

Warsaw International Mechanism for loss and damage: Moving from polarizing discussions towards addressing the emerging challenges faced by developing countries

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As analysis of the outcome of the COP19 climate conference begin circulating, the establishment of the Warsaw International Mechanism for loss and damage associated with climate change impacts (the Mechanism) stands out as one of the key outcomes and milestones of the Conference. This article offers our views, as negotiators from developing countries, who have worked on this issue in the past few years. Negotiating on the issue of loss and damage has always been very difficult if not emotional issue for a lot of us negotiators from developing countries. But in light of those difficulties, there is also a community of individual negotiators from both developed and developing countries that work very closely on the issue.

The establishment of the Mechanism, as is not widely known, was not a last minute political compromise to break the deadlock at the talks, but rather it is the result of a longstanding call for the need to address unavoidable impacts of climate change that dates back to the early 1990s and the early days of the international talks. The concept originated with the Small Island Developing States through AOSIS and has over the last few years gained the overwhelming support of other vulnerable developing countries. As science has made it clear that there are now climate change impacts that can no longer be managed by mitigation or adaptation, vulnerable countries have found common cause in the need to create the Mechanism.

With the increased attention given to loss and damage at the international level, multiple perspectives and analyses have emerged, including those by the international media. Unfortunately, many of these perspectives seem to limit the loss and damage agenda to a matter of determining liability and seeking financial compensation for loss and damage. While liability and compensation form important elements of the loss and damage discussions, this perspective often trivializes the complexity of the issues and inaccurately reduces the issue to one of merely determining liability and seeking compensation. In so doing, such framing leaves out some of the most important issues that vulnerable developing countries are trying to bring to international attention: such as the challenges in the medium and long-term associated with permanent losses, loss of ecosystems, loss of livelihoods, non-economic losses, loss of statehood and the associated challenges with migration and displacement, among others. Assuming that a compensation approach is established under the UNFCCC or other international forum, financial compensation may represent a normative solution to the peril of vulnerable countries, but it does not necessarily mean that the actual underlying needs are addressed.

Other observers have suggested that the absence of any reference to liability in the Warsaw decision on loss and damage represents a fatal flaw in the Mechanism and even a failure of the negotiation process itself. We disagree. The Warsaw International Mechanism has just been established and should be given an opportunity to deliver before its validity is questioned. In this regard, it is important for both developed and developing countries to continue to work together and double their efforts to ensure that the Mechanism delivers concrete outcomes on the ground for those that need it most. For this, concerted action will be required under the Convention and its different bodies, including the GCF, and also strengthening dialogue, coordination, coherence and synergies with actors outside the Convention.

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Many of the complex issues described above cannot be adequately addressed by financing alone. Therefore, we believe a more accurate (and productive) was for developing countries and civil society to discuss loss and damage by referencing the full range of challenges and solutions it entails. A much more thorough conversation that weaves together the moral obligations of solidarity, scientific understandings of climate change attribution, and a serious consideration of the range of financial measures that will begin to address both economic and non-economic loss is long overdue. For instance, matters such as risk-sharing, risk transfer, and rehabilitation included in the Doha decision paragraph 7a(iv), and others, such as social safety nets, should be carefully from considered under the different functions of the Mechanism not as research topics, but conscious of their importance, urgency, and with the goal of finding concrete solutions to developing country needs.

Additionally, the discussion concerning whether loss and damage falls under adaptation is one of normative but not practical value. Parties have already agreed that there are relevant linkages and synergies between adaptation actions and approaches to address loss and damage, and that this relation needs to be explored appropriately. Such an exploration would necessarily address the need for a better understanding of the differences between these fields and the limits of each, particularly in addressing climate change slow onset impacts. Further, the Warsaw decision acknowledges “the contribution of adaptation and risk management strategies towards addressing loss and damage associated with climate change impacts” and “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”. This recognition, which frames the establishment of the international mechanism, sets the stage where loss and damage is understood as more than adaptation, and it will be the work of the Mechanism over the coming years, including the 2016 review, that will provide a more nuanced but clear foundation to continue to position addressing loss and damage in the larger context of the international efforts to respond to climate change. Meanwhile, the actions and functions identified in Doha and as part of the Warsaw decision need to advance to guarantee that the implementation of actions at multiple levels to address loss and damage begins to address the needs of vulnerable developing countries, without needing to condition action to a legalistic and semantic discussion.

