Deferred not defeated: the outcome on Loss and Damage finance at COP26 and next steps

Analysis

Finance for Loss and Damage was a critical issue in the lead up to and at COP26. While the outcome in the Glasgow Climate Pact was underwhelming—a push by developing countries to establish a Glasgow Loss and Damage Facility could not overcome developed countries’ strong resistance—the momentum gained on this issue, if not derailed, can lead to more success at COP27 in Egypt.

In this article we outline the outcome of COP26, positions of key groups and Parties, and the prospects for Loss and Damage finance at COP27, including key milestones and opportunities, in 2022. For a comprehensive overview of the outcome of COP26 on climate finance broadly please have a look at this detailed analysis.

Background

Loss and Damage[1] has evolved over the past decade to become what many call a third pillar under the United Nations Framework Convention on Climate Change (i.e. the Convention) alongside mitigation and adaptation. This evolution has not been without controversy, however. At the center of that controversy has been finance for addressing loss and damage. In 2012 at COP18 Parties decided that the role of the Convention would be promoting approaches to address loss and damage from the adverse effects of climate change in vulnerable developing countries. At COP19 the Warsaw International Mechanism (WIM) was established to fulfill the role of the Convention and given three functions: (1) enhancing understanding of approaches to address loss and damage, (2) strengthening dialogue coherence, coordination, and synergies between relevant stakeholders,
and (3) enhancing action and support to address loss and damage in vulnerable developing countries. Despite repeated calls from developing countries, the WIM has focused much of its work on enhancing understanding and strengthening coordination, with very little of substance to enhance action and support to address already occurring loss and damage, which hits highly indebted small island developing states (SIDS) and least developed countries (LDCs) with negligible contributions to the climate crisis and most desperately in urgent need of support disproportionately hard.

What happened at COP26?

Elaborating on the functions of the Santiago Network

At COP25 in late 2019 during the review of the WIM developing countries demanded that the WIM be strengthened to enable it to enhance action and support and deliver it to where it is needed most in vulnerable developing countries. The Santiago Network on averting, minimizing and addressing loss and damage (SNLD) was established as a key outcome of the review of the WIM at COP25 and seen as a step towards strengthening the WIM and enhancing action and support to vulnerable developing countries. The mandate of the SNLD—to catalyze the technical assistance of relevant organizations, bodies, networks and experts for the implementation of relevant approaches at all levels in vulnerable developing countries—was determined at COP25, but its functions and modalities were not, leaving the question of what the SNLD would do, and how, unanswered.

In the two years between Madrid and Glasgow the outgoing Chilean COP25 presidency and the incoming UK COP26 presidency convened several virtual meetings and consultations on the SNLD, including at high levels. Developing countries articulated their demands that the Santiago Network be much more than a website and that it deliver concrete support on the ground. In advance of the Glasgow COP developing countries expected to see an agenda item distinct from the report of the Executive Committee (ExCom), which guides the work of the WIM, to discuss the SNLD. Ultimately, the SNLD was discussed under the agenda item of the report of the ExCom, but the LDC Group made a submission just days before the COP demanding that the outcome of discussions on Loss and Damage be treated equally by the COP and Conference of the Meeting of the Parties to the Paris Agreement (CMA). This reflects the perspective of developing countries that the WIM is governed by the COP and the CMA. Developed countries have the view that the WIM should be governed solely by the CMA. An agreement on the governance of the WIM was not reached at COP26 and the discussions will therefore continue at COP27.

