by 2030. Whilst disasters are claiming fewer lives annually thanks to greater resilience and early warning systems, they are costing more and increasing poverty. The dollar value economic loss associated with geophysical, climate and weather-related disasters averaged approximately US\$170 billion per year between 2010 and 2020 with economic losses predominantly from climate and weather events. The report finds that low and lower middle-income countries lose on average 0.8–1 per cent of their national GDP to disasters per year, compared to 0.1–0.3 per cent in high and upper middle-income countries respectively. The

UNDRR estimates that every US\$1 invested in risk reduction and prevention can save up to US\$15 in post-disaster recovery. Every US\$1 invested in making infrastructure disaster-resilient saves US\$4 in reconstruction (UNDRR, 2021). Clearly adaptation finance needs to be rapidly scaled up to reduce L&D, however this will not fill the gap of finance to address L&D nor will insurance heavy solutions which are selective in coverage and place the burden, including financial burden, on those least responsible for the climate crisis. The Global Protection Shield is one such example, which is being developed as a key contribution by the G7 to "strengthen financial resilience" and as an offer to the L&D negotiations under the UNFCCC. However this proposal must be approached with caution as it does not adhere to the principles outlined later in this paper.

#### 2. Litigation will increasingly replace collaborative efforts

The delay in mitigation and adaptation action coupled with the evolution of legal mechanisms and attribution science of accountability, has seen climate change litigation more than double since 2015 and this is projected to grow (Setzer & Higham, 2021). For instance, Small Island States are engaging legal levers to hold historical polluters accountable by establishing a Commission of Small Island States on Climate Change and International Law thereby creating a body for the development and implementation of fair and just global environmental norms and practice (Singh, 2021). Additional legal and legislative actions are being taken or called

for at the local, national, and international levels. In a landmark inquiry in May 2022, the Commission on Human Rights of the Philippines (CHRP, 2022) issued the final report of its multi-year investigation into 47 investor-owned carbon-major corporations for human rights harms resulting from their actions triggering climate change. The report offers a legal basis for asserting that climate-destructive business activities by fossil fuel and cement companies contribute to the violation of human rights. Tools such as the 'Liability Roadmap' are also being developed to show how decision-makers and movements can use a variety of tools at the local, national, and global levels to hold polluters accountable.

Without adequate means to address L&D, liability will increase over time. However by adopting the norms of restorative justice, and reflecting this through the provision of finance to the scale necessary, developed countries can seek to build political reconciliation between developed and developing nations in a manner that can rebuild trust in bringing and remedying injustices through collaborative action formats (Thompson & Otto, 2015; Robinson & Carlosn, 2021).

### 3. It will affect the global economy and erode development gains

The L&D in one region will have carryover effects to others. As a country experiences disruptions with increasing severity, business activities will be impacted with the risk of stranded assets, and reduced economic output that may sometimes take years to rebuild. The global and regional customers, suppliers, and trading partners of disrupted businesses will also be impacted with spill-over effects causing shocks through the global economy (Mahalingam et al, 2018). Developed countries have long been investing in poverty and inequality reduction, food, energy and water security and building up health systems in the Global South through the mobilisation of their own domestic resources as well as of development assistance aid. Increasing L&D in these regions represents a fundamental threat to those hard-won development gains, and more broadly a delay in the achievement of the Sustainable Development Goals (SDGs) globally, through accelerating migration and displacement and negative impacts to livelihoods

in affected communities. Financial support for recovery and rehabilitation post climatic disasters and impacts will help save scarce resources of developing countries from increasingly being diverted towards humanitarian relief and recovery, which further delays development and raises debt burden. Without effectively addressing L&D, the global debt crisis will further gain devastating momentum.

### 4. Inaction will further erode trust

As we went into COP26, trust was already fragile. Plagued by vaccine inequity and growing concerns in regards to indebtedness of developing countries, a critical and consistent ask of the developing countries was to deliver the long awaited and largely symbolic USD\$100 billion in climate finance, which developed countries had pledged to deliver annually by 2020. This was not achieved. As already alluded to above, at COP26 the G77 & China, representing 85 per cent of the global population proposed a L&D Finance Facility to be operationalised at COP27. At the closing plenary, this major negotiating bloc made a significant compromise by instead accepting the decision to establish the Glasgow Dialogue. However, as AOSIS<sup>3</sup> and the G77 & China Chair made clear during the closing moments of COP26, the Glasgow Dialogue would need to deliver a decision to establish a L&D Finance Facility by COP27. If this is not achieved, and once again the voices of six billion people are sidelined – this would further erode trust in international cooperation and global solidarity which has wider implications on economies and security. Establishing a L&D Finance Facility which is properly capitalised would reinvigorate trust in international cooperation and global solidarity.

### 5. It will delay mitigation and adaptation actions

The ability for the rich and the poor to absorb shocks differs. As climate disasters increase, for developing countries their resources are being directed to humanitarian recovery efforts which means attention that needs to go to climate action will be delayed as they prioritise responding to economic and non-economic losses. For these countries, because they are dealing with increased climate induced disasters whilst tackling debt distress from compounding

3 12th Meeting of CMA 3 – Statement by Antigua and Barbuda on behalf of AOSIS: "AOSIS requests that the COP President firmly acknowledge that the G77 & China position on loss and damage that was tabled this session. The common position was and still is to establish the Glasgow Loss and Damage Facility under the financial mechanism and to lay out a process with workshops, technical meetings, technical papers, submissions from parties, and inclusion of other stakeholders as well as inputs to include the work of the WIM ExCom and its experts including on action and support. The aim was to consultatively define the facility and make a recommendation to COP27. What we have before us in 1/CMA3 is one standalone dialogue with no clear destination. AOSIS expresses our grievance with this text. Our group strongly considered requesting the deletion of paragraph 73 and 74 in 1/CMA3 because of this inadequacy. AOSIS in the interest of reaching a consensus will accept the text as gavelled as it stands with the clear understanding that this dialogue is a key step towards the creation of a loss and damage finance facility. We firmly believe that the dialogue should lead to a conclusion that the new loss and damage finance facility will be adopted at the next COP. This is the basis on which we understand the decision before us. We request assurances from the COP Presidency that this is the interpretation in our acceptance of this decision, including recording this interpretation in these proceedings."

exogenous shocks such as COVID-19, their capacity to invest and their prioritisation of action to adapt and mitigate is reduced. The delayed action on the full spectrum of climate action in developing countries will have impacts that transcend national boundaries. It is only through a fair and equitable global cooperative solution that transformational climate action at the scale needed can be achieved. Without fairness, countries will be incentivised to act against common interest (Athanasίου, Holz & Sivan, 2022). Global cooperative action based on needs and the principles of equity and fairness will be transformative across the full spectrum of climate action.

## The Scientific Consensus on the Scale of the Challenge

The IPCC's AR6 WGII (IPCC, 2022) on Impacts, Adaptation, and Vulnerability has shown that the magnitude of climate change impacts is far larger than previously estimated, with the United Nations Secretary-General António Guterres calling the findings of the report an "atlas of human suffering and a damning indictment of failed climate leadership" (UN News, 2022). We are in the era of L&D as hard limits to adaptation are reached and no further adaptation is possible, and the cost of inaction today increases the cost of action tomorrow. The report notes that soft limits to adaptation, those currently not available but that might become available in the future, are also being reached but these can be overcome by addressing "a range of constraints, primarily financial, governance, institutional and policy constraints." The report warns that even transiently overshooting 1.5°C will result in irreversible risks. As it stands, new evidence indicates that we are at risk of breaching 1.5°C in the next few years (WMO, 2022). Whilst adaptation measures need to be holistic, this is not currently the case. They are fragmented and unequally distributed between regions. With high confidence, the report states that a gap exists between current levels of adaptation and levels needed to respond to impacts and reduce climate risks, with a key barrier in closing the gap being adequate finance.