With these points in mind, it is the intention of this paper to help lay the groundwork for moving away from the current discussion following the Warsaw conference and toward a more constructive conversation that highlights the potential, importance, and complexity of making the Warsaw International Mechanism meaningful, particularly for vulnerable developing countries.

Setting expectations and direction

The time scale reality of loss and damage and dealing with climate impacts extreme and slow onset

There is ample evidence of the impacts on human society when climate-related risks overwhelm our ability to cope—evidenced by extreme weather patterns that affected world food production throughout 2010-2012, extreme storms like Hurricane Sandy and supertyphoon Haiyan, extreme heat that contributed to massive forest fires in Russia, extreme flooding in Pakistan, Australia, and other areas of the world. Loss and damage is being experienced by developing countries. Moreover, given the continuing increase in greenhouse gas emissions and continuing temperature rise, it is clear that loss and damage from both extreme events and slow onset events will continue to mount. Slow onset events, in particular, will continue to increase in severity and extent, and countries will need increasing financial resources and technical assistance from the international community in order to understand and address their increasing impacts. Approaches to address slow onset events should not merely focus only on the short-term impacts but also on long-term impacts.

What is the mechanism expected to do?

In brief, the Warsaw international mechanism is to promote the implementation of approaches to address loss and damage associated with the adverse effects of climate change, in a comprehensive, integrated and coherent manner. This includes carrying out the work outlined in the Doha decision on loss and damage, including work to enhance knowledge and understanding of comprehensive risk management approaches to address loss and damage associated with the adverse effects of climate change, including slow onset impacts; strengthening dialogues, coordination, coherence and synergies among relevant stakeholders; and enhancing action and support, including finance, technology, and capacity building to address loss and damage. The Warsaw international mechanism is to address loss and damage from both extreme weather events and slow onset events.

Broadly, the Mechanism will carry out three types of functions related to: enhancing knowledge and understanding of comprehensive risk management approaches; strengthening dialogue, coordination, coherence, and synergies among relevant stakeholders; and enhancing action and support so as to enable countries to take action to address loss and damage. In exercising these functions, it was decided that the Mechanism will facilitate the support of actions; improve coordination of relevant work of existing Convention bodies; convene meetings of relevant experts and stakeholders; generate, analyze, and review new information; provide technical guidance and support; and make recommendations on enhancing actions and coherence, including on how to mobilize resources and expertise.

Given the significance of the issue and the complexity and magnitude of challenges posed in addressing loss and damage, a wide range of work, using a range of modalities, will need to be carried out under the direction of the Mechanism. For example:

- Through its mandate to provide leadership on the assessment and implementation of approaches to address loss and damage, the Mechanism can promote the development of new information on existing approaches to address loss and damage, as well as the development of additional approaches, and coordinate other work relevant to assessment and implementation of approaches undertaken by other Convention bodies, such as the TEC, the Standing Committee on Finance, the financial mechanism, the SBI, and the SBSTA.
- Through its convening modality, the Mechanism should facilitate technical work to address gaps in the understanding of and expertise in approaches to address loss and damage, including in collaboration with outside experts. It should function to mobilize and secure the expertise necessary, with an aim to providing technical guidance to countries, such as, for example, on risk transfer approaches and approaches to address impacts from slow onset events.
- Two important objectives of the technical work and guidance under the Mechanism should be to lead to improved capacity of countries to articulate needs related to addressing loss and damage; and to provide guidance to the COP and operating entities of the financial mechanism on specific implementation needs expressed by countries to enhance action and support to address loss and damage.
- Highlight relevance of linkages and set expectations for the work to be done in collaboration with experts outside the convention from UN Agencies and others.

