DEBRIEF FROM THE BONN CLIMATE CHANGE CONFERENCE (SB 58): NEXT STEPS TO FULLY OPERATIONALISE THE SANTIAGO NETWORK FOR LOSS AND DAMAGE
ACKNOWLEDGMENTS

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INTRODUCTION

In June 2023, Parties to the UN Climate Change Convention (UNFCCC) and its Paris Agreement met in Bonn, Germany at SB 58. The objective of the meeting was to continue discussions and build on mandates that emerged from COP 27 in Egypt and prepare a draft decision for adoption at COP 28 in the UAE in December 2023. One critical issue agreed at COP 27 was to establish the institutional arrangements of the Santiago Network for averting, minimising and addressing loss and damage (SNLD). The SNLD was established at COP 25 in Madrid (2019) to catalyse the technical assistance of relevant organisations, bodies, networks and experts (OBNEs) for the implementation of relevant approaches for averting, minimising and addressing loss and damage associated with the adverse effects of climate change at the local, national and regional level in developing countries that are particularly vulnerable to the adverse effects of climate change.

The mandate for Parties at SB 58 was to select a host organisation for the SNLD secretariat. The UNFCCC secretariat would then draft a host agreement (MoU) by COP 28 for Parties to consider and endorse. Alongside the selection of members of the advisory board of the SNLD, this would enable the SNLD to become fully operational and truly start to deliver on its mandate. However, Parties were unable to reach an agreement to select the host organisation at SB 58. Instead, they will continue consideration of the matter at SB 59 in December 2023, taking into account draft text prepared at the session. This paper discusses what happened at SB 58, the outcome of the session and the risks and opportunities for the full operationalisation of the SNLD going forward.
On 1 June, just prior to the official commencement of the session, the report of the evaluation panel established to assess the host proposals including providing information on how the selection criteria agreed by Parties at COP 27 had been met, was released. The panel found that both proposals satisfied the evaluation criteria, although they each had varied strengths and weaknesses. For both the UN Office for Project Services (UNOPS)/UN Office for Disaster Risk Reduction (UNDRR) consortium, and the Caribbean Development Bank (CDB), weaknesses were highlighted with location of offices and regional coverage; extent of in-kind financial support and sustainability of the SNLD; how partnerships and existing networks would be leveraged for effective implementation; and financial management systems including how technical assistance requests would be processed and how monitoring and accounting systems would be adapted.

On 6 June, Parties had the benefit of a Q&A session with the proponents of the proposals for the host. The CDB and the UNOPS/UNDRR consortium each made presentations on their proposals, and questions asked centred around inter alia: accessibility and global reach including existing relationships with partners who can facilitate regional coverage; extent of in-kind financial contributions; ensuring that the full spectrum of loss and damage is covered; expectations on administrative costs and implications for totality of funding so that the maximum funding goes to technical assistance; clarification regarding the independence of the secretariat from the host organisation; the management plan including how the host will leverage more funding and networks to effectively deliver technical assistance, including at the local level; how human rights and rights of indigenous peoples will be upheld and ensuring safeguards are in place; how the issue of conflicts of interest would be managed; and the timeline for full operationalisation.

During the session on 6 June, oral responses were provided. At the next session on 7 June, Parties requested written responses to the questions noting time had been limited for a full discussion on the preceding day. Written responses were promptly provided by the proponents. The CDB addressed inter alia, how fast the SNLD will be up and running; how the CDB would ensure all regions are covered equally well; how OBNEs would be engaged; the administrative costs that the CDB expects to charge the hosted Secretariat; and the extent of in-kind and own resource financial contributions by the CDB.
UNOPS/UNDRR clustered their answers into scope and technical elements; governance; implementation arrangements; and financial management. They also had a specific section responding to the observations made by the evaluation panel on their proposal and further clarified their proposal for staffing the SNLD secretariat.

Also at the session on 7 June, the G77 and China shared the expectations of the group regarding the conclusions and draft decision they wanted to see coming out of SB 58, including detailed guidance to the UNFCCC secretariat relating to the drafting of the MoU to ensure that issues of particular importance to Parties were addressed by the host proponent. At that time, the US noted their preference for a short conclusion and draft decision. They did not see the MoU containing substantive guidance to the host. Different groups expressed their specific concerns regarding elements of the host proposals. No Party expressed a preference for either host proponent at that stage, save for the Dominican Republic who indicated that AOSIS had a preference for the CDB. There was consensus in the room on the importance of having the Advisory Board up and running as soon as possible.

On 8 June, Parties again met in an informal session where they were presented with an initial draft text proposed by the co-facilitators. The G77 and China also presented the elements of the decision text that they had been working on together as a group. Mexico on behalf of EIG and Japan indicated their preference for UNDRR/UNOPS to be selected as the host. New Zealand indicated a preference for the CDB.