The IPCC AR6 WGI on the physical science (2021) states with certainty that "[h]uman-induced climate change is already affecting many weather and climate extremes in every region across the globe. Evidence of observed changes in extremes such as heatwaves, heavy precipitation, droughts, and tropical cyclones, and, in particular, their attribution to human influence, has strengthened". The look into the future by IPCC WGI is challenging and points to the strong need for mitigation, adaptation

and provisions for L&D. It notes "global surface temperature will continue to increase until at least mid-century under all emissions scenarios considered. And because of this high atmospheric carbon legacy, warming is likely to exceed the 1.5°C threshold in the 2030s/2040s even under low emission pathways before returning to below 1.5°C by the end of the century. WGII goes even further to systematically show that L&D will be felt globally regardless of a country's development status. However, the vulnerability of people and ecosystems will significantly differ between and within regions and is exacerbated by intersecting patterns of socio-economic development, unsustainable ocean and land use, inequity, marginalisation, and failures in governance.

Furthermore in the IPCC's Special Report on Climate Change and Land it is stated with high confidence that "even with adequate implementation of measures to avoid, reduce and reverse land degradation, there will be residual degradation in some situations ... Exceeding the limits of adaptation will trigger escalating losses or result in undesirable changes, such as forced migration, conflicts, or poverty." (Shukla et al, 2019).

WGII provides a strong evidence base for L&D finance systematically showing that climate change impacts will worsen with every incremental increase in temperature across geographies. It shows that adaptation can mitigate some risks but not all, and in fact the potential for residual risk and maladaptive outcomes from poorly enacted adaptation measures is significant. It also shows that adaptation is significantly underfunded whilst the AR6 Mitigation Report clearly and unequivocally shows that the same is true for mitigation finance. For a 50 per cent chance of staying within the limits agreed at COP26 of 1.5°C climate finance cannot be diverted from mitigation or adaptation. Finance for L&D is the third pillar of climate finance. It is distinct. It is not humanitarian aid, nor development finance. The lack of L&D finance to date is the shameful result of failed action and entrenched moral and market failures.

The principles of justice and equity featured prominently and for the first time in the IPCC Impacts Report. There is a growing evidence base that adaptation and risk reduction do not occur in a vacuum. They must also address underlying human vulnerability, existing adaptation gaps and ultimately the very different starting points that societies and groups of people have in building climate change resilience. The framing of post-colonialism, equity and justice offers insights on compensatory, distributive and procedural equity considerations for policy and practice. As science has progressed we have more robust tools, such as detection and attribution

assessments, which can inform risk appraisals and provide evidence for litigation in addressing L&D. Not only is it a moral imperative for States with historical responsibility, it is also in their interest to address L&D to avoid litigation risks<sup>4</sup> which can be reputationally damaging.

## The Human Rights Case

All Parties to the PA are Parties to more than one core human rights treaty, and therefore have international legal obligations to respect, fulfil, and protect the rights of people. This includes addressing climate change and L&D more specifically, as recognized by several human rights institutions and mechanisms. Already in 2018, the Committee on Economic, Social and Cultural Rights (CESCR) stated in a General Comment that “a failure to prevent foreseeable human rights harm caused by climate change, or a failure to mobilise the maximum available resources in an effort to do so” could constitute a breach of the obligations under the Covenant (CESCR, 2018). In a joint statement in 2019, five Human Rights Treaty Bodies “urge[d] all States to take into consideration their human rights obligations as they review their climate commitments” and more specifically stated that “States must co-operate in good faith in the establishment of global responses addressing climate-related L&D suffered by the most vulnerable countries” (CEDAW, CESCR, CMW, CRC and CRPD, 2019).

The report of the UN Special Rapporteur on Solidarity (HRC, 2020) identifies several key human rights-based solidarity gaps, such as: the need for more radical transformation of fossil fuel economies; reforms of corporate laws and practices; greater adequacy and equity of climate financing and redistribution of technology; and access to justice for affected populations, including L&D due to the climate crisis and states that “rectification of loss and damage from climate change’ is a legal and moral response in addressing inequality arising from climate change, even if discussion of L&D ‘still faces resistance from certain States, contrary to human rights-based international solidarity”.

More recently, in 2021, the Human Rights Council, via Resolution 48/13, recognised the right to a healthy environment as a human right and also established a mandate for a Special Rapporteur on Human Rights and Climate Change (via Resolution 48/14). These Resolutions were a watershed moment in the human rights and climate change movements, recognising environmental degradation and climate change as interconnected human rights crises. The

human rights provision in the preambular text of the Paris Agreement calls upon states to “respect, promote and consider their respective obligations on human rights”. As negative human rights impacts of climate change are pervasive in the examination of L&D (see for example: La Ruta Del Clima, 2018) a rights-based lens offers substantive mechanisms through which to hold states accountable to their obligation to provide effective mechanisms to prevent and redress human rights harms resulting from the adverse effects of climate change. The Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, and other human rights instruments require States to guarantee access to justice including effective remedies for human rights violations. In an open letter in the lead up to COP25, the UN High Commissioner on Human Rights Michelle Bachelet recognized that “under human rights law, those who suffer human rights harms because of climate change are entitled to protection and effective remedy” and encouraged member states to “continue strengthening your work to address human rights harms caused by climate change”, stating that an equitable L&D regime will ensure the 2030 Agenda to “leave no one behind” (OHCHR, 2019). This is in circumstances where L&D has “already inflicted human rights harms on millions of people” (Office of the High Commissioner for Human Rights, 2016).

International human rights obligations therefore call for adequate resources to address L&D and effective redress mechanisms, and for a centralisation of human rights in L&D discussions and institutions including the GD, the LDFF, the Global Stocktake and the Santiago Network under the UNFCCC and legislative measures at the domestic level: the absence of which presents a barrier to access to justice (Wewerinke-Singh 2019).

## The Funding Gap and potential sources of finance

Finance to address L&D is in principle a simple concept. It is international cooperation which should be based on solidarity and the polluter pays principle especially in addressing irreversible and permanent losses. However it is often wrongly conflated with adaptation finance which contributes to minimising L&D, and to some extent mitigation finance which can avert L&D. The importance of averting, minimising and addressing L&D is recognised in the Paris Agreement. Avert refers to measures to avoid L&D (which includes mitigation), whilst to minimise

<sup>4</sup> public international law offers the right to claim moral damages through Article 31(2) of the Articles on Responsibility of States for Internationally Wrongful Acts (International Law Commission, 2001)

refers to reducing L&D before it occurs (which includes adaptation). Addressing L&D refers to measures that respond to L&D that is not avoided or reduced through mitigation, adaptation and other measures such as risk reduction (Heinrich Böll Stiftung et al., 2021). L&D finance cannot be characterised as Disaster Risk Reduction (DRR) and risk layering instruments on its own, nor can

it be covered entirely by humanitarian aid. DRR is a *buffer* to shocks. Humanitarian aid is an immediate response to a disaster. It is a *reaction* triggered by a shock and is short lived addressing a situational specific need. L&D is cooperation based on solidarity and meeting the needs of communities to current and future impacts (refer to Figure 1).

**Figure 1: Loss & Damage Finance – the third pillar of climate finance**



From existing analysis of climate finance mechanisms (see for example: Richards & Schalteck, 2017; Anisimov & Vallejo, 2019) a picture emerges that shows a clearly identifiable gap in L&D finance. Mechanisms, such as insurance, are

targeted towards averting and minimising L&D and are unable to address the complex economic and non-economic risk landscapes of addressing L&D impacts (see Figure 2). However they can be complementary within a toolkit of instruments.

**Figure 2: Illustrating the funding gap for support to address L&D**

	Averting loss and damage	Minimising loss and damage	Addressing loss and damage		
Impacts			Reversible → Irreversible		
			<ul style="list-style-type: none"> <li>• Super storms</li> <li>• Heatwaves</li> <li>• Forest fires</li> <li>• Floods</li> <li>• Droughts</li> </ul>	<ul style="list-style-type: none"> <li>• Sea level rise</li> <li>• Desertification</li> <li>• Glacial melt</li> <li>• Erosion</li> </ul>	<ul style="list-style-type: none"> <li>• Loss of biodiversity (including extinction of species)</li> </ul>
Mitigate Adapt Address	Climate change mitigation  Reducing greenhouse gas emissions	Climate change adaptation  Risk reduction: <ul style="list-style-type: none"> <li>• early warning</li> <li>• emergency preparedness</li> <li>• building dykes</li> <li>• retrofitting infrastructure</li> </ul>	Recoverable → Permanent and irrecoverable losses		
			Economic losses → Non-economic losses		
			Humanitarian assistance: <ul style="list-style-type: none"> <li>• relief</li> <li>• recovery</li> <li>• reconstruction</li> <li>• rehabilitation</li> <li>• social protection</li> <li>• resilient rebuilding</li> </ul>		<ul style="list-style-type: none"> <li>• Loss of culture</li> <li>• Loss of heritage</li> </ul>
Displacement			Temporary displacement	Permanent relocation	Loss of territory
Funding	Dedicated but insufficient		Limited → No funding		

Source: Heinrich Böll Stiftung et al., 2021

## Volume of finance needed

The assessment of the scale of finance needed for L&D differs according to the choice of assessment model and its parameters; the availability of data and sensitivity of estimation. Current models are unable to capture the breadth and depth of non-economic losses and therefore are generally considered to be underestimates of the costs of L&D and the scale of finance needed.