The information generating and convening functions and modalities of the Mechanism will be particularly important in developing new knowledge and understanding on how to address permanent losses, loss of ecosystems, loss of livelihoods, non-economic losses, loss of statehood and the associated challenges with migration and displacement. The extreme importance of the work that will be done under the Mechanism to develop understanding of and expertise in these areas cannot be overstated. Significant expertise in these areas lies outside the

Convention bodies, which should be mobilized and secured through the Mechanism. While the procedures of the Executive Committee are still to be developed during the next year a number of useful suggestions have been put forward by Parties as to how the expertise might be mobilized. In particular, proposals to carry out specific work through task forces, which would include as members both Parties and outside experts, merit special consideration.

Key issue carried from Doha into the mechanism for further work

Another important function of the mechanism is to facilitate and promote action to address gaps in the understanding of and expertise in approaches to address loss and damage including the areas outlined in decision 3/CP.18, paragraph 7(a), which include enhancing the understanding of:

- The risk of slow onset events, and approaches to address them;
- Non-economic losses and damages;
- how loss and damage associated with the adverse effects of climate change affects those segments of the population that are already vulnerable owing to geography, gender, age, indigenous or minority status, or disability, and how the implementation of approaches to address loss and damage can benefit those segments of the population;
- How to identify and develop appropriate approaches to address loss and damage associated with the adverse effects of climate change, including to address slow onset events and extreme weather events, including through risk reduction, risk sharing and risk transfer tools, and approaches to rehabilitate from loss and damage associated with the adverse effects of climate change;
- How approaches to address loss and damage associated with the impacts of climate change may be integrated into climate-resilient development processes; and
- How impacts of climate change are affecting patterns of migration, displacement and human mobility.

Key issues carried from Doha into the mechanism as part of what Parties can do

The Mechanism is also mandated to facilitate enhanced action on the areas listed in paragraph 6 of the Doha decision, through provision of technical support and guidance, provision of recommendations to the COP and to the operating entities of the financial mechanism, and otherwise facilitating mobilization of expertise and enhancement of support, including finance, technology and capacity-building, to strengthen existing approaches and to develop and implement additional approaches to address loss and damage. As noted above, developing country Parties should be assisted to identify their needs in the following areas, which can guide the Mechanism in mobilizing of expertise and support:

- Assessing the risk of loss and damage associated with the adverse effects of climate change, including slow onset impacts;
- Identifying options and designing and implementing country-driven risk management strategies and approaches, including risk reduction, and risk transfer and risk-sharing mechanisms;
- The systematic observation of, and data collection on, the impacts of climate change, in particular slow onset impacts, and accounting for losses, as appropriate;
- Implementing comprehensive climate risk management approaches, including scaling up and replicating good practices and pilot initiatives;
- Promoting an enabling environment that would encourage investment and the involvement of relevant stakeholders in climate risk management;
- Involving vulnerable communities and populations, and civil society, the private sector and other relevant stakeholders, in the assessment of and response to loss and damage; and

- Enhancing access to, sharing and the use of data, at the regional, national and subnational levels, such as hydrometeorological data and metadata, on a voluntary basis, to facilitate the assessment and management of climate-related risk.

Vision for workplan: to addressing key issues

The Vision of the workplan of the Mechanism is to start addressing the key issues. The workplan is not for the ExeCom, but rather for the implementation of the functions of the mechanism. This distinction is key and needs to be reflected in the modalities employed in the workplan. In other words, it is not about the Committee having meetings, but of putting further activities that bring life to the Mechanism.

