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## COP27 Concludes with Agreement On Loss and Damage

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COP27 drew to a close in Sharm El Sheikh, Egypt with the almost 200 countries in attendance reaching an agreement to establish a dedicated fund to assist developing countries respond to loss and damage caused by climate change. “Loss and damage” refers to the concept that wealthier nations, which have been the largest emitters of greenhouse gas emissions, should compensate developing nations for harm caused by climate change. That an international agreement was reached on this issue represents a potentially significant development that may have resulted, in part, from the severe climate-related natural disasters that occurred in 2022 as well as successful lobbying by developing countries most affected by climate change. Despite this milestone, the agreement is a framework with many material elements still to be determined. The United Nations [press release](#) announcing the “loss and damage” fund states that “Governments took the ground-breaking decision to establish new funding arrangements, as well as a dedicated fund, to assist developing countries in responding to loss and damage. Governments also agreed to establish a ‘transitional committee’ to make recommendations on how to operationalize both the new funding arrangements and the fund at COP28 next year. The first meeting of the transitional committee is expected to take place before the end of March 2023.” The committee, with representatives from 24 countries, will determine how much each country should contribute and receive. The conference participants also failed to reach agreement on binding progress toward “mitigation,” which was the focus of COP26 in Glasgow last year, in the form of additional commitments on phasing out fossil fuel use and reducing greenhouse gas emissions. That raises questions on the ability of nations to maintain the goal of limiting global warming to the 1.5C target articulated in the Paris Agreement.

The EU, earlier on in the negotiations, had threatened to leave the talks if the agreement was not sufficient to “keep 1.5 alive.” EU climate chief Frans Timmermans stated that “we should have done much more. Our citizens expect us to lead. That means far more rapidly reduced emissions,” he said. The EU ultimately signed up to the deal “reluctantly” in order “to allow the process to move forward.” This position was echoed by former COP president and House of Commons MP Alok Sharma, who listed several proposed measures that were excluded from

the final text of the agreement, including “[e]missions peaking before 2025,” “[c]lear follow-through on phase down of coal,” and “[a] clear commitment to phase out all fossil fuels.” Sharma also stated that “If we do not step up soon and rise above the minute to midnight battles to hold the line [on 1.5C] we will all be found wanting.”

The location of next year’s conference, COP28, is already proving controversial because it will be held in Dubai, United Arab Emirates (UAE), whose wealth in large part derives from sales of fossil fuel and is one of the highest per capital greenhouse gas emitters in the world.

**Taking the Temperature: Because the Conference of Parties (“COP”) to the UN Framework Convention on Climate Change never adopted Rules of Procedure first proposed in 1996, all decisions require “consensus,” a term whose meaning itself is subject to debate. Loosely, it means that, given the absence of a vote, the COP President decides whether consensus exists based on views expressed at the conference. In practice, it means that COP decision-making is a slow and grinding process, and each COP likely will yield only a few major breakthroughs. The loss and damage fund framework is the headline achievement of COP27, but the conference by and large did not result in firm commitments by countries to more quickly reduce the emission of greenhouse gases that are a root cause of climate-related harm. Addressing that challenge through global action and putting meat on the bones of the loss and damage fund will have to await the COP28.**