

SEAN-CC NEGOTIATION BRIEFING PAPER

Loss and Damage

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I. Background

Over the years the assessment reports of the Intergovernmental Panel on Climate Change (IPCC) have contained increasingly severe predictions of climate change and the future impacts it could bring, making it clear that current levels of mitigation and adaptation efforts are insufficient to prevent the impacts of climate change from inflicting loss and damage in both developing and developed countries (Warner and Zakieldeen, 2012). This recognition has led to the rise of loss and damage (L&D) as an agenda item under the United Nations Framework Convention on Climate Change (UNFCCC). The term first appeared in the Bali Action Plan, the result of negotiations at the thirteenth Conference of the Parties (COP13), which urged Parties to the Convention to take enhanced action on adaptation (UNFCCC, 2008). Three years later a work programme was established at COP16 in Cancun in 2010 to enhance understanding of L&D (UNFCCC, 2011). At the 34th session of the Subsidiary Body for Implementation (SBI), held in Bonn in June of 2011, the work programme was differentiated into three thematic areas: 1) assessing the risk of L&D; 2) a range of approaches to address L&D and; 3) the role of the Convention in enhancing the implementation of approaches to address L&D in developing countries (UNFCCC, 2012a). In Doha at COP18 in 2012, Parties agreed that the Convention should: 1) enhance knowledge and understanding of approaches to address loss and damage; 2) strengthen dialogue and coordination among relevant stakeholders; and 3) enhance action and support to address L&D (UNFCCC, 2013). To help the Convention to carry out these functions it was agreed that institutional arrangements – such as an international mechanism – would be created at the following COP to be held in Warsaw in late 2013 (Ibid).

II. The Warsaw international mechanism on loss and damage

Negotiations at COP19 in Warsaw were preceded by two major events. Firstly the Summary for Policymakers of Working Group-I's contributions to the IPCC's Fifth Assessment Report was released in September 2013. The report maintained that though there is still a window for maintaining warming below 2°C, it is fast closing (IPCC, 2013). Secondly, Typhoon Haiyan hit the Philippines, Micronesia and Vietnam just days before the first day of the COP. In the opening plenary of COP19 the head of the Philippine delegation, Nadarev (Yeb) Sano, urged more concrete action on climate change in the face of increasing losses and damages from extreme events and predictions of more to come (Vidal and Vaughan, 2013).

After two weeks of intense negotiations the Warsaw International Mechanism (WIM) on loss and damage was established to help developing countries address losses and damages from climate change impacts in an eleventh hour huddle on the plenary floor the day after official negotiations were to have ended. The WIM was created to carry out the three functions of the Convention to address loss and damage associated with climate change impacts in developing countries particularly vulnerable to the impacts of climate change (UNFCCC, 2014a). Decision 2/CP.19 established an interim Executive Committee (ExCom) and tasked it with developing a two-year work plan, which a permanent ExCom would implement (Ibid).

Functions and modalities

Parties agreed that the WIM should enhance knowledge and understanding of comprehensive risk management approaches to address loss and damage by taking action to address gaps in approaches to address loss and damage, collecting, sharing, managing and using relevant data and information and providing an overview of best practices, challenges, experience and lessons learned in implementing approaches to address loss and damage. It was decided that the WIM should also strengthen dialogue, coordination, coherence and synergies amongst relevant stakeholders by providing leadership and coordination on assessing and addressing loss and damage under the Convention and promoting

cooperation and collaboration with relevant stakeholders, institutions, bodies, processes and initiatives outside the Convention. Finally, Parties agreed that the WIM should enhance action and support – including financial, technological and capacity building – by providing technical support and guidance on approaches to address loss and damage.

Decision 2/CP.19 outlines a number of modalities which could be employed to help the WIM carry out its functions, including facilitating the support of actions to address loss and damage, improving coordination of relevant work being undertaken under the Convention, convening meetings of experts and stakeholders with relevant expertise, develop, compile, analyze, synthesize and review information, provide guidance and technical support and make recommendations as appropriate on how to enhance engagement, action and coherence (Ibid). In carrying out its work Parties decided that the WIM should cooperate and complement the work of existing bodies within the Convention and organizations and institutions outside the Convention (Ibid).

Structure and governance

To guide the work of the WIM Parties decided to establish an ExCom, which will report to the Conference of the Parties through both the Subsidiary Body for Implementation (SBI) and the Subsidiary Body for Scientific and Technological Advice (SBSTA). An interim ExCom was established to develop the two-year work plan, which consisted of two members of each of the Adaptation Committee, the Least Developed Countries Expert Group, the Standing Committee on Finance, the Technology ExCom and the Consultative Group of Experts on National Communications from Parties not included in Annex I, with a balanced representation between representatives from developing and developed countries (Ibid). The interim ExCom met twice in 2014 and has now completed the work plan and forwarded it to SBI/SBSTA.