After 8 June, Parties engaged in a series of informal informal sessions. The US, Canada and G77 and China each presented a draft text to be considered by all Parties. Parties resolved to draft ‘from scratch’ and, working in good faith were able to reach consensus that met the concerns of the G77 and China and agreed to include detailed guidance for the UNFCCC secretariat in drafting the MoU while also meeting the concerns of developed country Parties to as far as possible utilise agreed text from previous decisions on the SNLD in articulating those concerns.

The concerns that were reflected in the text include: independence of the SNLD secretariat from the host organisation; regional presence of the host; ensuring the full spectrum of loss and damage is addressed; ensuring the host can receive financial support through all parts of the consortium; information on the financial, in-kind and other support for the SNLD secretariat; the importance of a lean, cost-efficient organisational structure; conflict of interest; and the rapid operationalisation of the SNLD Advisory Board. These were included in the draft SB 58 conclusion text. In the draft COP 28 / CMA 5 decision text, Parties also included placeholders for potential invitations to the Advisory Board on additional work it could undertake in its beginning phase.

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On 13 June, Parties met for an informal session where they notified the co-facilitators of the progress they had made in reaching agreement on the draft conclusions and decisions. However, they had as yet been unable to reach consensus on the selection of the host and would continue that deliberation. On 15 June, Parties met for a final time for an informal session where it was clear that a host would not be selected at SB 58. Instead, Parties will continue consideration of the matter at SB 59 in December 2023, taking into account the draft text prepared at the session.

“The conclusions under the SB 58 SNLD agenda item were purely procedural in nature.”

Despite the hard work put in by Parties to reach consensus on an approach to the full operationalisation of the SNLD, the SB 58 outcomes were significantly affected by the failure of Parties to agree on a host for the SNLD secretariat. As a result, the conclusions under the SB 58 SNLD agenda item were purely procedural in nature, saying in essence that the subsidiary bodies had ‘initiated their discussions on selecting the host of the secretariat of the Santiago network…and agreed to continue consideration of this matter’ at SB 59 ‘taking into account the draft text prepared for this agenda item at this session’. It is the draft text accompanying the procedural conclusions that potentially is of most significance.

“This draft text can be divided into two parts: 1) conclusion language agreed amongst Parties in the anticipation of an agreement on the selection of a host; and 2) draft elements of a COP 28 / CMA 5 decision, both of which indicate the stage of agreement on critical issues around the secretariat’s drafting of the MoU with the host, including guidance on a number of key matters of concern (see below), as well as signposting matters of concern that will need to be discussed further at the Dubai conference to finalise a draft decision (see below). While the failure of Parties to agree on a host for the SNLD secretariat at SB 58 was very disappointing and likely will impact the timing of the SNLD’s operationalisation, being able to carry forward draft text to inform the SB 59 discussions should allow Parties to take up from where things were left at SB 58.

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The most direct impact of a lack of agreement on the selection of the host for the SNLD secretariat is a delay in the full operationalisation of the SNLD itself. Without the organisation subject of the MoU in place, the UNFCCC secretariat is not in a position to draft the agreement. Therefore, in the best-case scenario, where Parties select a host at COP 28 / CMA 5, the UNFCCC secretariat will then be able to prepare the MoU during the first half of 2024 for presentation to Parties at SB 60 (June 2024). While the subsidiary bodies would be able to endorse the MoU and / or propose changes to it, only Parties at COP 29 / CMA 6 would be able to authorise the UNFCCC Executive Secretary to sign the MoU on their behalf. Therefore, the chosen host, along with the Advisory Board, would only be in a position to establish the SNLD secretariat, at the beginning of 2025, a year later than originally expected. This is the best case scenario, requiring Parties to have resolved differences on the choice of host by COP 28.

There are several unknowns at this stage in the process, which may need to be resolved. The lifespan of the proposals made by the two proponents is not clear, nor is it clear whether either of the two will wish to continue their pursuit of the hosting role. Ensuring the conditions associated with evaluating the proponents and the assurances that they put forward to address them at SB 58 remain in place at COP 28 may require informal interventions by interested Parties between now and the COP. Parties will also need to work inter-sessionally to move past the lack of consensus on the choice of a host. All of this will require effort and planning by those able to convene informal meetings, especially within the G77 and China, where consensus on the host is most important. What with the impending finalisation of the global stocktake and the mandated agreement to operationalise loss and damage funding arrangements and the fund, calendars will be full and political priorities will need to be managed.
There is also no guarantee that the draft text accompanying the SB 58 conclusions will be carried forward as is. The draft text crafted at SB 58 provided an important element of comfort to Parties in the host selection process, but it was born out of a particular set of circumstances; and substantive and political circumstances will be different at COP 28. Therefore, there is a risk that the SB 58 text will need to be reopened at SB 59, disturbing the balance of comforts that were achieved at SB 58. Finally, a number of developed country Parties have already provided funds towards operationalisation of the SNLD and others have pledged funds for the provision of technical assistance. It is not clear what sort of budgetary contingencies may be attached to the pledged funds, i.e., how might these pledges manifest in actual funding given the timing delays now inherent in setting up the SNLD secretariat. In Glasgow, Parties agreed that the SNLD will be provided with funds to support technical assistance and developed country Parties were urged to provide funds for the operation of the SNLD; however, the delay in getting the SNLD up and running risks eroding the good will shown to date by developed country Parties in meeting those commitments.

