

**Submission by the Arab Republic of Egypt on behalf of the
African Group of Negotiators (AGN)
on Term of Reference (TOR) for the Warsaw International
Mechanism (WIM) for Loss and Damage associated with climate
change impacts**

22 February 2019

This submission is made in response to the invitation made in decision 1/CP. 23 *to Parties, relevant organizations and other stakeholders to submit, by 1 February 2019, their views and inputs on possible elements to be included in terms of reference for the review of the Warsaw International Mechanism referred to in decision 4/CP.22, paragraph 2(d), taking into account the outcomes of the implementation of the work of the Executive Committee, for consideration by the subsidiary bodies at their sessions to be held in June 2019.* The African Group (AGN) appreciates the opportunity to contribute its views in response to the invitation by making this submission. The African Group believes that this submission should be read together with AGN's previous submissions on loss and damage, particularly the submission made in response to paragraph 10 of decision -/CP.23

Introduction:

Decision 3/CP.18 and 2/CP.19 defines the WIM scope, functions and mandate. The Conference of the Parties by its decision 2/CP.19 decides to review the WIM, including, its structure, mandate and effectiveness, at COP 22, with a view of adopting an appropriate decision on the outcome of this review. Decision 4/CP.22 decides that future reviews of the WIM should consider, inter alia, progress on the implementation of the work plan of the Excom as well as its long-term vision that guides ways in which the WIM may be enhanced and strengthened, as appropriate. In Paris and by article 8; the Parties recognized the importance of averting, minimizing and addressing loss and damage associated with the adverse effects of climate change including, extreme weather events and slow onset events and agreed to enhance understanding, action and support. For the African Group, the WIM is a vital institution and would like to underscore the importance of enhancing the mandate, structure and effectiveness of the WIM, to enable it to adequately address its three functions as reflected in decision 3/cp.18 & 2/cp.19).

Taking into consideration the agreed temperature goal Paris Agreement, the African Group underlines with concern the new scientific findings of the Intergovernmental

Panel on Climate Change (IPCC) 1.5° report, regarding the anticipated loss and damage associated with future global warming on the African continent and the least developed countries. The AGN believes that it is high time to fully implement all the functions of the Mechanism, given the critical importance of addressing Loss and damage to, particularly vulnerable developing countries. However, considering the challenges of current loss and damages, there is a real need to give emphasis to the third function: “enhancement of support, including finance, technology and capacity-building, to strengthen existing approaches and, where necessary, facilitate the development and implementation of additional approaches to address loss and damage associated with climate change impacts, including extreme weather events and slow onset events.” For the African Group, an essential next step is the development of adequate institutional arrangements and mechanisms for mobilizing and providing adequate levels of finance and support to meet the needs of developing countries in addressing loss and damage.

The African Group considers the WIM as a key player in the implementation of the Paris Agreement, particularly in relation to the implementation of article 13 and 14. There are roles for the WIM to play, including taking stock of the implementation of the Paris Agreement (para 36(e)) and engagement in the technical dialogue refer to in para 5 of decision -/CMA.1, to address effort to Avert, minimize and address loss and damage associated with the adverse effects of climate change (para 6 (bii) of the same decision).

1. Scope

The scope of the review should cover the progress made to date and lessons learned in the operationalization and implementation of the mechanism. As such, the AGN believes that the TOR for the review should be constituted from the following elements:

2. Objectives

Taking into consideration the relevant decisions on the review of the WIM, including decision 2/CP.19 on the Objective of the review should be to

- Review the WIM, including its structure, mandate and effectiveness, taking into account its function and mandate;
- Assess progress on the implementation of activities, decisions and work plans (including Five-year rolling work plan) of the Executive Committee of the WIM as well as its long-term vision that guides ways in which the Warsaw International Mechanism may be enhanced and strengthened, as appropriate;
- Identify areas to further strengthen the WIM to empower it to undertake all its functions
- Adopt an appropriate decision on the outcome of this review;

The African Group believes that the effectiveness of the mechanism is critical for deciding on the structure and the mandate of the WIM. Accordingly, the initial emphasis of the review should be on the assessment of the effectiveness and after that decide on the structure and mandate. The effectiveness of the WIM could be assessed based on the implementation activities, decisions and workplans. The engagement of developing country Parties and relevant stakeholders in the assessment is of utmost important. The latter should provide adequate understanding regarding the relevance and effectiveness of the different WIM's activities/actions in assisting the developing countries (understanding, assessing, addressing loss and damage) in their challenges facing loss and damage.