In Lima, the focus of negotiations will be on determining the composition of, and procedures for, the permanent ExCom at the 41st session of SBI/SBSTA for approval by the COP. These discussions began at the 40th session of SBI/SBSTA and resulted in draft conclusions by the chairs, which contained some of the options for the composition and procedures of the ExCom proposed by Parties and groups during the session in an annex (UNFCCC, 2014c). The key issues for the composition of the ExCom is whether or not there will be balanced representation from Annex I and non-Annex I Parties or whether non-Annex I Parties will have greater representation. On the procedures the key issue is whether or not the ExCom should be requested to establish particular structures that will allow the WIM to carry out its work or if it should be given the flexibility to determine the structure appropriate for carrying out the functions of the WIM.

Work plan

The initial meeting of the interim ExCom of the Warsaw International Mechanism took place from March 25th to 28th, 2014 in Bonn, Germany. At this meeting the ExCom was tasked with developing a two-year work plan and to take into account some of the key issues identified in Decision 3/CP.18¹, the outcome of the negotiations in Doha. Specifically the decisions identified a range of national actions that countries could undertake to address L&D including assessing the risk of loss and damage, identifying, developing and implementing country-driven risk management strategies and observing and collecting data on the impacts of climate change – among others (UNFCCC, 2013). In Doha, a number of areas for further research were also identified including – but not limited to – improving understanding of slow onset processes, non-economic losses, how loss and damage affects

¹ For more information see paragraphs 6 and 7 of Decision 3/CP 18, available at: http://unfccc.int/resource/docs/2012/cop18/eng/08a01.pdf

vulnerable segments of the population and how appropriate risk management approaches can be identified and implemented (Ibid). The ExCom developed elements of a work plan but were not able to consolidate them into a single document during this meeting, agreeing to hold another meeting ideally before the 41st session of the SBI/SBSTA.

At the 41st session of the SBI and SBSTA, the interim ExCom held a side event during which they provided an update on the progress of the development of the work plan to date and announced that they would be seeking input on activities that should be incorporated into the work plan from Parties, groups and observer organizations until July 1st, 2014. It was announced that a second meeting would be held thereafter at which the interim ExCom would present the consolidated work plan for further input from observers. The second meeting of the interim ExCom was held on September 17th and 18th, 2014. On the first day of the meeting the draft work plan was presented for input from both observers that were present at the meeting and those following the meeting online, through a web platform. After receiving input on the draft work plan the interim ExCom worked on the document and produced a revised draft on the morning of September 18th. The work plan² has nine action areas (UNFCCC, 2014b) including:

- 1. Enhance the understanding of how loss and damage associated with the adverse effects of climate change affect particularly vulnerable developing countries, segments of the population that are already vulnerable owing to geography, socioeconomic status, livelihoods, gender, age, indigenous or minority status or disability, and the ecosystems that they depend on, and of how the implementation of approaches to address loss and damage can benefit them;
- 2. Enhance the understanding of, and promote, comprehensive risk management approaches (assessment, reduction, transfer, retention), including social protection instruments and transformational approaches, in building long-term resilience of countries, vulnerable populations and communities;
- 3. Enhance data on and knowledge of the risks of slow onset events and their impacts, and identify ways forward on approaches to address slow onset events associated with the adverse effects of climate change with specific focus on potential impacts, within countries and regions;
- 4. **Enhance data on and knowledge of non-economic losses** associated with the adverse effects of climate change and identify ways forward for reducing the risk of and addressing non-economic losses with specific focus on potential impacts within regions;
- 5. Enhance the understanding of the capacity and coordination needs with regard to preparing for, responding to and building resilience against loss and damage associated with extreme and slow onset events, including through recovery and rehabilitation;
- 6. Enhance the understanding of and expertise on how the impacts of climate change are affecting patterns of migration, displacement and human mobility; and the application of such understanding and expertise;
- 7. Encourage comprehensive risk management by the diffusion of information related to financial instruments and tools that address the risks of loss and damage associated with the adverse effects of climate change to facilitate finance in loss and damage situations in accordance with the policies of each developing country and region, taking into account the necessary national efforts to establish enabling environments. These financial instruments and tools may include: comprehensive risk management capacity with risk pooling and transfer; catastrophe risk insurance; contingency finance; climate-themed bonds and their certification; catastrophe bonds; and financing approaches to making development climate resilient, among other innovative financial instruments and tools;

² For a copy of the work plan see: http://unfccc.int/resource/docs/2014/sb/eng/04.pdf.