On the positive side, the delay in moving forward in the process of operationalising the SNLD will provide Parties with additional time to work on shoring up the perceived weaknesses in each of the proposals for hosting the SNLD secretariat. There were proposed options discussed during SB 58 for, inter alia, expanding the appropriate regional reach of each of the proponents to ensure that all developing countries requiring technical assistance to address loss and damage had access to it. Additional time to explore these options could help allay concerns not only around access, but also on the scope of technical assistance provided and the financial support available, among others. Clarity around the operation and governance of the loss and damage funding arrangements and fund, to be agreed at COP 28, could also shed further light on where the SNLD fits in the broader context of finance for loss and damage. A year’s delay in the establishment of the SNLD secretariat and the working of the network itself, would allow time for the Advisory Board to be formed (as planned) during 2024 and for its members to settle into their roles, properly setting the stage for the SNLD secretariat to be established and accomplish its mandates.

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DISSECTING THE DRAFT TEXT: MATTERS ASSOCIATED WITH PREPARATION OF THE MEMORANDUM OF UNDERSTANDING

The guidance that Parties agreed to include in the draft conclusions at SB 58 (prior to failure of agreement to the host) were centred around the host agreement or MoU. The need for providing guidance to the UNFCCC secretariat as to what to include in the MoU (as well as a request to prepare additional guidance on possible conflicts of interest) was driven by specific developing country Party concerns on particular aspects in both of the proposals for hosting the SNLD secretariat. In certain areas, these concerns varied depending on regional priorities. A listing and brief description of each of these concerns follows:

Independence of the SNLD secretariat from the host organisation: many Parties were concerned about the governance of the SNLD and its secretariat. The COP 27 decision makes it clear that the SNLD secretariat shall be accountable to and operate under the guidance of the Advisory Board; however, based on the tone of the proposals, making this clear was deemed important.

Regional presence of the host: the proponents of the proposals to host the SNLD secretariat are based in different regions and have proposed different locations for the home of the SNLD secretariat. In addition, the regional offices and networks that could be provided by the two proponents are different in character and stages of development. Parties wanted to ensure that regardless of the choice of host, there would be some guarantee that access to the technical assistance provided by the SNLD would not be compromised by the location of the SNLD secretariat.

Ensuring the full spectrum of loss and damage is addressed through the technical assistance provided: the two proponents have different skill sets and their foundational experience covers different, and not all, aspects of the full spectrum of skills and experience required to address loss and damage. Arguably, with an SNLD secretariat that is truly independent of the host, the character of the host should not matter appreciably. Practically, however, the existing networks offered by the future host and the space in which it operates could very well influence the host’s ability to attract OBNEs to the network and thus the broader development of an effective SNLD itself.

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Ensuring the host can receive financial support through all parts of the consortium: because of the nature of the host consortia assembled by each of the proponents, Parties were concerned about the even flow and accessibility of funds for technical assistance throughout these consortia and crafted guidance to address this.

Information on the financial, in-kind and other support for the SNLD secretariat: Parties were concerned that neither proposal was amply clear as to the volume of support (financial, in-kind and other) that would be provided by the host to the SNLD secretariat. Text was drafted requesting that information on the financial, in-kind and other support for the SNLD secretariat be included in the MoU.

The importance of a lean, cost-efficient organisational structure: while the terms of reference in the COP 27 decision on the SNLD provide that the SNLD secretariat will have a lean, cost-efficient organisational structure, Parties felt the need to emphasise this as a means of ensuring that the majority of the quantum of funds available to the SNLD would be spent on the provision of technical assistance to developing country Parties that are particularly vulnerable to the adverse effects of climate change and not to the overhead costs of the SNLD secretariat.

Conflicts of interest: Parties were concerned about situations where the host (or its partners) might also play the role of an OBNE in the SNLD and the potential conflicts of interest associated with playing these dual roles. In addition to providing guidelines on the drafting of the MoU, the text of the conclusions that Parties drafted (now merely draft text accompanying the procedural conclusions) includes a request to the secretariat to develop draft guidelines to help manage these situations.