### Cost of L&D

- The negative impact on GDP for Parties in the Least Developed Countries (LDCs), and AOSIS negotiating blocs at the UNFCCC, as well as countries that are members of the Climate Vulnerable Forum (CVF) under current climate policies is expected to on average reduce GDP by 19.6 per cent by 2050 and by 63.9 per cent by 2100.<sup>5</sup> If governments limit global heating to 1.5°C then the reduction in GDP is less but remains significant at an estimated 13.1 per cent by 2050 and 33.1 per cent by 2100 (Andrijevic & Ware, 2021).
- The World Meteorological Organization's (WMO, 2021) atlas of mortality and economic losses from weather, climate and water extremes for the period 1970 to 2019 can provide a picture of what the next ten years can bring. The decadal breakdown of economic losses due to weather, climate and water extremes shows an eightfold increase between the 1970s and 2019. The table below shows the costs.

**Table 1: Decadal breakdown of economic losses due to weather, climate and water extremes**

Decade	Cost in USD billion	Percent increase from 1970s
1970s	175.4	n/a
1980s	289.3	65
1990s	852.3	386
2000s	942	437
2010s	1381	687

Source: WMO, 2021

### L&D Finance Gap

Estimating the L&D finance gap, as with adaptation,<sup>6</sup> is challenging conceptually and

quantitatively however the assessments we do have show the huge scale of the finance challenge ahead:

- Integrated assessment modelling has elicited estimates for residual damages in the MENA, SSA, SASIA, China, EASIA and LACA regions across low and high damages ranges. These estimates, which do not include non-economic losses, are as follows:
  - 2020: US\$116–435 billion
  - 2030: US\$290–580 billion
  - 2040: US\$551–1,016 billion
  - 2050: US\$1,132–1,741 billion (Markandya, & González-Eguino, 2019)
- An Equity and Fair Shares framework provides a lens through which to understand equity in international cooperation. This framing is useful in that it can dig deeper into how we think about inequality within and between countries by asking what is our shared and fair responsibility. Some groups have been utilising the approach of the Climate Equity Reference Project (CERP) to assess the financial fair share of L&D. Two are as follows:
  - The fair share assessment for the US for L&D finance is estimated to be US\$267 billion between 2021–2030 (USCAN, 2021);
  - The fair shares assessment for France for L&D finance is estimated to be €36.7 billion between 2021–2030 (Holz, Athanasiou, Kartha, 2022)

### Illustrating the gap – case study of Dominica

For developing countries, historic responsibility and compensatory measures have been integral considerations when framing the finance needs around L&D whilst the competing framing espoused by developed countries revolves around adaptation, risk reduction, and insurance specifically (Kreienkamp & Vanhala, 2017). As a risk-based instrument, insurance has become the dominant financial instrument for L&D being offered by developed countries. Insurance can finance the recovery from extreme and non-gradual climate events but it would not be suited to slow-onset events nor small-scale and cumulative degradation in assets (Linnerooth-Bayer et al, 2019). Nor do insurance measures adequately align with the principles of Common but Differentiated Responsibilities and Respective Capabilities (CBDR-RC), and appropriately consider economic inequality, gender or non-economic losses. Non-economic losses, which by

<sup>5</sup> Compared to baseline scenarios available from the socio-economic scenario framework's Shared Socioeconomic Pathways (SSPs)

<sup>6</sup> The 2021 Adaptation Gap Report (UNEP, 2021) found that the adaptation finance gap was not only larger than previously thought but also widening with estimated adaptation costs reaching US\$280–500 billion per year by 2050 for developing countries alone.

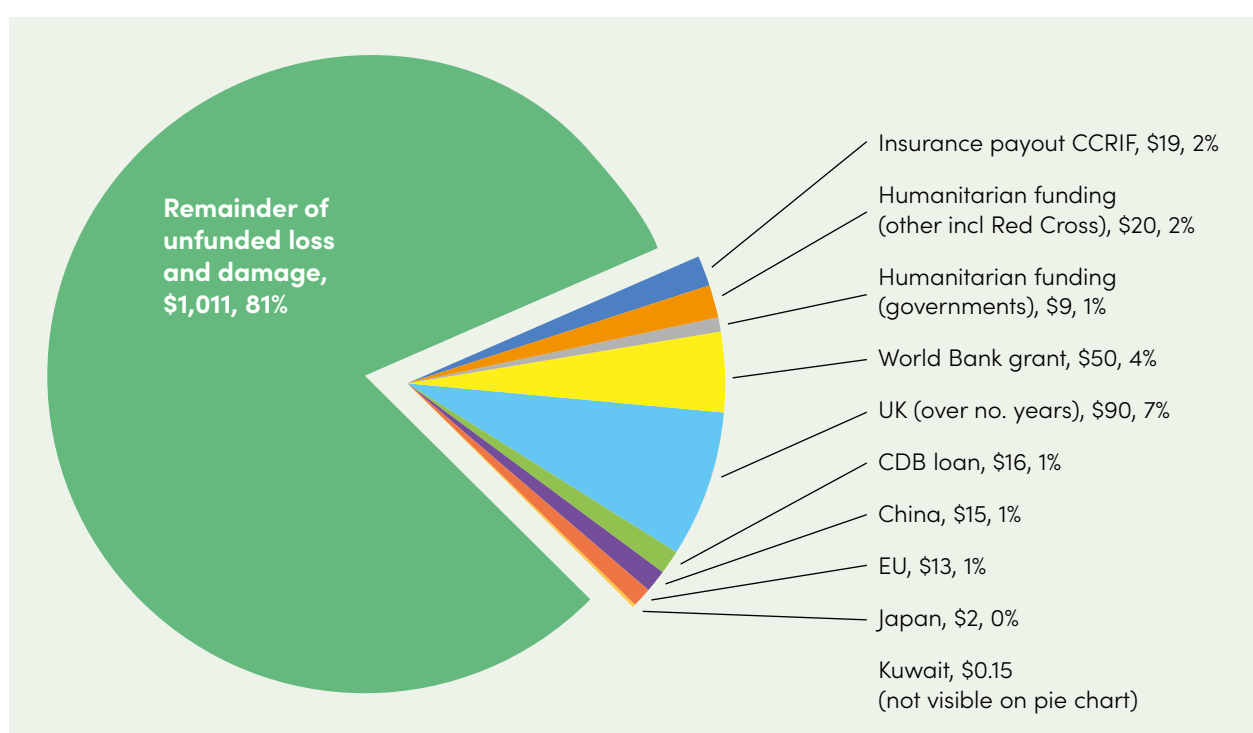
their nature are inherently difficult to quantify, may be more substantial than economic losses in many developing countries, and in certain situations may be irreversible, such as the loss of cultural objects or land (Fankhauser, Dietz & Gradwell, 2014).

Ultimately, insurance will struggle to reach the most vulnerable (Nordlander, Pill & Romera, 2020). Regional insurance products designed to address L&D have as yet failed to deliver resources at scale (see for example: Ibid; Oxford Policy Management, 2021; Ramachandran & Masood, 2019; Broberg, 2019).

