



UNPACKING THE COP 27 DECISION ON THE SANTIAGO NETWORK

ACKNOWLEDGMENTS

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Written by: Linda Siegele and Heidi White with contributions from Edgar Fernandez and Colin McQuistan.

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INTRODUCTION

The Santiago network for averting, minimising and addressing loss and damage (**SNLD**) was established at COP 25 in Madrid (December 2019), as part of the Warsaw International Mechanism for loss and damage (**WIM**). Its purpose is to catalyse the technical assistance of organizations, bodies, networks and experts (**OBNEs**) for the implementation of relevant approaches at the local, national and regional level in developing countries that are particularly vulnerable to the adverse effects of climate change.¹ Further to this, OBNEs providing technical assistance are invited to report on their progress to the WIM Executive Committee (**ExCom**) for inclusion in its annual report.² This decision was short on detail, presaging future decisions on the substantive work of the SNLD.

Shortly after the Madrid conference, the global pandemic postponed all face-to-face meetings under the UNFCCC for nearly two years. Nevertheless, Parties and other stakeholders submitted their views in writing and spent many hours in virtual discussions³ with the aim of determining how the SNLD should be operationalised. These discussions culminated at COP 26 in Glasgow (November 2021), where Parties agreed to the functions of the SNLD.⁴ As a result, Parties and relevant organisations were invited to make submissions on, inter alia, the SNLD's operational modalities, its structure and the roles of the ExCom and national loss and damage contact points.⁵ It is also important to note that under the Glasgow Climate Pact Parties agreed that the SNLD 'will be provided with funds to support technical assistance for the implementation of relevant approaches to avert, minimize and address loss and damage'.⁶ Developed country Parties were also urged to provide these funds, not only for the provision of technical assistance but also for the operation of the SNLD itself.⁷

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INSTITUTIONAL ARRANGEMENTS FOR THE SANTIAGO NETWORK



In 2022 Parties made significant progress. The submissions⁸ and subsequent workshop⁹ to further unpack those submissions assisted Parties to better understand the areas of convergence and divergence on the institutional arrangements of the SNLD.¹⁰ However, progress stalled at the June SBs as Parties diverged on a range of elements.¹¹ There were different visions of the SNLD among Parties who were approaching the negotiations with different views and perspectives.¹² After a productive Heads of Delegation meeting in September 2022 and commendable work by Parties at COP 27 to reach a shared vision, a substantive decision was agreed. The COP 27 decision established the institutional arrangements of the SNLD which pave the way for its full operationalisation.¹³ The Sharm el-Sheikh Implementation Plan affirmed the determination to select the host of the secretariat of the SNLD by 2023 through an open, transparent, fair and neutral selection process.¹⁴

It is important to first highlight that the COP 27 decision on the Santiago Network is reflected under both the COP and the CMA. The decision is set out in full in the CMA decision, while the COP decision endorses that decision and quotes (or 'mirrors') the operative paragraphs in full with a footnote that nothing in the document prejudices Parties' views or prejudices outcomes on matters relating to the **governance of the WIM**, and considerations related to the governance of the WIM will continue at COP 28 (December 2023). The endorsement of the operative paragraphs of the CMA decision by the COP could be interpreted as tacit agreement by the COP further emphasised by the repetition of the CMA decision word for word in the COP decision. However, there are still grey areas regarding the manner in which this issue has been handled noting that this approach was also taken in Glasgow at COP 26. This reflects the as yet unresolved debate over the governance of the WIM.¹⁵

The governance of the WIM is a political disagreement which at its core is about the applicability of paragraph 51 of the decision adopting the Paris Agreement regarding liability and compensation.¹⁶ When Parties discussed this

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issue during COP 27, the G77 and China, supported by interventions by LDCs, AILAC, ABU, Arab Group, and AGN, stressed that they continue to believe that the WIM is under the dual governance of the COP and CMA. As far as the group is concerned the WIM and the bodies under the WIM are subject to the authority and guidance of the COP and CMA together. The US indicated that its view remained the same that the WIM is solely governed by the CMA. This issue is not expected to have an impact on the process in 2023, however, it is important to be aware of. Not only does it have the potential to divert or delay process but it is a foundational issue for the WIM.

