

LOSS & DAMAGE: ISSUES FOR COP26



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Parties have expressed interest in building out more effective implementation of the action and support for loss and damage (L&D). The interest in accelerating action and support for L&D has expressed itself in relation to three issues:

- The development of the Santiago Network (SN)
- The governance of the Warsaw International Mechanism for Loss and Damage (mandated agenda item)
- The call to scale up finance to avert, minimize, and address L&D.

This paper provides context to and poses questions on these issues.

Box 1: Questions to consider

- How can Parties reconcile the difference between the limited mandate and the political expectations for L&D at COP26?
- How will progress on enhanced or scaled up action for L&D be assessed?
- What process is needed at COP26 to continue the development of the Santiago Network?
- Could the diverse funding streams that help avert, minimize, and address L&D be better coordinated and enhanced to effectively respond to national and local approaches?
- How can the Santiago Network be facilitated so it can catalyze the technical assistance as soon as possible?

CONTEXT

The Warsaw International Mechanism for Loss and Damage (WIM) was established at COP19 in Warsaw, Poland, to “address [L&D] associated with impacts of climate change, including extreme and slow onset events, in developing countries that are particularly vulnerable to the adverse effects of climate change,” and to “fulfil the role under the Convention of promoting the implementation of approaches to address [L&D] ...”¹ It was

given functions to enhance knowledge, action, technical guidance, and support, as well as to strengthen dialogue, coordination, and coherence among relevant stakeholders.² The Warsaw decision also established the executive committee of the Warsaw International Mechanism (ExCom).

The role of the WIM was reviewed in 2016 and 2019. At COP21, it was agreed that WIM would continue beyond its 2016 review and—as stated in Article 8 of

the Paris Agreement—that the WIM would be subject to the authority and guidance of the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA). In Paris, the COP also explicitly agreed that Article 8 “does not involve or provide a basis for liability and compensation.”³ The COP requested the ExCom to establish a clearing house on risk transfer and a task force on climate change-related displacement. From COP21 to COP24, negotiations have mostly focused on operationalizing and implementing the clearing house and task force and on addressing L&D within modalities, procedures, and guidelines of the Paris Agreement, where relevant.

At COP25 in Madrid, Parties acknowledged the progress made by the WIM, but also identified areas for further improvement to effectively operationalize the functions of the WIM.⁴ Parties further established the SN to catalyze the technical assistance to implement relevant approaches to avert, minimize and address L&D for developing countries that are particularly vulnerable to climate change.

DEVELOPMENT OF THE SANTIAGO NETWORK

As noted above, the SN was established in Madrid to catalyze the technical assistance of relevant organisations, bodies, networks, and experts for the implementation of relevant approaches to avert, minimize and address L&D at the local, national, and regional level in developing countries that are particularly vulnerable to climate change.⁵

From December 2020 to August 2021, the Presidencies have coordinated six informal consultations with Parties or heads of delegation to discuss the SN and have published a discussion paper on how the network could be further developed based on informal consultations.⁶

On July 16, 2021, the presidencies also held a first technical meeting on how the Network will provide technical assistance related to L&D.⁷ The July 25–26, 2021 Ministerial also discussed how Parties will revise and evaluate the progress of the SN and made recommendations for taking this work forward.

Throughout these discussions, Parties shared views on ways to catalyze the technical assistance needed for vulnerable countries to address L&D due to climate impacts and emphasized early practical action to develop the SN. The Presidencies plan to organize additional

consultations with Parties and observers to refine ideas for the Network and its development. The CMA/COP will be invited to endorse the process of Party and stakeholder consultation for the development of the Network undertaken so far.⁸

GOVERNANCE OF THE WIM

Although Article 8 of the Paris Agreement established that the WIM shall be subject to the authority and guidance of the CMA, the Paris COP did not specifically retire the decision that the ExCom shall be under the guidance and be accountable to the COP. In Madrid, Parties undertook the second review of the WIM’s operations to date and its long-term vision and raised the question of whether the WIM should operate solely under the Paris Agreement, or whether it should also continue under the UNFCCC, where there is no explicit exclusion of liability and compensation.

Some Parties shared the understanding that Article 8 of the Paris Agreement intended that the WIM would be subject to the authority and guidance of the CMA. A number of Parties pushed to have the WIM be subject to the authority and guidance of both the CMA and the COP, which could strengthen the role of the WIM to address L&D and prevent any Party that leaves the Paris Agreement from avoiding obligations to address L&D.⁹ Some Parties indicated they could be supportive of the proposal only if liability and compensation were explicitly excluded.