A profound example is that of Hurricane Maria in 2017 which caused an estimated US\$1.37 billion

(or 226 per cent of Dominica's 2016 GDP) in L&D. The event triggered Dominica's parametric insurance coverage under the Caribbean Catastrophe Risk Insurance Facility (CCRIF) to the sum of US\$19.3 million. This represents just 1.5 per cent of the costs incurred. To make matters worse, grant based finance made up only a portion of the international response, increasing Dominica's debt burden (Richards & Schalatek, 2018). As we have seen with the mobilisation of funds for the GFC and COVID-19, one route that could break the climate-debt nexus is via a new classification of vulnerability in the allocation of Special Drawing Rights (SDRs) and the recapitalisation of development banks through unused SDRs<sup>7</sup> (Persaud, 2021).

**Figure 3: Dominica L&D from Hurricane Maria (US\$ millions)**



Source: Richards & Schalatek, 2018

In the 2018 Suva Expert Dialogue the government of Vanuatu argued that "Loss and Damage finance is much more than insurance mechanisms" which are viewed as uses of finance but not the sustainable source of finance that has been called for since 1991 (Republic of Vanuatu, 2018). One analysis of the Suva Expert Dialogue concluded that insurance could be an acceptable form of compensation if two conditions are met: funded by premium support from developed countries; and it is new and additional to

existing disaster risk insurance (Horton, Lefale & Keith, 2021).

### The promise and limits of risk pooling mechanisms

Risk pooling is a dominant method in insurance for L&D to transfer the risk of some negative future unforeseen, and infrequent occurrence with appreciable consequence to a joint pool (Broberg, 2020). To illustrate the promise and

<sup>7</sup> It is important to note that there is a distinction between SDRs countries receive directly from the IMF and re-allocated SDRs: the former can be used as a debt-free form of liquidity, if this can be agreed between the central bank and finance ministry in the recipient country. Reallocated SDRs usually are on-lent to a country or fund through heavily subsidised loans that can be interest free or be attached to sovereign debt security instruments.

limits of risk pooling mechanisms the example of regional risk pooling through the **Africa Risk Capacity (ARC)** suite of products is given. ARCs Extreme Climate Facility sits within a suite of insurance focused products offered by ARC as a mitigation mechanism of the continent's high vulnerability to climate change impacts and especially the vulnerability of key sectors such as agriculture which employs about two thirds of Africa's workforce.

ARC uses parametric insurance which is paid upon modelled rather than actual losses, enabling quick pay out of claims (within 10 business days). Insurance however only works as an instrument after the fact. Adaptation is a risk mitigator. To better respond to the needs and expectations of the continent, ARC developed the Extreme Climate Facility which consists of a green bond to finance adaptation measures coupled with a catastrophe bond to provide insurance for extreme events.

ARC replica is a programme to allow humanitarian actors to purchase insurance from ARC which allows the replication of coverage purchased by a government in terms of the features of the insurance policy. This allows scaling up of response by modelling it back to the severity of the natural disaster.

The value proposition of ARC and other parametric models is the delivery of funds quickly. These risk mitigation methods are important and have their place when solidarity funded, country owned and do not in any way increase the debt burden of the already vulnerable. However well conceived ARC is, an independent evaluation of its performance has found it lacking in delivering impactful insurance to those it serves (**Oxford Policy Management, 2021**). An example of the ARC model's lack of impact can be found in the case study of Malawi. In 2015 the government purchased a US\$ 5 million ARC drought insurance policy. The country went into a state of emergency in April 2016 with significant crop failure caused by an El Nino event supercharged by climate change. The response plan was estimated to cost US\$395 million, but ARCs model failed to trigger a payout. ARC eventually reversed its decision and a payout of just US\$ 8 million which was considered too little, too late (Reeves, 2018).

This is not unique to ARC, other regional parametric insurance models have not been able to scale to success with limitations including unaffordable premiums (**Ramachandran & Masood, 2021**). In addition a fundamental problem of such insurance models is that they do not reach the uninsured, or informal sectors. This is a pervasive challenge of insurance. **The Global Assessment Report on Disaster Risk Reduction (2022)** shows that less than half of disaster-related losses at a global level in 2020

were insured (approximately US\$89 billion of an estimated US\$202 billion) with the significant majority of coverage in richer economies.

## Where might the money come from?

It is often mentioned that money cannot be mobilised at the scale required to deal with impacts such as in Dominica whereas several studies (**Heinrich Böll Stiftung, 2021; UNFCCC, 2019; Shawoo et al 2021**) have shown how money can be mobilised from various sources to address L&D. These include:

- **Special Drawing Rights (SDRs):** The review of vulnerability and the reallocation of SDRs from developed to developing countries to reduce debt burden.
- **Subsidies:** A 4 per cent annual reduction in fossil fuel subsidies by G20 countries could raise US\$245 billion to support efforts to address L&D between now and 2030.
- **Financial Transaction Tax:** Taxation of financial trades through levying a small charge on transactions of equities, bonds and derivatives offers the prospect of a sizable new income stream for L&D.
- **Climate Damages Tax:** This tax on polluters would see a charge for each tonne of coal, barrel of oil or cubic litre of gas extracted. It has the potential to raise US\$210 billion increasing to US\$300 billion a year as the tax rate increases to incentivise phaseout of fossil fuels.
- **Air Passenger Levy:** A tax on international airfares proposed by LDCs in 2008 was estimated to have the potential to raise US\$8-10 billion a year.
- **Debt Cancellation and Debt Relief:** There should be comprehensive and complete debt cancellation, as CSOs have been demanding especially for the countries most vulnerable to climate impacts. Without the creation of an independent debt workout mechanism within the UN, many countries will remain dependent on commodity exports in order to service loans. Debt cancellation and relief is a way to increase the fiscal space of developing and vulnerable countries for climate actions and especially for addressing L&D, including strengthening social support structures. UN Conference on Trade and Development estimated that US\$1 trillion could be made available to developing countries if debt relief was offered as a response to the COVID-19 pandemic. In the absence of debt cancellation, well designed debt swaps and suspension also have some potential to reduce the burden on vulnerable countries however must be approached with caution (**Fresnillo, 2020**).

We can see that the need for L&D finance is significant. Currently no mechanism *addresses* L&D and the costs are mounting with every increase in temperature. However the options are there and they need not be overly burdensome on present and future discount rates as long as we move fast and agree on the sources of finance to support the urgently growing need.

### L&D in Nationally Determined Contributions

Putting other arguments aside, there is a direct need to incorporate L&D finance into the UNFCCC/PA's financial mechanism – namely the implementation of L&D components of Nationally Determined Contributions (NDCs). Leading into COP26, 52 out of 164 NDCs had explicitly mentioned L&D. Whilst the majority of these refer

to physical and economic L&D, non-economic losses are growing in enhanced submissions and increasing specificity in relation to national initiatives for L&D (Ryder & Calliari, 2021). Indeed, we know that as enhanced NDCs continue to be developed this number will increase with some NDCs in development being specifically framed around L&D.

It is in fact vulnerable developing countries, to whom current risk transfer mechanisms are directed towards, indicating in their NDCs that such instruments may lead to a rise in costs beyond the capacity of national budgets (Saint Lucia, 2021). Calls for international financial support on L&D are also put forward in the NDCs of Nauru, Venezuela, Cabo Verde, Dominican Republic, Myanmar, Dominica, Yemen, and Vanuatu.

## How the Governing Arrangements can be designed

### Guiding principles

The design of the LDFF – its mandate/functions, its funding sources, administration and governance structure, and disbursement modalities – must be guided by a set of principles. These principles can derive from various sources – the (UNFCCC) Convention, the PA, and the Rio Declaration – but must be interpreted and adapted to address the realities of L&D. Importantly, the operationalisation of these principles at global, national and subnational levels should be grounded in principles of climate justice and be guided by a human rights approach (Sultana, 2022a). The design of the LDFF should be cognizant of not replicating the structural challenges embedded within the wider climate finance architecture, such as: finance often not reaching vulnerable and marginalised communities in need (Pelling and Garschagen 2019; Islam 2022); stringent accreditation requirements and long lag times in mobilising finance (Fonta et al 2018); and fragmentation and duplication with existing sources of finance (Lundsgaarde et al 2018). Instead, mobilisation of L&D finance should follow a decolonised approach (Sultana 2022b; Roberts et al. 2021) and be dictated by, and controlled by the needs of recipients, particularly local communities being affected by losses and damages, rather than by donor interests or political relations (Weiler et al. 2018). As such, six overarching principles are proposed to guide the

mobilisation of L&D finance, in line with a climate justice-oriented approach.