There are various elements in the decision that are relevant to the SNLD becoming fully operational that need to be clarified and are subject to further discussion; however there is already some understanding among Parties and other relevant stakeholders as to what the vision of the Santiago Network is that can be unpacked. Understanding the elements including the timing of each component will be critical to delivering on the vision. There may be a risk, for example, that selecting the host of the secretariat in 2023 before the Advisory Board is up and running would lead to the work commencing and precedents being set before the Advisory Board has had the opportunity to establish operational procedures. This could lead to the SNLD developing without oversight by Parties and in a direction that is not aligned with Parties' visions.

It is first important to highlight the agreed **structure** of the Santiago network:¹⁷

- a. A **hosted secretariat** that will facilitate its work, to be known as the Santiago network secretariat;
- b. An **Advisory Board** to provide guidance and oversight to the Santiago network secretariat on the effective implementation of the functions of the network;
- c. A **network of member organizations, bodies, networks and experts** covering a wide range of topics relevant to averting, minimising and addressing loss and damage.

This structure emerged as a result of extensive discussions as Parties sought to reach consensus. Parties agreed the secretariat would have a lean, cost-efficient organizational structure and be accountable to and operate under the guidance of Parties through the Advisory Board. The host would provide the necessary administrative and infrastructural support for its effective functioning, while the director of the secretariat would be accountable to the Advisory Board for the effective implementation of the functions of the Santiago Network.¹⁸

Further analysis of the structure and ongoing consultation of what this looks like in practice would be beneficial. This includes discussion of the roles and responsibilities of the secretariat and Advisory Board which are set out in the annex to the decision, and the relationship between the different parts of the structure.

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It also includes the relationship between the ExCom and the Advisory Board to ensure coherence in the operations of the WIM. Once the Advisory Board and the secretariat are operational, the Advisory Board will develop draft rules of procedure,¹⁹ and the secretariat will elaborate modalities and procedures under the guidance of and by approval of the Advisory Board, including:

- a. Guidelines for designation of OBNEs as members;²⁰
- b. Guidelines and procedures for responding to requests for technical assistance including for urgent response; and
- c. Guidelines for managing funding provided for technical assistance.²¹

It will be important for Parties to be well-prepared for setting out these details.

The **selection process for the host of the SNLD secretariat** was launched upon the conclusion of COP 27/CMA 4. Parties agreed they would select the host by 2023, and the process would be conducted in an 'open, transparent, fair and neutral manner' in accordance with the process outlined in the decision and 'informed by United Nations practices and standards'.²² The process set out in paragraphs 19-23 of the decision is captured in the timeline below and is being led by the UNFCCC secretariat, under the guidance of the Chairs of the Subsidiary Bodies. The key elements are the submission of host proposals,²³ convening of an evaluation panel and preparation of an evaluation report to be considered at SB 58 in June 2023. The outcome of SB 58 should be a draft decision with one proposal for a host, with the UNFCCC secretariat to develop a draft host agreement (memorandum of understanding) with the proposed host by COP 28/CMA 5 to be considered and approved by Parties. It will be critical to have a host that is able to facilitate the delivery of the SNLD's functions in an effective manner. At COP 27, Parties considered this carefully and set out criteria to evaluate proposals in a detailed annex to the decision. Elements include technical capacity, management and governance, financial management and vision and a management plan.²⁴

The second important process in 2023 is the **election of the members of the Advisory Board**. Advisory Board members are to be elected at COP 28/CMA 5. Parties encouraged nominations of experts with a diversity of technical experience and knowledge relevant to loss and damage as well as the roles and responsibilities of the Advisory Board referred to in the decision, taking into account the need for gender balance in the composition.²⁵ Parties agreed to the term of office of members and process for electing new members.²⁶ In the Terms of Reference of the SNLD, Parties agreed that the Advisory Board would be composed of (a) two members from each of the five recognised UN regional groups; (b) one member each from the Least Developed Countries and Small Island Developing States;

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and (c) two members of the Executive Committee, nominated by the Executive Committee from among its members. The composition also includes representation from three observer constituencies: women and gender, indigenous peoples and children and youth, 'who may actively participate in the deliberations of the Advisory Board'.