- 8. *Complement*, draw upon the work of and involve, as appropriate, existing bodies and expert groups under the Convention, as well as relevant organizations and expert bodies outside the Convention at all levels, as the Executive Committee executes the above-mentioned elements of the workplan; and
- 9. **Develop a five-year rolling workplan** for consideration at COP 22 building on the results of this two-year workplan to continue guiding the implementation of the functions of the Warsaw International Mechanism.

The first two functions of the WIM, enhancing understanding and strengthening coordination and support, are emphasized in the work plan. Key areas include addressing slow onset processes and non-economic losses and understanding how loss and damage affects human mobility and vulnerable people and countries (Ibid). The third function of the WIM, mobilizing action and support, is given less consideration in the work plan. The work plan will be presented at the 41st session of SBSTA/SBI at COP20 in Peru in December 2014.

Key issues

In addition, SBSTA and the SBI will be asked to consider the composition of and the procedures for the ExCom and make recommendations to the COP at its twentieth session. The structure, mandate and effectiveness of the ExCom will be reviewed at COP22 (UNFCCC, 2014a). Until COP22 the Warsaw International Mechanism will be situated under the Cancun Adaptation Framework. This was a sticking point for negotiations. Developing countries, led by the G-77 and China, maintained that addressing loss and damage will require tools that go beyond adaptation. The G-77 and China agreed to the establishment of the mechanism under the CAF reluctantly in the last minute huddle on the plenary floor. In that discussion Parties worked out wording in the pre-ambular paragraphs that recognizes that some losses and damages are beyond adaptation in order to ensure the acceptability of the decision by all Parties. In the pre-ambular paragraphs Parties acknowledge, "that loss and damage associated with the adverse effects of climate change includes, and in some cases involves more than, that which can be reduced by adaptation" (Ibid).

Action	Key issues	Timeline
Adoption of the work plan	- adequacy of the work plan, especially the means of implementation	December 2014
Establish composition of and procedures for the ExCom	 level of representation of developed/developing country Parties structure of the WIM 	December 2014
Implementation of the two-year work plan	 timely nomination of ExCom members Adequate structure of the WIM to carry out its functions 	January 2015 – December 2016
Review of the WIM	 whether WIM will continue to be situated under the Cancun Adaptation Framework 	December 2016
Adoption of the five year work plan		December 2016
Negotiations on the role of L&D in the new agreement		December 2014; February 2015

III. Addressing loss and damage at the national level

While discussions on how to address loss and damage at the international level have been ongoing, Southeast Asia has experienced significant loss and damage from extreme weather and climate-related events. The 2011 flooding in Bangkok was the worst flood experienced in over a century, resulting in a loss of 680 lives (World Bank, 2012) affecting a further 12 million people and causing an economic loss estimated at USD 47.5 billion (Landelle, 2012). In November of 2013, Typhoon Haiyan – thought to be the most severe storm to make landfall in recorded history - hit the Philippines, Micronesia and Vietnam. Haiyan hit the Philippines with wind speeds of between 190 and 195 miles per hour (305 to 313 kilometres per hour) (Fischetti, 2013). As of December 2013 over 6,00 were dead and 27,000 missing in the Philippines (Associated Press, 2013). According to President Aquino the storm caused estimated USD 12.9 billion in losses and damages (Ibid). While the IPCC's Special Report on Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation (SREX) and the Summary for Policy Makers of Working Group-I's contributions to the IPCC's Fifth Assessment predict that the frequency of cyclones, typhoons and hurricanes will remain the same or decrease (though wind speed will likely increase). That said, the Philippines was hit by 24 cyclones in 2013 alone (Vidal and Vaughan, 2013). The region is also highly vulnerable to slow onset processes. Several major cities - including Bangkok, Hoh Chi Minh City, Jakarta and Manila - will likely be affected by the impacts of sea level rise while simultaneously experiencing increases in population (ADB, 2012).

A 2012 study by the Asian Development Bank identified environmental hotspots in Southeast Asia which include much of Cambodia, Laos, Vietnam and the Philippines and areas of Thailand, Malaysia, Singapore and Indonesia (Ibid). Some of the hazards facing the region include droughts in Northwestern Vietnam, Southern Thailand, the Philippines and parts of Malaysia and Indonesia and sea level rise in the Mekong Delta and parts of Indonesia and Thailand (Yusuf and Fransisco, 2009). It is not surprising that policymakers throughout the region are grappling with addressing losses and damages from both extreme weather events and slow onset climatic processes.