**Firstly**, mobilisation of finance should be led by developed countries acting morally in response to loss and grief and with a view to build trust in climate cooperation which is threatened by mistrust, defiance, and unbalanced power dynamics. It should be guided by principles of **international cooperation and solidarity, historical responsibility and the polluter pays principle**. The need for L&D finance in most affected areas is urgent. Not only would a cumbersome approach delay the access to adequate levels of finance for most affected populations, but it could also create political resistance from developed countries under Article 8 of the PA and stall the establishment of the LDFF altogether (Shawoo et al., 2021; Adelman 2016). Instead, replenishment should be mobilised – at least for now – on the basis of international cooperation and **solidarity** and guided by the principle of **CBRD-RC** under the Convention and its PA. CBRD-RC under the Convention and its PA (especially as reflected in the commitments under Art. 4 of the UNFCCC and the corresponding provisions under the PA) reflect the **historical responsibility and polluter pays principle** that developed countries have the responsibility to provide such finance.

**Secondly**, L&D Finance provided under the LDFF needs to be **new and additional**, going beyond

existing commitments to Official Development Assistance and to other types of climate finance (mitigation and adaptation). The current tracking and labelling limitations under the PA Art. 9 reporting (which does not recognise L&D finance) must be addressed to allow for future L&D finance to be correctly classified, monitored and transparently accounted for. The modalities of the LDFF should be designed to ensure that funds for L&D can be traced and distinguished, to ensure the legitimacy of additionality claims.

**Thirdly**, L&D finance should be **needs-based**, with the amount of finance provided being in line with the scale of needs on the ground. This is in contrast to the existing US\$100 billion annual climate finance target, which was an arbitrary, politically set number not based on any formal assessment of climate finance needs. Evidence indicates that annual L&D finance needs in developing countries will reach US\$290–580 billion by 2030 (Markandya and González-Eguino 2019; Richards and Schalatek 2017). As such, the sources of funding must be:

- **adequate** (correspond to L&D finance needs estimates);
- **predictable** (come from reliable sources and with a regularity that allows for planning and for long-term restorative action);
- **precautionary** (anticipate various levels of L&D at and above the 1.5- and 2-degrees thresholds without funding activities that would impede the mitigation, adaptation and recovery processes of other communities) (Schalatek & Bird, 2022).

In addition, in the context of the new quantitative climate finance goal must include L&D finance as a separate and additional sub goal to be determined through the work program<sup>8</sup>.

**Fourthly**, the global mobilisation and utilisation of L&D finance should be **locally driven**, with **subsidiarity** (decision-making and implementation on the most local level possible) at the core. The history of L&D in the UNFCCC and its physical materialisation teach us that it is first and foremost an issue led by communities and population groups most vulnerable to and disproportionately affected by climate change at the local/sub-national level – in particular from civil society and local governments from developing countries, including Small Island Developing States (SIDs) and LDCs, as well as women and other marginalised gender groups, the disabled and indigenous communities. As such, **local-level ownership** and **gender-responsiveness** must be guiding principles in the disbursement of funds by the LDFF, by

making it a priority that the funding provided supports the needs and requirements of local beneficiaries in a people-centred, human-rights-based way that assists their rapid and sustainable recovery by strengthening their power of agency. Scholars have criticised climate finance for historically concentrating decision-making authority among elites at global and national levels, pointing to vulnerable countries' lack of representation in global forums and for a lack of input from impacted communities in shaping projects (Sovacool 2018; Taylor 2014). As such, local-level ownership and a more people-centred and gender-responsive implementation of disbursed funding can partly be safeguarded through a more gender-balanced and **equitable representation** ensuring that the groups most affected by climate impacts have agency over how the LDFF is administered and a decision-making role in its board, in addition to a fair representation of Parties groupings (which is already operational under other UNFCCC funds). These principles are of course complemented with more traditional climate finance principles of **transparency and accountability** which sound obvious but are not always applied. An inclusive and balanced representation of non-party actors is especially important to ensure that the disbursement of the funding respects the principles of local ownership and gender-responsiveness. This has to complement the climate finance principle of **country ownership**, upheld by various UNFCCC funds, which has not guaranteed the respect of sub-national and local priorities within recipient countries for adaptation (Omokuti, 2019).

**Fifthly**, the majority of L&D finance provided should be **public and grant-based**, rather than provided as loans or in the form of other financial instruments (such as equities or guarantees). Loan-based finance, which currently makes up the majority of climate finance (OECD 2020), has historically increased the debt burdens of recipient countries, threatening to reverse their development gains by reducing their fiscal space, thereby trapping them in a cycle of perpetuating vulnerability to climate impacts. Given that finance for L&D is not a favour to developing countries but rather restitution for developed countries' historical emissions, grant-based finance would ensure alignment with climate justice (Carty et al. 2020; Roberts et al. 2021).

**Finally**, finance for L&D should be **balanced and comprehensive**. In addition to providing support for rapid-onset events in the aftermath of climate disasters, finance should also be available for continued recovery, rehabilitation and alternative livelihoods provision for communities facing

8 Referring to the *ad hoc* work program on the new collective quantified goal on climate finance

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 L&D finance provision, particularly rapid-onset events. Alternative models of finance dissemination should be developed that ensure finance reaches affected communities with urgency and purpose, with its utilisation being locally-driven, people-centred and gender-responsive.

## Functions

**The LDFF should make a significant and ambitious contribution to combat climate change by focusing exclusively on addressing L&D, becoming the third financing pillar of the Financial Mechanism of the UNFCCC which also serves the PA. As an operating entity of the Financial Mechanism it should be accountable to the COP and CMA as well as the WIM and function under their guidance to support projects, programmes, policies, planning, coordination and other activities to address L&D in developing countries.**

**As both a coordination and financing mechanism, it should be the primary vehicle to coordinate, mobilise and channel new, additional, adequate and predictable financial resources to address L&D for developing countries and affected communities and people driven by country- and in particular local-level ownership.** It should be capable of receiving and administering financial inputs on an ongoing basis from a variety of public, private, as well as innovative/alternative sources, which could include share of proceeds and revenue from targeted taxes and levies applying the polluter pays principle, as well as philanthropic contributions. Developed country Parties must be the primary source in providing core public finance, largely as grants, commensurate with their historic responsibility and obligations under Art. 3.1 of the Convention. Other Parties may also voluntarily contribute.

Some of the key functions of the LDFF should be:

- Contributing to the effective implementation of the functions of the Warsaw International Mechanism, in line with the provisions in paragraph 7 of decision 2/CP.19 and Article 8 of the Paris Agreement, by providing new financial support to developing countries to address L&D

- Tracking, accounting for and providing oversight over funding for addressing L&D from within existing funds under the UNFCCC Financial Mechanism and the Financial Mechanism of the Paris Agreement, as well as for funding mobilised and disbursed outside of the UNFCCC framework, including by determining its additionality to financing provided for averting and minimising L&D
- Identifying the funding gaps based on the needs of developing countries (such as through iterative comprehensive Loss and Damage Needs Assessments (LDNAs)) for various aspects of addressing L&D
- Catalysing and coordinating the financial support to developing countries from the relevant bodies including the WIM ExCom and existing funds under the UNFCCC Financial Mechanism and the Financial Mechanism of the Paris Agreement, as well as for funding mobilised and disbursed outside of the UNFCCC Framework
- Establishing and managing a fund to fill the funding gaps for activities addressing L&D, focusing on scale and on areas not covered by other existing institutions inside and outside of the UNFCCC framework, inter alia:
  - Pilot innovative access approaches for concrete micro- and small-scale activities to address L&D (for upscaling and replication by other funds)
  - Build on and utilise existing South-South capacity building and dialogue network among national implementing entities to share experience on addressing L&D (in drawing on and expanding on an existing collaboration between the Adaptation Fund (AF) and the GCF)
- Mobilising the financial resources and disbursing them to developing countries to address economic and non-economic L&D.
- Facilitating the use of new financial instruments and financing approaches that are based on the aforementioned guiding principles to address L&D
- Ensuring that finance addresses the needs and priorities of and reaches the most vulnerable and marginalised communities through appropriate monitoring and evaluation processes that enhance local ownership and decision-making

Some of the existing bodies under the UNFCCC financial mechanisms can complement the LDFF by building off their existing roles and functions (Table 2).