In relation to **human rights elements** in the decision, it was an important outcome to have membership of the Advisory Board include the three observer constituencies. Meaningful participation of those on the frontlines of climate change impacts was a key demand of civil society groups.²⁷ Not all constituencies are represented; however the Advisory Board meetings will be open to observers to provide technical expertise and inputs, as appropriate to the needs of the Advisory Board to inform its deliberations.²⁸ Further, important outcomes for a human rights based SNLD include the affirmation by Parties that technical assistance would be provided through the Santiago Network in a demand-driven manner and be developed through an inclusive and country-driven process, taking into account the needs of vulnerable people, indigenous peoples and local communities;²⁹ and that technical assistance should also take into consideration the issues in the eleventh preambular paragraph of the Paris Agreement.³⁰ References to gender balance in the membership of the Advisory Board,³¹ and gender considerations including through use of gender-disaggregated data in reporting were also notable outcomes for a human rights-based SNLD.³²

There should also be further discussion on the invitation for Parties to inform the Santiago network secretariat of their plans for **liaising with the SNLD**. This liaison is intended to support alignment of technical assistance delivered by the Santiago network with national priorities.³³ The use of the term 'liaison' rather than 'Loss and Damage Contact Point' in the decision was because it seemed more neutral to Parties and left the decision to each country as to how they will engage with the Santiago network. Also relevant to taking this broader approach is the fact that to date most countries have yet to nominate or identify a loss and damage contact point.³⁴

There were divergent views on the issue of **funding for the SNLD**. A proposal by the European Union to establish a ceiling on how much finance could be provided per project and to differentiate among developing countries in regards to their eligibility was opposed by the G77 and China and its subgroups. Parties reached consensus on the following language regarding the development of guidelines for managing funding, clarifying that those guidelines would include ensuring that:

technical assistance funded directly by the Santiago network is made available to communities particularly vulnerable to the adverse effects of climate change, including through levels of minimum percentage of technical assistance funded directly by the Santiago network directed to communities particularly vulnerable to the adverse effects of climate change³⁵

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“ **There were divergent views on the issue of funding for the SNLD.**”

Parties also recalled the decision in Glasgow that the SNLD will be provided with funds to support technical assistance in support of its agreed functions.³⁶ The following were among the most contentious issues and were the last elements of the decision that Parties reached consensus on: Parties urged developed country Parties to provide funds for the operation of the SNLD and for the provision of technical assistance;³⁷ decided to encourage others to provide support for operations and for technical assistance; and welcomed the pledges that have already been made to the SNLD.³⁸ In the call for proposals to host the Santiago network secretariat that has been prepared by the UNFCCC secretariat, there is a request for prospective hosts to include information in their proposal for providing the Santiago network secretariat with in-kind and financial support for a five-year period.³⁹

The language around funding is vague and there needs to be a discussion about where this money is coming from and how to make it predictable, sustainable and sufficient while also ensuring that as far as possible the funding goes to technical assistance, reaching communities particularly vulnerable to the adverse effects of climate change, rather than operational costs. We also need to think about this in the context of broader discussions about loss and damage finance. The SNLD has the potential for being the vehicle that delivers work on the ground, certainly in the more immediate term because the discussions on the funding arrangements and the loss and damage fund in particular will take time. It is therefore critical that there is funding available for the SNLD in the shorter term.

The final point to highlight in this initial unpacking of the COP 27 decision on the SNLD is **the role of the UNFCCC secretariat**. At COP 26, Parties requested that the UNFCCC secretariat provide support to countries who may seek or wish to benefit from the technical assistance available under the SNLD.⁴⁰ This request was repeated at COP 27, with the qualification that this would be 'until the Santiago network secretariat is operational'.⁴¹ This element has been important for the European Union at each of the sessions, in particular because of the pledges that have already been made by member states for technical assistance. There has however been some disagreement among Parties as to what the UNFCCC secretariat has been doing to carry out this mandate. Thus Parties agreed in the ExCom decision at COP 27, to request the UNFCCC secretariat,⁴²

in responding to paragraph 11 of decision 19/CMA.3, and endorsed in decision 17/CP.26, to make public the requests it receives for technical assistance and to more actively communicate information on technical assistance available and the ways in which countries may access the technical assistance available, including as articulated by organizations, bodies, networks and experts responding to the invitation in paragraph 44 of decision 2/CMA.2, and noted in decision 2/CP.25, relevant to the Santiago network for averting, minimizing and addressing loss and damage associated with the adverse effects of climate change, and to report on progress to the Executive Committee;