The role of institutional arrangements and mechanisms should also be assessed particularly in relation to its effectiveness in mobilization and provision of adequate levels of finance and support to meet the needs of developing countries; related to the implementation of concrete actions on ground. Decision 2/CP.20 gives the ExCom members the mandate to establish expert groups. The established working groups/task force should also be assessed in relation to effectiveness, gaps, challenges and opportunities.

3. Sources of Information

The African Group is of the view the scope of the review determines the sources of information. In this respect, the latter should focus on the activities under the WIM as well as Parties' priorities and needs. While the former provides a basis for assessing the current situation, the latter provides an opportunity for improving the WIM. The AGN believes that *the sources of information* should include the following:

- Analysis of the progress on the implementation of the five-year work plan, including which activities fulfilled which function of the WIM, as well as the success of implementation. The assessment should also address the gaps and challenges encountered during the implementation of the work plan, including the modalities of work of the ExCom.
- Analysis of the implementation of mandates from 1/CP.21 (a clearinghouse for risk transfer and the work of the task force on displacement)
- Consideration of relevant documents and reports that contribute to the review of the WIM, e.g. the reports of the ExCom, the Adaptation Committee or the Standing Committee of Finance (for assessment of relevant work).
- Submissions from Parties to serve two purposes, namely:
 - Assess the effectiveness of WIM in promoting the implementation of approaches to address loss and damage associated with the adverse effects of climate change.;

- Identify gaps, needs, priorities and challenges related to averting, minimizing and addressing loss and damage associated with the adverse effects of climate change, including extreme weather events and slow onset events.
- Consideration of relevant scientific reports, including from the IPCC or UN agencies to assess the structure and performance of the WIM in light of the needs of the Parties related to the functions of the WIM (*e.g.* loss and damage in Africa, 2014 by UNECA/ACPC prepared by Climate Analytics). Accordingly, that should largely define the current and long-term vision of the WIM,
- Technical paper elaborating the sources of financial support, as provided through the Financial Mechanism for addressing loss and damage, finance available for addressing loss and damage outside the Financial Mechanism, as well as modalities for accessing such support and finance,
- Submissions made in response to decision 5/CP.23 in the context of workstream (e), activity 1(a) of the rolling five-year work plan of the ExCom, on the type and nature of actions to address loss and damage for which finance may be required. The African Group submitted in response to that call and believes that the submissions were very rich as they address the action and support. The latter continues to challenge the particularly vulnerable developing countries to the impacts of climate change, and
- Others.

4. **Modalities of the Review and Expected Outcomes**

Drawing upon the sources of information listed above the secretariat to prepare a synthesis report for Parties' consideration at the fiftieth session of the SBI to inform Parties' discussions on the review.

Governance of the WIM:

The 19th Session the Conference of the Parties (COP 19) the COP established the Warsaw International Mechanism for Loss and Damage associated with Climate Change Impacts (Loss and Damage Mechanism), to address loss and damage associated with impacts of climate change, including extreme events and slow onset events, in developing countries that are particularly vulnerable to the adverse effects of climate change.

The decision at COP 19 was pursuant to decision 3/CP.18, that requested the COP to establish an institutional arrangement under the Convention and elaborated in accordance with the role of the Convention. The decision reads “Decides to establish, at its nineteenth session, institutional arrangements, such as an international mechanism, including functions and modalities, elaborated in accordance with the role of the Convention as defined in decision 3/CP.18 paragraph 5, to address loss and damage associated with the impacts of climate change in developing countries that are

particularly vulnerable to the adverse effects of climate change. Accordingly, decision 2/CP.19 established the Mechanism under the UNFCCC to assist developing countries and through a defined activity under the Conventions.

The Paris Agreement further recognized the importance of Loss and Damage. Article 8 of the Paris Agreement recognized the importance of averting, minimizing and addressing loss and damage with the adverse effects of climate change. Furthermore, Article 8.2 may serve the Paris Agreement, and additional guidance could be provided the Conference of the Parties serving as the meeting of the Parties to the Paris Agreement (CMA). Therefore, AGN legal interpretation of Article 8.2 is the COP continues to be the authority of the WIM, as it reads “shall be subject to the authority’ and the COP also could request or reach an understanding on the role of the CMA. The African Group is of the view additional decision is need by the COP to mandate and authorize the CMA as the WIM has been mandated to carry out work under the Convention.

The African Group subscribes to the legally interpretation of most developing countries that shared the WIM shall continue to function under the guidance of, and be accountable to, the Conference of the Parties as the established the authority elaborated in accordance with Convention, to guide the implementation of its functions as agreed in previous decisions including, 1/CP.21, and that it will also serve the Paris Agreement, as specified in its Article 8.