**Table 2: Situating the L&D Finance and Ensuring its Complementarity and Coherence within the UNFCCC**

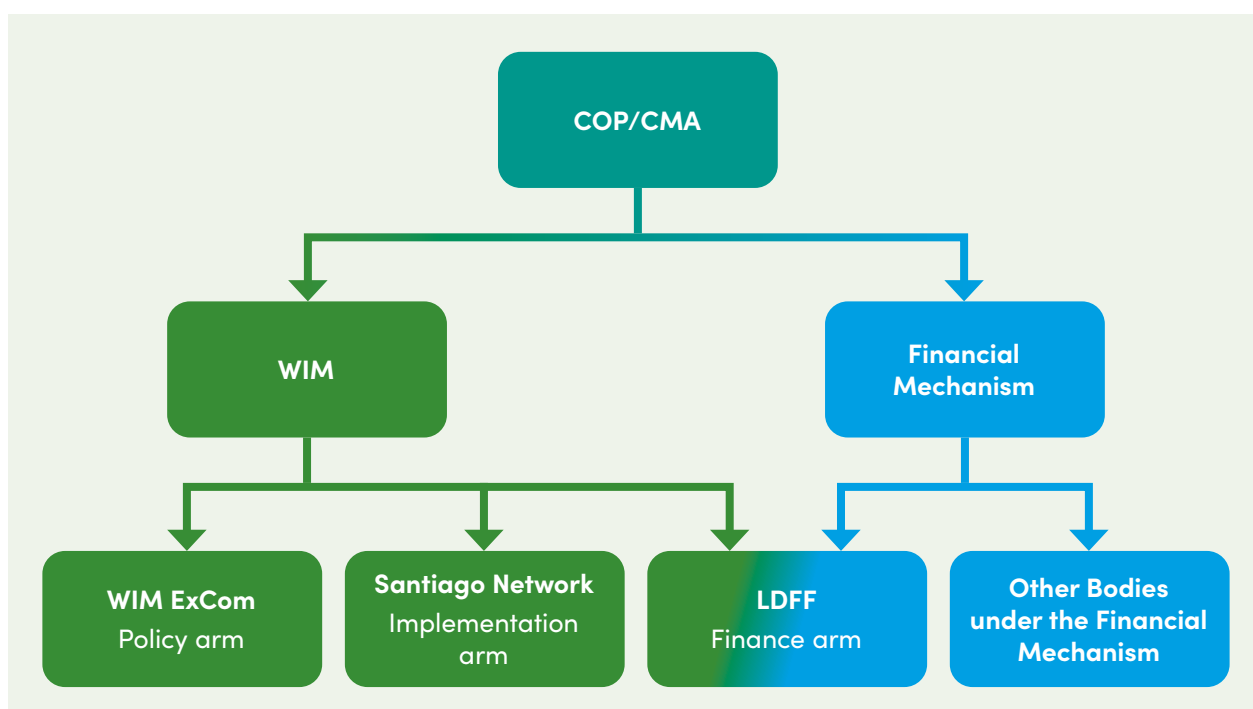
Bodies under Financial Mechanism	Potential Role and functions
Green Climate Fund (GCF)	<ul style="list-style-type: none"> <li>Support for distinct activities for addressing non-economic and economic L&amp;D (for example with a focus on utilising a variety of financial instruments and risk approaches, particular for engaging the private sector)</li> <li>Support for planned relocation, wherever inevitable</li> <li>Addressing impacts of slow onset events, including through resilient infrastructure measures</li> <li>Utilise existing readiness and preparatory support infrastructure for comprehensive L&amp;D planning (drawing on NAP experience)</li> </ul>
Adaptation Fund (AF)	<ul style="list-style-type: none"> <li>Document concrete examples of already experienced limits to adaptation and research on adaptation limits at various temperature levels</li> <li>Document examples of maladaptation</li> </ul>
Global Environment Facility (GEF)	<ul style="list-style-type: none"> <li>Support for distinct activities for addressing economic and non-economic L&amp;D related to desertification and biodiversity (by drawing on GEF technical experience and building synergies with GEF supported activities under the CBD and UNCCD)</li> <li>Utilise the infrastructure and country-level distribution mechanisms of the UNDP/GEF Small Grants Programme as one way for directly supporting community-based and civil society organisations to implement concrete locally-owned measures to address L&amp;D particularly related to desertification and biodiversity</li> </ul>

### Santiago Network and the LDFF

While further detailing the functions of the LDFF consideration also needs to be given to how the LDFF fits in the overall institutional architecture for L&D under the Convention. As displayed in the below diagram, the WIM is the core L&D mechanism. Under the WIM there is a policy arm, the ExCom, an implementation arm, the Santiago

Network, and the LDFF will be the finance arm. Many Parties have been careful to note that it remains open for additional arms to be established under the WIM as required as Parties continue to identify the arrangements necessary to fulfil the functions of the WIM and address L&D in frontline communities. Figure 4 sets out this structure.

**Figure 4: Institutional Architecture**



Consideration should be given to the overarching objective of the WIM to promote the implementation of approaches to address L&D pursuant to decisions 3/CP.18 and 2/CP.19 in a comprehensive, integrated and coherent manner by inter alia:

- enhancing knowledge and understanding;
- strengthening dialogue, coordination, coherence and synergies among relevant stakeholders;
- enhancing action and support including finance, technology and capacity building.

Parties should also consider that the premise of establishing the Santiago Network was to fill the gap under the WIM of inaction on its third function and the mobilisation of resources via the LDFF will be critical to filling this gap.

It may be the case that Parties agree to include as its first function that it will contribute to the effective implementation of the functions of the WIM. That function could then be followed by more specific functions that are tailored to enabling the LDFF to carry out its mandate. While the functions of the Santiago Network are agreed, the negotiations to operationalise the Santiago Network remain ongoing including the interpretation and scope of each of its functions.

What must be understood is how any financial arrangements agreed in relation to the Santiago Network would ‘fit’ into the arrangements for the LDFF. At COP26, per 1/CMA.3 paragraphs 67-70 Parties decided that the Santiago Network will be provided with funds in support of its functions (67); that the modalities for the management of those funds and terms for their disbursement be determined by the process of negotiating the institutional arrangements of the Santiago Network in 2022 (68); that the body providing secretarial services to facilitate work under the Santiago Network will administer the funds (69); and developed country Parties were urged to provide funds for *both* the operation of the Santiago Network and the provision of technical assistance (70). The decision about where the finance for the Santiago Network is housed is particularly significant given that the agreement on finance for the functioning of the Santiago Network was treated by developing countries at COP26 as a separate element to the creation of a LDFF. Finance for the Santiago Network was presented as sufficient finance to enable it to achieve its objective and implement its activities effectively, whilst the LDFF was a much broader financing stream that would be part of the wider climate finance discussions to ensure that developing country Parties are able to adequately address L&D (TWN 2021).

The LDFF should be scalable and flexible to grow with the anticipated medium- to long-term financing needs to address L&D and to provide enhanced access to financing through a variety of modalities and windows. It should be a learning institution guided by experiences and lessons learned from the operating entities of the UNFCCC and PA financial mechanisms, as well as from good practice experiences of funds and financing structures outside of the UNFCCC as well as taking into account the growing and changing needs and priorities of recipient countries and affected communities and population groups.

## Operational modalities

While detailing the core operational modalities for an LDFF should be the task of a deliberate design process in which developing country recipients as well as sub-national/local level stakeholders, including affected communities, are equitably represented (building on the experience of the [GCF-design process through a Transitional Committee](#)), some core functions and criteria, elaborated in more detail below, would be essential to ensure the LDFF can function and provide finance for addressing L&D in a climate-justice oriented approach.

## Eligibility

All developing country Parties to the Convention and the Paris Agreement should be eligible to receive funding support from the LDFF, irrespective of a potential contribution to the LDFF and its scale, to cover documented economic and non-economic losses and damages. The LDFF should support developing countries in accordance with their articulated L&D finance needs and priorities, including as elaborated under NDCs or potential future country-specific Loss and Damage Needs Assessments or implementation plans specifically for funding for slow-onset events.