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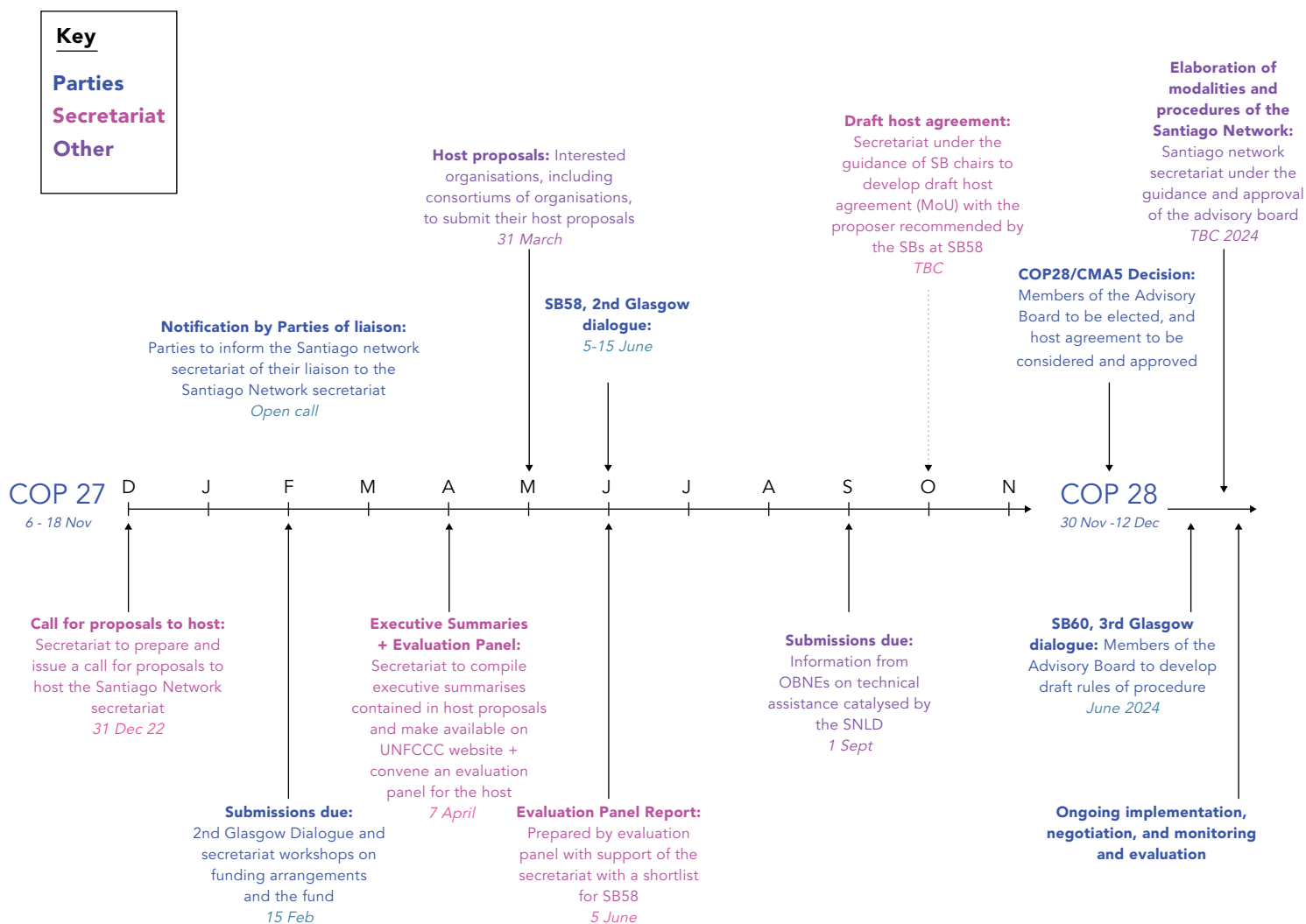
“ **At COP 26, Parties requested that the UNFCCC secretariat provide support to countries who may seek or wish to benefit from the technical assistance available under the SNLD.**”

It will be important to continue to monitor this reporting to understand the status of the SNLD when the host organisation is being selected, whether pledges made begin to be disbursed through the UNFCCC secretariat or whether Parties wait until the SNLD is fully operational with guidelines for managing funding elaborated and approved by the Advisory Board.