At COP26 Parties elaborated on the functions of the SNLD and a process was set out for developing its institutional arrangements, modalities, and structure in 2022 with the aim to fully operationalize the SNLD by COP27. What is critical for developing countries is that the technical assistance provided through the SNLD is additional to already existing efforts, not a way to systematize or map existing actions. In the Loss and Damage discussions developed countries repeatedly use the term “catalyze” to refer to the work of the WIM. However, the vision of the WIM as reflected in its mandate is to address loss and damage in vulnerable developing countries with new actions, not to catalyze existing efforts to address loss and damage. The language reflected in the mandate of the WIM—to catalyze technical assistance—is a compromise as developed countries would not agree to anything stronger. However, if we are truly in a climate crisis or climate emergency as 23 countries and thousands of jurisdictions around the world have declared, then we need more and better action, not just to coordinate those efforts that are already taken place when so much more
is needed. This is reflective of the Loss and Damage discussions and the tension between developing countries demands for the mobilization of action and support and developed countries refusal to engage in meaningful discussions on additional finance for Loss and Damage.

Also critical for developing countries was ensuring that the SNLD would be responsive to the demands and needs of communities and experiences on the ground of vulnerable developing countries and would have adequate financial, technical, and human resources to do its work. This includes ensuring that the SNLD and its convening or coordinating entity (or secretariat) has sufficient finance available to provide technical assistance.

In addition to a robust SNLD, developing countries also called for the mobilization of finance for Loss and Damage. During the final days of negotiations developing countries under the G77 and China introduced a proposal for a Glasgow Loss and Damage Facility, drawing on an earlier proposal developed by the Alliance of Small Island States (AOSIS) to be established to provide finance for Loss and Damage to vulnerable developing countries. The proposal was submitted to the COP26 presidency but was never included in the draft cover decision nor in the compromise reflected in the eventually adopted Glasgow Climate Pact.

In the end, Parties were able to agree that the Santiago Network would be provided with finance to support technical assistance for the implementation of relevant approaches to avert, minimize and address loss and damage. Developed countries were also urged to provide finance for both the operation of the Santiago Network and for the provision of technical assistance. Germany pledged €10 million on the last day of the COP to support the Santiago Network, with Canada promising to also contribute. However, this outcome on Loss and Damage finance with a focus on funding technical assistance only, while welcome, is far from what is needed to mobilize finance at the scale of the needs. What is needed is finance for actions that address loss and damage in vulnerable developing countries. Addressing this conceptual and financial gap remains a key issue for COP27.

**Establishing a dialogue on Loss and Damage finance**

In advance of the COP over 300 CSOs called for COP 26 to provide finance for Loss and Damage at the scale of the needs and additional to the US$100 billion annually committed, but not yet delivered by developed countries to developing countries to support adaptation and mitigation. Adding to this call by showcasing technical feasibility, was a new report released in October 2021 by the Stockholm Environment Institute, which finds that needs-based finance could be mobilized for Loss and Damage on the basis of principles such as global solidarity and historical responsibility. Research projects the economic cost of loss and damage in developing countries to add up to US$290 to 580 billion a year by 2030 alone. This research was done before the onset of the COVID-19 pandemic and is likely now a vast underestimate given the way in which the pandemic has eroded the resilience of vulnerable households, communities and countries. Moreover, it does not include the spectrum of non-economic loss and damage such as culture or heritage that are already being incurred as a result of climate change.

Some developing countries have articulated a concern that Loss and Damage finance could detract from support for adaptation to avert and minimize loss and damage. This is a legitimate concern in a zero-sum game of inadequate finance provision in which adaptation and Loss and Damage are pitted against one another. The reality, however, is that mitigation, adaptation and addressing loss and damage are all critical and equally important, which must be reflected in the mobilization and allocation of climate finance. Providing finance at the scale of the needs in vul-
Vulnerable developing countries for mitigation, adaptation and Loss and Damage will require mobilizing trillions a year.

In the early days of COP26 the Scottish government committed £2 million for Loss and Damage. This increased the focus on finance for Loss and Damage and put pressure on other developed countries to follow Scotland’s precedent as the first developed country to set aside funding specifically for that purpose. Subsequently, developing countries collectively called for the establishment of the Glasgow Loss and Damage Facility to mobilize and channel finance to vulnerable developing countries to support their efforts to address loss and damage. This call was supported by five philanthropies which together committed US$3 million to such a facility if established and the government of Wallonia, a region of Belgium, which committed €1 million.