## Governance, composition and functions of a decision-making body

The LDFF should be governed by a decision-making body (such as a board or trust fund committee) with equitable representation composed with a majority of members from developing country Parties (drawing on the [best practice experience of the Adaptation Fund Board composition](#)), and ideally more than one seat each designated for representatives from SIDs and LDCs respectively. Building on the best practice experience of the [Global Fund](#), [UN-REDD Programme](#), and humanitarian response, affected communities and public serving civil society organisations from developing countries

should be represented with voice and vote on the decision-making body. Each member of the decision-making body should have an alternate. The LDFF governing body should make decisions by consensus.

The LDFF decision-making body, *inter alia*, would oversee the operation of all windows of the LDFF, approve detailed operational modalities, access modalities and funding; decide on the establishment of additional thematic funding windows and/or substructures to address specific activities as relevant; receive guidance from the COP/CMA and prepare annual reports to them on LDFF activities; and develop working and coordination arrangements with other relevant bodies (such as existing climate funds, and the Santiago Network) under the Convention and the PA, as well as other relevant international institutions outside of the UNFCCC framework. The decision making body will steer the funds operations as it evolves in scale and maturity and will exercise flexibility to allow the fund to evolve over time.

### Secretariat

The day-to-day operations of the LDFF would be run by a Secretariat with professional staff providing administrative, financial and technical expertise and serving and accountable to the decision-making body.

### Financial instruments

The LDFF should provide funding primarily in the form of grants. It should prioritise the provision of full-cost grant funding, as requiring compliance with complex methodologies ('climate rationale') for incremental grant-financing approaches could place an undue burden on recipient countries given data and capacity gaps, as the experience from adaptation financing under the GCF shows (Singh and Bose, 2021). The use of any other financial instrument and innovative sources of finance would need to be carefully determined by its decision making body based on the principles outlined above.

### Funding windows and LDFF structure

The LDFF could start out initially with two distinct windows with differentiated 'fit-for-purpose' programming modalities and application procedures to be developed in response to differing needs and time-frames for funding 1) urgent response for rapid-onset events in the aftermath of climate disasters and 2) for slow-onset events and L&D planning and policy frameworks and transformative programming (such as for permanent relocation and just transitions to alternative livelihoods). The LDFF decision making body could have the authority

to add, modify or remove additional windows or LDFF substructures as needed. Additionally, building on the experience of the AF and GCF, and in complementarity and coherent with future support provided under the Santiago Network, adequate resources for readiness and capacity building and technology development and transfer should be provided, with priority support for and enhancing South-South learning and knowledge transfer and replication of successful approaches.

### Access modalities

The LDFF should provide simplified access to funding, allowing for both international access (through international entities such as the UNEP) and direct access (through regional, national and sub-national entities) as needed and requested by recipient countries. To the extent possible, the LDFF should **prioritise direct access**. Access to its rapid-onset finance window should not require countries to work through accredited entities. A request for funding support under this window could be triggered by countries declaring a "loss and damage event", which would be based on an agreed criteria and verified by independent technical experts that could be housed under the LDFF. Such funding should not require a detailed implementation plan or proposal, but instead be provided in the form of direct and unconditional budget support to the recipient country to aid relief, recovery and rehabilitation efforts with adequate safeguards in place. In developing countries that already have set up such structures, such funding – as well as support for slow-onset activities under special cooperation arrangements with the LDFF – could be channelled through national climate change trust funds at the recipient country's request.

A menu-approach of accepted parametric criteria could be utilised which could include a specified percentage loss of GDP (Persaud, 2021), an unprecedented weather-related event, a percentage of the population impacted, or in the case of a population-rich country, a minimum threshold of at least one million people affected (Heinrich Böll Foundation et al., 2021). For its slow-onset window, funding requests should be to the extent possible for programmatic funding approaches rather than individual projects and could come through existing international and direct access entities already accredited and in good accreditation standing with either the GCF, the AF or the GEF (and commensurate with the risk, scale and fiduciary implementing capacities already verified through their respective prior accreditation with either or several of these funds). Such requests could also come through national climate change trust funds already set up in developing countries. To simplify approval procedures, a template approach with a set of

pre-approved activities and measures seeking funding support (such as comprehensive L&D planning or iterative needs assessment) could be used. Up to a specified funding amount to be set by the LDFF decision-making body, funding could be released directly by the LDFF Secretariat to speed up response times.

The LDFF 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 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 through the set up of dedicated small grants programmes at the LDFF level and overseen by the Secretariat for response measures to both rapid-onset and slow-onset losses and damages. It should build on best practice experiences such as the **Dedicated Grant Mechanism** for Indigenous Peoples and local communities under the Forest Investment Program (FIP) or the **GEF-UNDP Small Grant Programme**.

## Allocation

In allocating LDFF resources, funding should be divided between the two initial funding windows for response measures for rapid-onset events and slow-onset events as needed. The LDFF should take the urgent and immediate needs of developing countries and their populations already severely affected by L&D, in particular in LDCs, SIDS and Africa, into account. It could set minimum allocation floors (ring-fencing resources) for one or both suggested windows for LDCs, SIDS country-groups and for locally-provided finance for particularly affected communities (irrespective of country grouping) respectively. While not appropriate for a rapid-response window based on urgent needs in the face of catastrophic climate disasters, for a slow-onset window the LDFF could also consider instituting some country caps as well as minimum allocations especially for L&D planning and needs determination support for each eligible developing country, drawing on the experience and lessons learned from the **System for Transparent Allocation of Resources (STAR)** of the GEF as a way to promote equity in access to its funding. Both funding caps and minimum allocation guarantees are a management response to insufficient resources that might be less important for an adequately resourced LDFF.

### Box 1: Case study – The Global Fund to Fight AIDS, Tuberculosis and Malaria (Global Fund)

Global solidarity and leadership resulted in the Global Fund being established in 2002. It is an example of the transformational power to address the suffering of communities with the delivery of dedicated finance. It was created to “to fight what were then the deadliest pandemics confronting humanity: HIV and AIDS, tuberculosis (TB) and malaria.” Since that time, more than US\$53 billion has been invested “saving 44 million lives and reducing the combined death rate from the three diseases by more than half in the countries in which the Global Fund invests”. This has enabled a transformation for the lives of people who needed help to survive and access treatment to lead normal lives.

A positive feature is the direct representation of beneficiary constituencies and affected people in decision-making, and accessibility to funding.

There are lessons to be learned, however, from the way that the Global Fund was supported by large scale philanthropic contributions (e.g. Gates Foundation) which result in a commensurate role of those large philanthropies in Global Fund governance which is not what we recommend for the LDFF which needs to be governed by Parties to the Convention. A positive feature is the direct representation of beneficiary constituencies and affected people in decision-making, and accessibility to funding.

## Where the LDFF should be situated

An elaboration of the guiding principles that should determine the structure, governance, eligibility, objectives and operational procedures of the LDFF clearly indicate that to comply with a climate-justice approach the facility can only be housed under the UNFCCC. However, there are various options of how and where to set up the LDFF, each with a number of distinct advantages and disadvantages or specific challenges to its realisation (such as the persistent lack of political will of developed countries to support the LDFF in principle, let alone specific features to its set up and operationalisation) as represented in Box 2.

**To get the best-structured LDFF most in alignment with a climate-justice approach and core principles, it should be set up as an operating entity of the financial mechanisms of the UNFCCC and PA (and thus joining the GCF and the GEF with this distinction), focused exclusively on addressing L&D.** As such it would be accountable to and receive guidance from the COP/CMA and have to comply with core Convention mandates. Accounting for L&D finance additionality would be facilitated; it could be resourced by a multitude of financial inputs, including from innovative sources such as taxes and levies in addition to country contributions, primarily public funding from developed countries. Whilst the establishment would require consensus and time to set-up and operationalise, it could build on existing best practices of other UNFCCC funds (such as direct access, enhancing direct access, readiness support, and South-South learning). Similarly entities could be preapproved that are already accredited under existing UNFCCC funds as implementing partners to reduce administrative burden on developing countries.