Many key issues are not explicitly mentioned in the Warsaw decision, and these will be part of the workplan, for example how to identify and develop appropriate approaches to address loss and damage associated with the adverse effects of climate change, including to address slow onset events and extreme weather events, both an historic point, and a point of departure – one part of the challenge has been to persuade the international community to agree to take on a global challenge (e.g. by creating the Warsaw International Mechanism); but an equally important part is turning those words into concrete actions. Making the Warsaw International Mechanism meaningful will not happen overnight or from one COP to the next. The urgency to address the issue and to ensure concrete actions are taken to begin implementing the functions of the mechanism requires political will. Moreover, the importance and complexity of these issues will require a concerted effort at all level that touches actors outside the climate change community. These issues relate to the needs identified by developing countries and must be carried forward into the workplan of the Mechanism.

Making the mechanism matter: Five key elements for efficacy

The milestone achieved in Warsaw is only a midway point – one part of the challenge is getting the international community to agree to take on a global challenge, but an equally important part is turning those words into concrete actions. Making the Warsaw International Mechanism meaningful will not happen overnight or from one COP to the next. The urgency to address the issue and to ensure concrete actions are taken to begin implementing the functions of the mechanism requires political will. Moreover, the importance and complexity of these issues will require a concerted effort at all level that touches actors outside the climate change community.

Aligning mandates, undertaking long-term planning, and taking fully into consideration the challenges associated with slow onset impacts will require more than a COP decision can capture. Thus, in considering the way ahead there are key elements that can shape the effectiveness of the Mechanism:

1. As noted before, addressing many of the controversial and technically complex issues is essential for a Mechanism to be responsive to scientific reality. In addition, the interim work of the Executive Committee over the course of 2014 and the work in preparation for the 2016 review are key.
2. The review of the mechanism is essential given the very nature of loss and damage. Bearing in mind the growing scientific evidence, there is no room to believe that in 2016 the challenge of loss and damage will be less urgent. New knowledge will become available through the work of the mechanism itself and through other forums. Setting out a mandate for this review represents more a recognition of the evolving nature of this matter.
3. The emphasis on “structure, mandate and effectiveness”, bearing in mind the interpretation of “structure” captured by the COP president in the report of COP19 as including “placement” of the Mechanism, provides space for considering where the Mechanism fits in the context of work to achieve stabilization of greenhouse gas concentrations at a safe level “within a time frame sufficient to allow ecosystems to

adapt naturally to climate change, to ensure that food production is not threatened and to enable economic development to proceed in a sustainable manner.”

4. In addition, the consideration of effectiveness will need to reflect on whether the functioning of the mechanism is responsive to the broad challenges faced by developing countries in addressing loss and damage.
5. Expectations for the interim Executive Committee and the work for 2014, including the ability to make strategic decisions to rapidly respond to country needs, etc. The needs of vulnerable developing countries and how to address those needs should be the focus of the work plan to be developed by the Executive Committee. In setting out its two-year workplan, the ExComm will need to identify both immediate needs of Parties, relevant to para 6 of 3/CP.18. It will also need to establish short and medium-term priorities for work to be undertaken relevant to para 7 of 3/CP.18.

Establishing the Warsaw International Mechanism remains ineffective unless there is the political will and leadership, particularly of developed countries, to ensure that what has been established will deliver concrete actions and results to address the needs for those that this mechanism is set up to support. This is a grave responsibility and we must act with the urgency it demands. The Warsaw International Mechanism creates the space and opportunity in the to understand and begin to effectively address multiple issues: how can vulnerable communities be supported when they face barriers and limits to adaptation? How can that understanding be channeled back into effective policy and practice at multiple level? how can understanding of loss also evolve to align with realities and policy priorities in and beyond 21st century. The benchmark of success will be whether this new policy space delivers new ways of framing the issues, news approaches of support, and news kinds solutions to help particularly vulnerable developing countries deal with the adverse effects of climate change.