“ It will be important to continue to monitor this reporting to understand the status of the SNLD. ”

The mandated process from the COP 27 decision for 2023 is summarised in the timeline below. As you review this timeline, consider whether there are any critical moments when things need to be in place to ensure the SNLD is fit for purpose to deliver its objectives. What are the constituent blocks for a fully operational SNLD and in what order should they be built?

Figure 1: Timeline of the mandated process from the COP 27 decision for 2023





THE SANTIAGO NETWORK IN CONTEXT

The full operationalisation of the Santiago network must be considered in the context of other loss and damage outcomes at COP 27 / CMA 4 as well as, more broadly, other ongoing processes under the UNFCCC. For example, it is not clear how the funding guarantees for the Santiago network provided in the Glasgow Climate Pact will relate to funding for loss and damage under the newly established funding arrangements (including a dedicated fund) for responding to loss and damage.⁴³ Also to be ironed out are the working relationships among the Santiago network's host organization, its secretariat, the Advisory Board and the ExCom, much less what technical assistance will be requested under the Santiago network and what capacity OBNEs will have to meet these requests. Aside from being subject to the host organization's administrative and financial rules, the SNLD's secretariat is meant to be independent. Nevertheless, the choice of the host organisation likely will impact the operation of the SNLD owing to its existing aims, priorities, work programmes, networks and ways of working.

From the perspective of the broader set of ongoing processes under the UNFCCC, discussions on the new collective quantified goal⁴⁴ are entering their second year, and if the first year of discussions is an indicator, funding for loss and damage will continue to feature in the calculation of this new goal. Also, the first five-yearly global stocktake (GST)⁴⁵ under the Paris Agreement is due to culminate at the end of 2023, with a shift during the year from technical assessments to a political phase. Parties agreed that the GST might include an assessment of averting, minimizing and addressing loss and damage,⁴⁶ and to date, loss and damage has been one of the areas that has received expert consideration during the GST's technical dialogues. How loss and damage is treated in the political messaging that is anticipated as the first GST concludes will surely influence the commitment of Parties to ensuring the continued viability of the WIM and its institutional arrangements, including the SNLD. Based on experience of the current technical phase of the GST, the prominent inclusion of loss and damage suggests that there is sufficient momentum for loss and damage to be a central part of the outcomes of the political phase of the first GST.

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“**The choice of the host organisation likely will impact the operation of the SNLD owing to its existing aims, priorities, work programmes, networks and ways of working.**”

“**How loss and damage is treated in the political messaging that is anticipated as the first GST concludes will surely influence the commitment of Parties to ensuring the continued viability of the WIM and its institutional arrangements, including the SNLD.**”

Finally, the outcomes of relevant discussions and initiatives outside the UNFCCC process that may have a bearing on addressing loss and damage are worthy of consideration. These include Vanuatu's request for an advisory opinion of the International Court of Justice on the obligations of States in respect of climate change,⁴⁷ the call by small island developing States for the development of a multidimensional vulnerability index to move beyond traditional measures of need,⁴⁸ the Bridgetown Initiative that is seeking to reform global finance architecture by addressing the interconnectedness of the cost of living, developing country debt and climate change crises,⁴⁹ and the recent recommendation from the UN Special Rapporteur on the promotion and protection of human rights in the context of climate change to establish a consultative group of finance experts to define the modalities and rules for the operation of a loss and damage finance facility.⁵⁰

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IV

CONCLUSION

This briefing is written in the context of COP 27 decisions just having been agreed. As noted earlier in the briefing, the decisions pave the way to fully operationalise the SNLD and so the work to ensure that the SNLD delivers on the needs of communities on the frontlines of climate change is only just beginning. There are many elements of the decision that require further unpacking and analysis, and we hope that this briefing provides a starting point for those discussions including, critically, deciding upon the points in time that need particular attention to ensure a fit for purpose SNLD emerges from COP 28.