This proposal also raises a process question of how the WIM would be accountable to both bodies, or whether a transitional arrangement to transfer governance authority from the COP to the CMA needs to be developed. If accountable to both bodies, some Parties expressed concerns about parallel processes.

Parties deferred the issue to COP26. The next WIM review will take place in 2024.¹⁰

SCALING UP FINANCE TO AVERT, MINIMIZE, AND ADDRESS L&D

At COP25, developing countries unsuccessfully pushed to establish a new finance facility or fund under the WIM to channel increased support to countries experiencing L&D. In the COP decision, Parties recognized “the importance of scaling up the mobilization of resources to support efforts to avert, minimize and address [L&D]”

and “the urgency of enhancing the mobilization of action and support.” The decision acknowledges the range of existing sources of support, urges the scaling up of action and support for developing countries that are particularly vulnerable to address L&D, and invites Parties to make use of available support within and without the Convention and Paris Agreement.¹¹

In the co-chair summary of the Presidencies’ consultations with heads of delegation on L&D in August 2021, it was noted that a holistic approach that achieves a substantive outcome would be required to achieve a successful COP26. Glasgow would therefore need to demonstrate scaled up action and finance, with particular focus on the most vulnerable and marginalized groups. Increased commitments by financial institutions could include delaying debt service payments to provide additional fiscal space for countries hit by climate events and by shifting investments away from fossil fuels; these institutions could also offer increased support for specific activities and for data processing, early warning, emergency planning, access to insurance, support for disaster recovery, and humanitarian relief.¹²

ISSUES AND OPTIONS FOR COP26

In Glasgow, the COP agenda includes an item on the WIM that will invite COP to consider the matter of its authority over and guidance to the WIM, including its ExCom.¹³ The SBSTA and SBI agendas both include an item on the Report of the ExCom of the WIM associated with Climate Change Impacts (for 2020 and 2021).¹⁴

The expectations regarding L&D likely exceed the ability of mandates at COP26 to deliver on them. It is therefore important for Parties to clarify expectations, and how they should be delivered, in remaining time before Glasgow.

DEVELOPMENT OF THE SANTIAGO NETWORK

While COP25 established the SN, Parties at COP26 will still need to define how the SN will function and the process by which these functions are developed and established.

Consultations with Parties have demonstrated that there is not a common understanding on the degree of coordination needed for the Network. Although some Parties have proposed a dedicated secretariat that would

actively assist in defining needs for technical assistance, others have indicated that the technical work undertaken by the ExCom—including its coordinating role—is still in its early days and its catalytic effects are still not fully understood.

In either case, ideally the SN should not duplicate existing work under the UNFCCC or the Paris Agreement but should give additional benefits for developing countries in catalyzing technical assistance. The type of technical assistance needed has been the subject of a survey, but the response has been limited to a small number of developing country Parties.¹⁵ Those respondents highlighted the need for the following:

- collection and management of data and information, such as L&D assessments for key agricultural commodities
- analysis of data and information, such as establishing a baseline on non-economic, social, and cultural L&D
- design and implementation of projects on L&D such as assistance in designing proposals and access to financing for climate information services and early warning systems under GCF and other funding channels
- financial instruments, such as: (i) design of combinations of appropriate risk finance tools and instruments applicable to a specific country context and vulnerable groups; (ii) develop and deployment of forecast-based finance instruments to minimize potential losses to productive systems; and (iii) design and financing of social protection measures
- development of national finance instruments (e.g., bonds).

Further discussions could usefully assess whether the proposed technical assistance is already provided by the ExCom and the recent work under the WIM (such as the development of technical guidelines), including but not limited to: the Fiji Clearing House for Risk Transfer; the Compendium on Comprehensive Risk Management Approaches;¹⁶ and the UNFCCC Database on addressing slow onset events.¹⁷ The Parties could also assess current networks outside of the UNFCCC, for example through the Sendai Framework, in order to ensure that the work of existing networks is not duplicated. Parties would then need to consider how such a network can be effectively developed in a practical and timely way.

More specifically, Parties could consider:

- how to reconcile the disparity between the political expectations and the limited agenda items for L&D
- how early practical action to establish the Santiago Network can be affected
- how to facilitate constructive discussion on the governance of the WIM
- the degree of coordination needed for the SN, including one or both of:
 - an online network portal or web-based tool that:
 - (a) houses information countries need on best practices
 - (b) stimulates cooperation and synergies
 - (c) catalyzes technical assistance
 - a network:
 - (a) with the support of the existing UNFCCC secretariat
 - (b) that catalyzes technical assistance, for example through: an online portal or web-based tool, technical workshops, in house training, or networking events.¹⁸
 - a network:
 - (a) with a dedicated secretariat to manage the funding and/or operation of the SN; and/or that catalyzes technical assistance
 - (b) see examples above; and/or
 - (c) that will provide opportunities to facilitate means of implementation.