During discussions at SB 58 on a set of draft conclusions on the operationalisation of the SNLD, Parties were anxious to make sure that the Advisory Board was also operating by the time the hosting arrangements for the SNLD secretariat were put in place. The draft text accompanying the SB 58 procedural conclusions reinforces the provision in the COP 27 decision for Advisory Board members to be nominated and elected by COP 28. In fact the draft text encourages the nominations to be made by mid-November, in advance of the starting of the COP. In the absence of substantive conclusions coming out of SB 58, there remains a hope that Parties will heed this unofficial encouragement and that the Advisory Board will become operational as early as possible in 2024.

In addition to including language on the nomination and election of Advisory Board members in the accompanying draft text, discussions at SB 58 gave rise to additional matters for the Advisory Board to address. These matters are currently included as placeholders in the draft decision text.
associated with the SB 58 procedural conclusions, namely as follows:

• Placeholder for addressing guidelines on potential conflicts of interest regarding the engagement of OBNEs (see additional discussion above);

• Placeholder for the Advisory Board to request a report on in-kind support for the SNLD secretariat from the host (and other parts of the network);

• Placeholder for the COP / CMA to request the Advisory Board to take up issues related to broad regional presence and ensuring accessibility to the technical assistance catalysed by the SNLD in all UN regions with developing countries that are particularly vulnerable to the adverse effects of climate change, with no region left behind.

Although the SNLD secretariat likely now will not be established until 2025, this does not mean that the Advisory Board should not become operational in 2024 as planned. The additional time will provide the Advisory Board with space to prepare for the full operationalisation of the SNLD and its secretariat. Because the Advisory Board is a part of the Warsaw International Mechanism under the UNFCCC and Paris Agreement, it should not be impeded from carrying out this preparatory work prior to establishment of the secretariat. However, the COP / CMA will want to consider the timing of the establishment of the Advisory Board in 2024 and the additional work it may wish to request it to do prior to the SNLD secretariat and the broader network getting up and running.

CONCLUSION

This paper explored what happened at SB 58, unpacking the chronology of what occurred as Parties engaged in discussions to select a host organisation for the SNLD secretariat and drafted text to guide the UNFCCC secretariat in drafting an MoU with the selected host. With Parties unable to reach agreement on the selection of a host for the SNLD secretariat, Parties must now contend with the delay in the full operationalisation of the SNLD and evaluate how they can move the work forward to ensure that no further delay occurs. Parties will need to consider several unknowns, including the lifespan of the host proposals, what intersessional work can be undertaken to advance discussions, whether the draft text accompanying the SB 58 conclusions will be carried forward as it is or whether it will need to be reopened, and the status of pledges by developed country Parties including whether good will shown to date will be eroded through the delayed operationalisation.

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Ensuring a robust architecture for loss and damage under the Convention is of the utmost importance as the adverse impacts of climate change intensify and the need for an institution to facilitate the delivery of technical assistance to communities on the frontlines of climate change becomes increasingly urgent. It is expected that Parties can rise to this challenge.

Of course, the delayed operationalisation of the SNLD will provide time to shore up potential weaknesses in host proposals, better understand where the SNLD fits vis-à-vis the fund and funding arrangements, and set up the Advisory Board to ensure that the operationalisation of the SNLD is Party-led and owned. Parties have unpacked in some detail the concerns they have around independence of the SNLD secretariat from the host organisation, regional presence, ensuring the full spectrum of L&D is addressed, and financial and other matters such as conflicts of interest. Having had these discussions at SB 58, Parties now have more clarity regarding expectations for a fit for purpose SNLD. Carrying these concerns forward and ensuring a robust architecture for loss and damage under the Convention is of the utmost importance as the adverse impacts of climate change intensify and the need for an institution to facilitate the delivery of technical assistance to communities on the frontlines of climate change becomes increasingly urgent. It is expected that Parties can rise to this challenge.

REFERENCES

1. For more detailed analysis of the decision from COP 27, see: https://www.lossanddamagecollaboration.org/publication/unpacking-the-cop-27-decision-on-the-santiago-network


3. Draft text on Matters relating to the Santiago network under the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts, DT.SBI58.i14_SBSTA58.i6.3. Available at: https://unfccc.int/documents/630140


5. See footnotes 2 and 3 above.

6. UNFCCC, decision 1/CMA.3, paragraphs 67 and 70, endorsed by decision 1/CP.26, paragraph 43.

IMAGE CREDITS

1. Cover image: An Indigenous delegate watches the opening plenary of the 2023 Bonn Climate Conference (SB 58). Image credit: UNClimateChange via Flickr, untitled image, licensed under CC BY-NC-SA 2.0

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