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This briefing will be developed into a more detailed piece to be published in May 2023. The writers plan to gather inputs from a range of stakeholders on the short and medium-term issues that need to be considered and addressed to ensure the SNLD continues to move forward and becomes fully operational.

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3. See UN Climate Dialogues 2020, available at <https://unfccc.int/conference/un-climate-change-dialogues-2020-climate-dialogues> and May-June 2021 Climate Change Conference, available at <https://unfccc.int/conference/may-june-2021-climate-change-conference-sessions-of-the-subsi-dary-bodies>. These consultations were organized jointly by the Chilean and incoming UK Presidencies.
4. UNFCCC, decision 19/CMA.3, paragraph 9 and decision 17/CP.26. As part of these decisions, a workshop in advance of the June 2022 intersessional meetings (SB 56) was organised in May 2022 to discuss these submissions. The workshop proceedings are available at, <https://unfccc.int/event/tech-workshop-SN-Loss-and-Damage>.
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6. UNFCCC, decision 1/CMA.3, paragraph 67 and decision 1/CP.26.
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18. Ibid., annex I, para 13, 15-16
19. Ibid., para 14
20. Noting that Parties should consider inclusive and informal guidelines to ensure that local expertise is not excluded.

21. UNFCCC, FCCC/PA/CMA/2022/L.4; FCCC/CP/2022/L.5/Rev.1, para 17
22. Ibid., para 1
23. The call for host proposals is available here: https://unfccc.int/sites/default/files/resource/message_to_parties_and_observers_hosting_sn_secretariat.pdf
24. UNFCCC, FCCC/PA/CMA/2022/L.4; FCCC/CP/2022/L.5/Rev.1, Annex II
25. Ibid., para 10.
26. Ibid., paras 11-13.
27. See What does a human rights-based approach to addressing loss and damage look like?: Key demands for the outcomes of COP 27 at the intersection of loss and damage and human rights, available at <https://www.lossanddamagecollaboration.org/stories/what-does-a-human-rights-based-approach-to-addressing-loss-and-damage-look-like>
28. UNFCCC, FCCC/PA/CMA/2022/L.4; FCCC/CP/2022/L.5/Rev.1, Annex 1 para 10.
29. Ibid, para 26.
30. Paris Agreement, preambular para 11: "Acknowledging that climate change is a common concern of humankind, Parties should, when taking action to address climate change, respect, promote and consider their respective obligations on human rights, the right to health, the rights of indigenous peoples, local communities, migrants, children, persons with disabilities and people in vulnerable situations and the right to development, as well as gender equality, empowerment of women and intergenerational equity"
31. UNFCCC, FCCC/PA/CMA/2022/L.4; FCCC/CP/2022/L.5/Rev.1, para 10.
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37. Ibid., para 5
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41. UNFCCC, FCCC/PA/CMA/2022/L.4; FCCC/CP/2022/L.5/Rev.1, para 15
42. UNFCCC, FCCC/CP/2022/L.14; FCCC/PA/CMA/2022/L.12, para 6
43. UNFCCC, FCCC/CP/2022/L.18; FCCC/CMA/2022/L.18.
44. See UNFCCC website, New Collective Quantified Goal, available at <https://unfccc.int/NCOG> for background on the new collective quantified goal. The goal is to be agreed by the end of 2024 with a base value of USD 100 billion per annum.
45. See UNFCCC website, Global Stocktake, available at <https://unfccc.int/topics/global-stocktake#Background> for background on the GST.

46. UNFCCC decision 19/CMA.1, paragraph 6(b)(ii)

47. See Vanuatu ICJ Initiative, available at <https://www.vanuatuicj.com/home>

48. See Office of the High Representative for the Least Developed Countries, Landlocked Developing Countries and Small Island Developing States, Multidimensional Variability Index, available at <https://www.un.org/ohrlls/mvi>

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IMAGE CREDITS

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