

Loss and Damage under the Convention and Paris Agreement

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The Materiality of L&D



LAWYERS RESPONDING TO CLIMATE CHANGE

Evolution of L&D in the UNFCCC negotiations

L&D timeline:

1991 (pre-UNFCCC) AOSIS declaration.

2010 Cancun Adaptation Framework

2013 WIM

2015 L&D provision limited by own CP 1 decision.

2019 Santiago Network

2021 Trading L&D for Net Zero at Glasgow

2022 COP 27 established the L&D Fund



The Warsaw International Mechanism

COP 19 (2013) established the **Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts**, including extreme events and slow onset events.

The implementation of the functions of the Loss and Damage Mechanism will be guided by the [Executive Committee](#) under the guidance of the COP.

Promoting implementation of approaches to address loss and damage to undertake the following functions:

- Enhancing knowledge and understanding of comprehensive risk management approaches to address loss and damage;
- Strengthening dialogue, coordination, coherence and synergies among relevant stakeholders; and
- Enhancing action and support, including finance, technology and capacity-building, to address loss and damage associated with the adverse effects of climate change, to enable countries to undertake actions.



Article 8 Paris Agreement and Decision 1/COP 21

Article 8: “1. Parties recognize the importance of averting, minimizing and addressing loss and damage(...)

3. Parties should enhance understanding, action and support, including through the Warsaw International Mechanism, as appropriate, on a cooperative and facilitative basis with respect to loss and damage associated with the adverse effects of climate change.

Paragraph 51 of decision 1/COP21 limits compensation on the grounds of L&D under Article 8 in the following manner:

“The Conference of the Parties ... Agrees that Article 8 of the Agreement does not involve or provide a basis for any liability or compensation.”



The Santiago network

COP 25 – Chile-Madrid, 2019

COP 25 established the Santiago network to catalyze technical assistance of organizations, bodies, networks and experts for the implementation of L&D.

Slow progress, especially due to lack of agreement on L&D finance.

SB 58 negotiations did not achieve agreement on a host.



Loss and Damage Fund

(Decisions 2/CP.27 and 2/CMA.4)

After years of discussion, COP 27 established the Loss and Damage Fund for vulnerable countries and established a Transitional Committee to work on the operationalization of the new funding arrangements.

Second meeting of the TC before Bonn SBs 58 and third meeting

Second Glasgow Dialogue (established in COP 26, Glasgow, 2021) session in Bonn SB 58 focused on principles and elements of the Fund.



Communicating about Loss and Damage

- Article 8.
- Decisions (rulebook).
- Country submissions.



Key actors in the L&D negotiations

- a) Island states focusing on sea level rise, non-economic losses, and migration
- b) Bolivia, Venezuela, Cuba and Gambia on food security -and sovereignty- plus compensation
- c) ExCom members of the WIM.
- d) Country groups promoting the discussion: AOSIS, LDC and ALBA.
- e) Funds.

Key topics: contributors and management of the fund.

Thank you !

Any questions?

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Resources

LRI Loss and Damage explainer:

<https://legalresponse.org/legaladvice/loss-and-damage-explainer/> and meetings summaries.

CCLAD 'The Politics of Loss and Damages' database: <http://www.climate-loss-damage.eu>

Loss and Damage

Collaboration: <https://www.lossanddamagecollaboration.org> and twitter.