In Warsaw, Parties acknowledged the contribution of adaptation and risk management strategies to addressing loss and damage and recognized that there are some climate change impacts cannot be addressed by adaptation. Research suggests that once the limits to adaptation are breached the losses will escalate (Dow et al., 2013). Identifying where the limits of adaptation lie is therefore importance so that policies can be implemented to avoid the consequences of breaching them (Ibid). That said, determining where adaptation ends and approaches to address L&D begins is not an easy task and much more research will need to be undertaken to provide policymakers with the information they require to implement sound policies.

Emerging research on the limits to adaptation has proposed an adaptation frontier which represents a "safe operating space for adaptation" assuming the adaptation choices available are implemented efficiently, which of course presupposes that resources are available to do so (Preston et al., 2013). Thus, policymakers must develop and implement policies that will help communities cope with the unavoided impacts of climate change with risk retention tools like social safety nets and risk transfer tools like insurance (UNFCCC, 2012b).

However, L&D is entering a landscape in which policymakers are already overwhelmed with sustainable development and adaptation priorities as well articulating mitigation action through the development of Nationally Appropriate Mitigation Actions (NAMAs). Decision 2/CP.19 invited Parties to strengthen and develop national and regional institutions and networks to aid in the implementation of approaches to address loss and damage, noting that these approaches should

encourage cooperation and coordination between stakeholders and be country driven (UNFCCC, 2014a). By integrating or harmonizing the agendas of ministries dedicating to addressing the various aspects of climate change, synergies can be found and co-benefits produced. However, developing countries will need support in order to develop and implement approaches to address L&D and capitalize on synergies where possible.

IV. Looking forward to Lima

The establishment of the WIM was a milestone in the L&D negotiations, but now the work to ensure its efficacy begins. The two-year work plan of the ExCom has now been forwarded for consideration at the 41st session of SBI/SBSTA to be adopted by the COP at its 20th session in Lima. If some Parties do not feel that the work plan is an adequate reflection of the needs of developing countries for addressing loss and damage it could be opened up for negotiations. In addition to the consideration of the work plan, negotiations will continue on the composition of and procedures for the permanent ExCom that will guide the implementation of the functions of the WIM. The key issues for negotiation will be the level of representation of developed and developing countries on the ExCom as well as the structure of the WIM itself. Some developed country Parties will argue that the ExCom should be given the flexibility to develop the structure of the WIM while developing countries would like to see certain structures established under the WIM to allow it undertake its work

The issue of whether or not loss and damage can be addressed by adaptation will continue to be a key issue both in discussions of the ExCom of the WIM and in other loss and damage-relevant discussions under the UNFCCC. Developing countries, led by the G77 and China, have argued that there will be some losses and damages that will not be addressed by adaptation efforts. The Alliance of Small Island States (AOSIS) continues to highlight the need to address permanent losses, like the loss of territory being faced by atoll states like Tuvalu and Kiribati. The pre-ambular text of Decision 2/CP19 acknowledge that, "loss and damage associated with the adverse effects of climate change includes, and in some cases involves more than, that which can be reduced by adaptation" (UNFCCC, 2014a). However, the WIM was established and will be situated until the Cancun Adaptation Framework until the review at COP22, at which time the WIM will be reviewed. Developing country Parties argue that L&D should be a third pillar under the Convention as it represents impacts that have not been addressed by mitigation or adaptation. However, some developed country Parties will likely insist that the WIM continue to be situated under CAF.

Another key issue that will need to be addressed is how – or indeed whether or not - loss and damage will be incorporated into the new agreement being negotiated under the Ad hoc Working Group on the Durban Platform for Enhanced Action (ADP). At the sixth meeting of the second session of the ADP, held from October 20th to 25th in Bonn, some developed Parties maintained that loss and damage should not be included in the new agreement, arguing that the WIM should be allowed time to do its work. However, unless mitigation commitments are adequate to limit warming below 2°C, losses and damages will escalate. In fact Working Group-II's contributions to the IPCC's Fifth Assessment Report indicate that loss and damage will occur despite mitigation and adaptation (Klein et al., 2014), making the development and implementation of approaches to address L&D crucial.

Establishing the Warsaw international mechanism is only the beginning of a long journey to ensure that developing countries have the support they need to address loss and damage. The hard work now begins to ensure that it carries out its functions. Continued engagement from both Parties and observers and support from bodies, organizations and institutions both inside and outside the Convention will be needed to ensure the success of the WIM. Developing countries will need to continue to articulate their needs vis-à-vis assessing and addressing loss and damage in their own

national contexts and to participate in the process to the extent possible to ensure that these needs are met.

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