At COP26, Parties could ask the COP to do one or both of the following:

- adopt a roadmap/model/framework for the SN
- acknowledge the need for such further work to elaborate the network, taking into account lessons learned from other bodies, such as the Climate Technology Centre and Network (CTCN).

Other questions to consider relate to:

- the potential use of an existing or new secretariat and its role, and the ExCom's roles and responsibilities
- addressing the mandates for the secretariat on, e.g., funding and functioning of the SN; mandates for the ExCom to, e.g., plan for the further establishment of the SN in its workplan

- linkages to an outcome on scaling up of L&D finance
- how the SN could be further established without the need for a decision. A decision to develop the SN will require Parties to negotiate, creating tension with the interest in quickly developing a practical and effective technical assistance network. As a technical analogue, the CTCN, established in 2010, took over ten years to negotiate.¹⁹

GOVERNANCE OF THE WIM

In Glasgow, the COP will again take up the matter of its authority over and guidance to the WIM. Concerns related to governance by the CMA include:

- the possibility, if governance is exclusively the domain of the CMA, that countries not party to the Paris Agreement would be excluded from WIM activities and decision making
- alternatively, in that scenario, the possibility that countries could avoid responsibilities under the WIM by withdrawing from the Paris Agreement
- should Parties allow for a transition period—in other words, whether Parties would allow for a period where the work of the WIM under the COP could be closed before the CMA would solely govern its work.

Concerns relating to governance by both the COP and CMA include:

- the need to reconcile the bifurcated character of current WIM decisions under the COP with the non-bifurcated character of Article 8 provisions in the Paris Agreement
- the issue of explicit exclusion of liability and compensation as under the Paris Agreement
- avoidance of duplicated processes within COP and CMA.

SCALING UP FINANCE TO AVERT, MINIMIZE, AND ADDRESS L&D

Parties are considering how to effectively scale up finance to avert, minimize, and address L&D as called for in the COP25 decision, as well as how to improve coherence with other related development, humanitarian disaster prevention, and climate funds. Considerations include determining what and how existing and future finance for L&D is assessed (and by whom), particularly

in the wider context of ongoing international climate finance issues, such as achieving the US \$100 billion climate finance goal, the adoption of a new international climate finance goal from 2025, and the balance between mitigation and adaptation finance.

Options could include any one or some combination of:

- building a coalition of developed countries to engage with and support vulnerable countries
- generating the political support for donor countries to establish a solidarity fund
- establishing a L&D finance fund or facility under the auspices of the UNFCCC
- appointing a Special L&D Envoy that can, inter alia, assess and recommend action.

Building a coalition of countries to engage with and actively support vulnerable countries that could in turn establish a L&D solidarity fund would allow for financial support and action that extend beyond the UNFCCC process. Such a coalition could potentially coordinate with the bodies, organizations, and funds of related regimes in a way that responds to the COP decision's

request to also look beyond the UNFCCC.

Parties could consider the value-added of a dedicated L&D fund or finance facility. One consideration here would be that, given the existing difficulty of tracking adaptation finance, how will L&D finance be tracked and how can funding be credibly additional? Parties would need to develop principles and governance mechanisms to guide contributions and distribution of funds. The fund/facility could also be linked to the new finance goal from 2025.

Parties could also recommend the appointment of a Special L&D Envoy that could:

- advocate for the improved coherence of L&D action under the UNFCCC
- liaise with other related development, humanitarian disaster prevention, and climate regimes and funds outside the UNFCCC to improve the understanding and availability of assistance available to vulnerable countries
- help respond to the decision requesting parties to look at the broad range of bodies and funds outside the Convention and Paris Agreement.