Ultimately, the pushback from developed countries proved too strong to overcome, and the Facility was not established. Instead, as a weak compromise, the Glasgow Dialogue was established as a platform for discussing the arrangements for funding to avert, minimize and address loss and damage amongst both Parties and relevant organizations and stakeholders. The Subsidiary Body for Implementation (SBI) was tasked with organizing the Glasgow Dialogue to take place during the mid-year UNFCCC session each year (the SBs) and to conclude at SB60 in June 2024 in partnership with the Executive Committee, the body which guides the work of the WIM. The question remains: will there be a meaningful outcome of the Glasgow Dialogue? It is clear that developing countries expect the Dialogue to concretize institutional arrangements for mobilizing and channeling finance for Loss and Damage. In their closing statements many developing countries, including the chairs of the G77 and China and AOSIS, declared that they expect the Glasgow Dialogue to result in the establishment of a facility on Loss and Damage at COP27.

**Integrating Loss and Damage into discussions on finance**

When the commitment of mobilizing US$100 billion per year by 2020 by developed countries to support climate action in developing countries was established at COP16 in Cancun as a political goal not a needs-based determination, Loss and Damage was still on the rise and not yet cemented within the Convention. Thus, Parties determined that there should be a 50/50 split between the finance allocated for mitigation and adaptation. Important to point out is that going into COP26 neither this long-standing financial commitment nor the promised balanced delivery of mobilized funding were fulfilled by developed countries. However, we are in a very different era at the end of 2021. Loss and Damage has been established both in the Convention and its Paris Agreement and loss and damage from climate change is increasing in both magnitude and frequency annually and manifesting in countries all over the world. And yet the Glasgow Climate Pact, while noting “with deep regret” the unmet finance goal and urging developed countries “to fully deliver” on it “urgently and through to 2025”, still focuses only on mitigation and adaptation rather than meeting the full spectrum of financing needs for avoiding, responding to and addressing the impacts of climate change. A Climate Finance Delivery Plan pulled together by Germany and Canada at the request of the UK COP Presidency just before Glasgow, while promising that the US$100 billion could be reached in 2023, does not even mention loss and damage.

Developed countries have cited the concern that agreeing to finance for Loss and Damage could open them up to claims of liability and compensation. This is the heart of the dispute on governance of the WIM. There are two fundamental problems with this argument. The first is the same challenge does not exist for adaptation and yet finance for adaptation is also far from the scale of the needs as made evident by a call by African ministers of environment to mobilize US$1.3 trillion in balanced climate finance by 2030. The second is that developed countries are already vul-
nervable to claims of liability and compensation from CSOs and private citizens for their lack of action to address climate change. Vanuatu plans to seek an advisory opinion with the International Court of Justice on the right of both present and future generations to be protected from the impacts of climate change. And just at the start of COP26, Tuvalu and Antigua and Barbuda registered a new Commission of Small Island Developing States on Climate Change and International Law with the United Nations that would give them the possibility of exploring options for claiming compensation for climate damages from major polluting countries through judicial means, such as the UN’s International Tribunal for the Law of the Sea, if the establishment of a formal loss and damage finance mechanism fails. It would be more efficient and perhaps less expensive for developed countries to mobilize support at the scale of the needs under the Convention rather than settling compensation claims outside of the UNFCCC process.

What are the next steps to ensure finance for the most vulnerable?

Santiago Network on Loss and Damage

There are many opportunities to shape the Santiago Network in 2022 including in the call for submissions in March and in the technical workshop to take place during the UNFCCC intersessional. It is critical that the modalities of the Santiago Network enable it to provide robust support and that it is fully funded to do this work. The Santiago Network should support countries in assessing their needs vis-à-vis Loss and Damage and developing and implementing measures to address them. The SNLD is part of the architecture of the WIM and should ultimately enhance action and support and channel it to where it is needed. As articulated above, this must go beyond catalyzing support that is already available.