An LDFF under the UNFCCC could still sit within the WIM as its financial arm, which would allow close alignment with the WIM's existing mandate, including by building on the work and activities of the ExCom and the Santiago Network. In addition the Santiago Network should report to the COP for the purpose of oversight and guidance. However, even if the required consensus decision could be mustered in the UNFCCC, the low capacity and resources of the WIM would make it unlikely that it could provide the necessary secretariat services (with relevant financial and implementation management expertise) to the LDFF quickly (Shawoo et al., 2021). Nevertheless, even if not directly placed within the WIM, any LDFF under the UNFCCC would need to closely coordinate with and draw from the technical and knowledge management knowhow of the WIM on L&D and should be represented in LDFF governance and decision-making structures, even if only in an advisory capacity. The GCF or other existing UNFCCC climate funds can potentially play a specified complementary and supporting role which will need to be further defined and could be structured for example through a memorandum of understanding between the WIM and respective existing funds.

## Box 2: Comparative assessment of situating the LDFF

- + Placing the LDFF within the GCF** has been discussed as an option. As the largest multilateral climate fund it has been already mandated by COP 25 in Madrid to continue to provide resources for L&D to the extent that this is consistent with its current operational set-up. Setting up a new L&D Window under the GCF would ensure continued compliance with this mandate.

— With a change to the GCF's Governing Instrument unlikely, the L&D mandate would not be formally integrated into the GCF's objectives and principles. And current GCF resource mobilisation/replenishment levels are insufficient to provide financing to address L&D at scale. Financing could be drawn from, and potentially drain adaptation finance allocation and thus not guarantee additionality of L&D financing and its accounting which would also be subject to existing programming, funding and approval modalities, which are ill-equipped for L&D.
- + Setting up the LDFF as a specialised trust fund under GCF management.** This would require a consensus decision by the UNFCCC and follow the precedent set in 2001 when the COP established the Least Developed Countries Fund (LDCF) per decision 7/CP.7 and mandated the GEF, as an operating entity of the financial mechanism of the Convention, under decision 27/CP.7 to operate the LDCF. Setting up a separate LDFF with a separate trust fund would allow financial accounting for additionality to mitigation and adaptation expenditures. And at least in theory, some 'fit-for-purpose' adjustments to existing GCF operational modalities and procedures to bring them more in line with the demands of financing to address L&D would be possible through decisions by the GCF Board sitting as LDFF Board, however the extent to which this is possible is unclear.

— This option would also require consensus by the UNFCCC to be established as well as separate resource mobilisation based on voluntary pledges. Increased administrative burden on recipient countries and fragmentation of the Climate Finance architecture are additional risks.
- + A separate specialised trust fund for LDFF under management of the GEF.** As the GEF is already managing trust funds for the LDCF and Special Climate Change Fund, it has practical experience with such arrangements. Like in the case of setting up the LDFF as a specialised trust fund under the GCF, to be set up under the GEF, a decision by the UNFCCC and separate resource mobilisation efforts would be required. Similarly, tracking and accounting for the additionality of financing to address L&D would be facilitated by the separate trust fund, which could likewise be open for a variety of financial inputs from different sources, including innovative ones. An LDFF managed by the GEF under a specialised trust fund could draw on the existing GEF structures as well as policies and operational procedures; with some adjustment possible through a GEF Council that would then sit as the LDFF Council.

— The extent to which a GEF Council sitting as LDFF Council would be willing to approve 'fit-for-purpose' adjustments to existing GEF programming and approval modalities for L&D activities is not clear. In addition, the same concerns as the bullet point above would apply here in addition to allowing for only incremental cost financing; small network of accredited agencies; and inexperience in programming large amounts.
- + The Adaptation Fund (AF)** deserves an honourable mention and could support a limited set of measures to address L&D, if its Board so decided and guided by the CMP/CMA. While it is too small in overall size (with low staff number and capacity of its secretariat and limited financial resources) to manage the LDFF, the AF brings a nimbleness and responsiveness to developing countries' concerns to its funding that allowed it to pioneer direct access and utilise enhanced direct access, as well as readiness financing support before the GCF replicated and scaled-up both in its own funding approach. This willingness to innovate could serve it well with a focus on piloting new funding approaches at a limited scale to address L&D.

— The AF however has limited capacity both in terms of staff and financial resources; it is unfamiliar with other financial instruments other than grants and does not have experience in engaging with the private sector or large programming amounts.
- + A new international global fund outside** of the UNFCCC, for example through a 'coalition of the willing' that could include countries as well as non-Parties and non-state actors including philanthropies

— This path is not advisable as such a fund outside of the UNFCCC architecture would not be subject to the guiding principles, such as CBDR-RC, under the Convention and related obligations, would miss any clear links with relevant UNFCCC/PA processes such as the Global Stocktake, the process to set a new collective quantified goal on climate finance (NCQG) and the ongoing mandate under the Glasgow Dialogue. Such an externally housed fund would also not be accountable to and receive guidance from the COP/CMA.

# Conclusion and next steps

From its introduction some three decades ago, L&D has consistently failed to deliver new, adequate and accessible finance to developing and vulnerable countries with the least ability to cope and the least responsibility for the situation they find themselves in. We can quantify and pack L&D into technical language and measurements but at its fundamental core it is an issue of justice and a moral imperative.

The human suffering of L&D is vast. Being uprooted from your land where your ancestors are buried as they are lost to the sea along with your community, your culture, your very sense of identity is a moral issue. The human suffering as you cannot any longer feed your children from the soil of your forefathers nor can you drink the water where the pools have dried or the sea now lives because of systemic failings in distant lands, in the name of the accumulation of wealth and at the cost of our future – this is an issue of rights and justice. The least that can be done is to provide financial support. This would go a long way to show that the developed world cares.

Glued together with compromise atop of compromise, the multilateral climate system is at risk of collapsing if developed countries cannot urgently deliver finance to address L&D. Developing countries have mapped a clear path on how to do so via the Glasgow Dialogue. At COP26 [1/CMA.3](#) para “73. Decide[d] to establish the Glasgow Dialogue between Parties, relevant organizations and stakeholders to discuss the arrangements for the funding of activities to avert, minimize and address loss and damage associated with the adverse impacts of climate change, to take place in the first sessional period of each year of the Subsidiary Body for Implementation, concluding at its sixtieth session (June 2024).”

Furthermore para 74. “Requests the Subsidiary Body for Implementation to organize the Glasgow Dialogue in cooperation with the Executive Committee of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts.”

In this paper the how and why of the LDFF have been presented. The Glasgow Dialogue as interpreted by the major negotiating blocs is the process through which the LDFF will be launched and operationalised.

**In its first year** the Dialogue must...

- establish the LDFF with the SBI56 conclusion providing a recommendation for a decision by the COP27, CMA4. In turn, COP27 must decide to establish a LDFF by defining its functions, core institutional arrangements, including relationships with existing UNFCCC Financial Mechanisms and the PA, with a set-up or design mandate to respective bodies.
- establish a process to identify L&D funding needs with COP27 deciding to establish an adequate process to identify the scale of funding needed to address L&D (e.g. commission a L&D finance gap report to be presented by COP28 and periodically every 3/5 years onwards).

**In its second year** the Dialogue must...

- report and confirm progress on defining governing arrangements and delivery structure of LDFF with a corresponding decision at COP28 to approve the governing arrangements and a delivery structure of the finance facility.
- reliver a process for needs-based resource mobilisation for the LDFF with COP28 deciding on a process resulting in the needs-based, ambitious and speedy initial resource mobilisation for the LDFF.

**In its third year** the Dialogue must...

- fully operationalise the LDFF with finance being mobilised and channelled to developing countries. COP29 would decide to fully operationalise the LDFF by establishing the facility with a functioning governance structure, which is able to take policy decisions. Further steps will also be identified to support the full operationalisation of the LDFF. Finally COP29 would decide to acknowledge the outcome of the initial resource mobilisation of the LDFF and an agreement on a process for the speedy and immediate disbursement of funding.

If the delivery of the LDFF is not achieved, the international climate regime will be at risk. This is an opportunity to further strengthen international cooperation and solidarity whilst delivering on justice and protecting human rights.

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Loss and Damage lighting installation at COP26 in Glasgow, November 2021. Image courtesy of Zico Cozier, Journalist.



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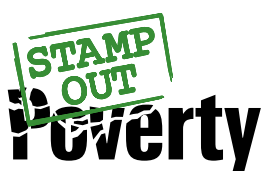
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