ENDNOTES

- 1 United Nations Framework Convention on Climate Change (UNFCCC), Warsaw international mechanism for loss and damage associated with climate change impacts, Decision 2/CP.19 (Jan. 31, 2014).
- 2 UNFCCC, Decision 2/CP.19, ¶¶ 5, 7.
- 3 UNFCCC, Adoption of the Paris Agreement, Decision 1/CP.21, ¶ 51 (Jan. 29, 2016).
- 4 UNFCCC, Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts and its 2019 review, Decision 2/CMA.2 (Mar. 16, 2020).
- 5 UNFCCC, Decision 2/CMA.2, ¶ 43.
- 6 See:
 - December 3, 2020 roundtable discussion (during the December Climate Dialogues);
 - April 26, 2021 informal meeting on the Santiago Network on Loss and Damage;
 - June 16, 2021 informal meeting on the Santiago Network on Loss and Damage (discussing the presidencies' discussion paper on the SN);
 - June 28, 2021 informal meeting on the Santiago Network on Loss and Damage (discussing the presidencies' discussion paper on the SN);
 - August 3 and 4, 2021 L&D multilateral consultations with Group Chairs and HoDs (discussing the presidencies' discussion paper on the SN);
 - August 31, 2021 informal meeting on Loss and Damage.
- 7 UNFCCC, *Summary of the Presidencies' first technical meeting on the Santiago Network With organisations providing technical assistance related to loss and damage and open to parties and observers to the UNFCCC* (July 16, 2021), https://unfccc.int/sites/default/files/resource/20210716-Presidencies-Summary_TechnicalMeetingSantiagoNetwork.pdf.
- 8 UNFCCC, *Presidencies' Amended Second Discussion paper on the Santiago Network*, https://unfccc.int/sites/default/files/resource/presidencies%20_amended_second_discussion_paper.pdf.
- 9 Bodies serving both the COP and the CMA include the Adaptation Committee, Climate Technology Center and Network (CTCN) and Technology Executive Committee (TEC), Standing Committee on Finance (SCF), and Consultative Group of Experts (CGE).
- 10 UNFCCC, Decision 2/CMA.2, ¶ 46.
- 11 UNFCCC, Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts and its 2019 review, Draft decision -/CMA.2, https://unfccc.int/sites/default/files/resource/cma2_auv_6_WIM.pdf.
- 12 UNFCCC, *Co-chairs' summary of the Presidencies' consultations with Heads of Delegations on loss and damage* (Aug. 3-4, 2021), <https://unfccc.int/sites/default/files/resource/Co-chairs%20summary%20of%20the%20Presidencies%20consultations%20on%20Loss%20and%20Damage.pdf>.
- 13 UNFCCC, Provisional agenda and annotations (Advance version), Conference of the Parties Twenty-sixth session, FCCC/CP/2021/1/Add.1 (Sept. 17, 2021), https://unfccc.int/sites/default/files/resource/cp2021_01_adv.pdf.
- 14 UNFCCC, Provisional agenda and annotations (Advance version), Subsidiary Body for Scientific and Technological Advice Fifty-second to fifty-fifth session, FCCC/SBSTA/2021/2 (Sept. 3, 2021), https://unfccc.int/sites/default/files/resource/sbsta2021_02_adv.pdf; UNFCCC, Provisional agenda and annotations (Advance version), Subsidiary Body for

- Implementation Fifty-second to fifty-fifth session, FCCC/SBI/2021/9 (Sept. 3, 2021), https://unfccc.int/sites/default/files/resource/sbi2021_09_adv_0.pdf.
- 15 UNFCCC, *A brief analysis of the Santiago Network Survey* (Dec. 1, 2020), <https://unfccc.int/sites/default/files/resource/Santiago%20Network%20Survey%20summary.pdf>.
- 16 UNFCCC, Executive Committee of the Warsaw International Mechanism for Loss and Damage, *Compendium on Comprehensive Risk Assessment* (Sept. 2019), https://unfccc.int/sites/default/files/resource/FINAL_AA3_Compodium_September_2019%28revised%29.pdf.
- 17 “Addressing Slow Onset Events,” UNFCCC, accessed Oct. 24, 2021, <https://www4.unfccc.int/sites/NWPStaging/Pages/soe.aspx>.
- 18 For the rules of procedure for the ExCom, including on the secretariat, please see: Executive Committee of the Warsaw International Mechanism, *Rules of procedure of the Executive Committee of the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts*, https://unfccc.int/files/adaptation/application/pdf/excom_2015_rules_of_procedure.pdf.
- 19 Jonathan Duwyn, “Lessons learned & Opportunities for collaboration For the CBD Bio-Bridge Initiative based on the operational model and experience of the CTCN” (PowerPoint presentation, CBD Bio-Bridge Initiative Regional Roundtable, Entebbe, Uganda, Nov. 9, 2017), <https://www.cbd.int/doc/c/ca44/fd12/11b3f88eff2f6c264809d1fc/tscws-2017-02-presentation-10-en.pdf>.

Other C2ES Resources:

Climate Finance: Issues for COP26, June 2021.

Transparency of Action: Issues for COP26, June 2021.

Outcomes of the UN Climate Change Conference in Madrid, December 2019.

A Brief Guide to the Paris Agreement and 'Rulebook,' June 2019.

Essential Elements of the Paris 'Rulebook,' November 2018.

Elaborating the Paris Agreement: Transparency of Finance, August 2018.



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