Glasgow Dialogue on Finance for Loss and Damage

The Glasgow Dialogue was established as a face-saving compromise to avoid failure at COP26 after calls for establishing a Glasgow Loss and Damage Facility by the G77 and China were blocked by developed countries. This call was supported by CSOs, philanthropies and some high-level decision makers. It will be difficult for developed countries to continue to block progress on Loss and Damage finance as the number of its supporters grows. It is critical that the Glasgow Dialogue be a robust and inclusive discussion on the needs and is results-oriented by having a concrete outcome the establishment of a finance facility and a resource mobilization strategy for finance for Loss and Damage. Research is needed on the best modalities of the finance facility and what institutional arrangements are most appropriate. It is also essential that the focus of the dialogue be on sources and securing commitments and accountability for mobilizing finance and on developing fair, equitable and accessible modalities to channel that support for addressing loss and damage. Averting loss and damage is already covered in mitigation and minimizing loss and damage in adaptation. The Glasgow Dialogue cannot waste precious time and momentum on these aspects, but instead must focus on tackling the gaps in work under the Convention to address Loss and Damage based on the needs on the ground.

In the aftermath of Glasgow, in many developed countries’ capitals a reckoning has begun that their categorical no to financial support for developing countries to address loss and damage is ultimately untenable. Some discussions have started on how to avoid the liability issue while providing support. This can set the scene for a breakthrough on finance for Loss and Damage at COP27, especially if the collective pressure by civil society and developing countries is maintained.
Long-term finance to meet the full scope of needs on mitigation, adaptation and Loss and Damage

Although COP26 reaffirmed the US$100 billion goal for annual climate finance delivered to developing countries through 2025, and urged developed countries to urgently fulfill their commitment, the sum itself is inadequate in light of the immense needs. In the lead up to COP26, African ministers of environment called for mobilizing US$1.3 trillion for mitigation and adaptation by 2030 in a submission for the technical discussion for a new collective quantified goal on climate finance post-2025, which started in Glasgow. Developing countries—having learned their painful lessons from how the determination of the US$100 billion goal was a political, not a negotiated and needs-based outcome, insist that setting a new financial goal must be grounded in the scientific analysis of their financial needs. They also push for the inclusion of finance for Loss and Damage into setting a new quantified collective goal. Both calls were rejected by developed countries in Glasgow.

At COP26, the first ever aggregation of developing countries' needs identified in their own formal mandated submissions to the UNFCCC were presented in the Needs Assessment Report compiled by the Standing Committee on Finance (SCF). For example, the reported highlighted financial needs of US$135 billion for 612 detailed costed actions in just 12 national adaptation plans (NAPs) as well as up to US$5.9 trillion until 2030 for 1,782 financial needs identified by developing countries across just 78 nationally determined contributions (NDCs). The Glasgow SCF decision acknowledges that developing countries' needs are significantly undercounted, because “there is a lack of available data, tools and capacity for assessing adaptation needs” as well as the particular challenge in “deriving cost estimates for averting, minimizing and addressing loss and damage needs.” These cost estimates, to the extent they have been undertaken, predict that hundreds of billions would need to be mobilized annually to address loss and damage.

As the process to determine the new quantified collective goal on climate finance by 2024 gets underway in a three-year ad hoc work programme established in Glasgow, it will be crucial to anchor Loss and Damage in the technical work through providing related scientific information, needs assessments and technical expertise in mandated workshops and create the necessary political push for the comprehensive consideration of finance for Loss and Damage in scheduled annual ministerial high level dialogues. The largely procedural outcome in the decision on the new quantified collective goal on climate finance from Glasgow, which for example does not talk about sums, themes, or instruments yet, leaves room to include finance for Loss and Damage as the new goal's financing scope is set. It is important that this opportunity is taken.

[1] The Intergovernmental Panel on Climate Change (IPCC) defines loss and damage as the impacts of climate change not avoided by mitigation and adaptation and Loss and Damage as the policy agenda to address loss and damage.

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