Procedures for taking decisions between meetings

This document captures the policy as adopted by the Board in decision B.4/D.1. The policy was sent to the Board for consideration at B.4 in document FRLD/B.4/3/Add.1/Rev.1 titled “Report of the Co-Chairs of the Board – Addendum I: Proposal for procedures for taking decisions between meetings”.

All decisions and documents adopted at B.4 can be found in document FRLD/B.4/14 titled “Decisions of the Board – fourth meeting of the Board, 2–5 December 2024”.

FRLD
Fund for responding to Loss and Damage

Procedures for taking decisions between meetings

I. Introduction

1. According to the Governing Instrument of the Fund the Board "will adopt procedures for taking decisions between meetings". Decisions without a meeting will occur when in the judgment of both Co-Chairs, including following a recommendation from the Executive Director, a decision could be considered and made between meetings of the Board.

2. The following procedures implement the provisions of the Governing Instrument by establishing the following procedures for taking decisions between meetings.

II. Tacit procedures

A. Standard tacit procedure

3. The Secretariat, with the approval of the Co-Chairs, shall transmit to members and alternate members of the Board a proposed decision with the invitation to approve the decision on a no-objection basis within a prescribed period – generally 21 calendar days and in any event no less than 7 days from and including the date of transmittal of the draft decision.

4. Copies of such proposal shall be provided to the active observers for their information, unless otherwise determined by the Co-Chairs in compliance with relevant policies on access to information and disclosure.

5. A Board member may submit a "Written Request" to (i) raise a question or request clarification, and/or (ii) record comments, and/or (iii) request the matter to be deferred to the next Board meeting (in which case the Board member(s) raising the Written Request shall provide detailed written reasons as to why a decision cannot be approved at that time). In either case, a request will be made in writing.

6. A communication, including a Written Request from a Board member in respect of the draft decision shall not be considered as an objection unless it meets the requirements of paragraph 7(b) below.

7. If a Written Request is received during the period prescribed for replies, the Co-Chairs will work through such Written Request with the relevant Board member directly. The Co-Chairs may delegate part of this responsibility to the Secretariat. A Written Request will not suspend the prescribed period for replies, unless the Written Request has been received within 3 days from the end of the prescribed period for replies, in which case the time period will be suspended.

(a) If the Written Request is raised pursuant to paragraph 5(i) and/or 5(ii) above, the decision shall be deemed approved at the end of the prescribed period, subject to the Co-Chairs having successfully addressed the Written Request;

(b) If the Written Request is raised pursuant to paragraph 5(iii) above and the relevant Board member(s) upholds their Written Request following discussion with the Co-Chairs, the draft decision will be considered by the Board at the following Board meeting. If the relevant Board member withdraws their Written Request at any time prior to the Board meeting, the proposed decision shall be deemed approved on the later of (i) the end of the period prescribed for replies, or (ii) the date on which the Written Request is withdrawn, subject to the exceptions in paragraph 8 below in respect of a Written Request that is withdrawn after the end of the period prescribed for replies.

8. If a Written Request is withdrawn after the prescribed period has expired (and no other Written Requests remain in place), then the relevant decision proposed for approval shall be

deemed approved unless the proposed decision, if approved on the date on which the Written Request is withdrawn, would:

(a) Adversely affect third parties in a way that it would not have done had it been approved at the end of the prescribed period for replies;

(b) No longer be appropriate in the light of facts that have emerged, or events that have occurred, in the period between the expiration of the prescribed period for replies and the date on which the Written Request is withdrawn; or

(c) Reinstate or otherwise reapprove a decision that by such date may have lapsed.

9. If any of paragraphs 8(a)–(c) above apply, the Co-Chairs shall determine the course of action with respect to the decision.

10. The Secretariat shall, on behalf of the Co-Chairs, update the members and alternate members of the Board on the status of the draft decision (i) as soon as a Written Request has been received, (ii) at the expiry of the prescribed period and (iii) at any time as requested and/or authorized by the Co-Chairs. The Co-Chairs will provide a detailed written report to the Board on all matters regarding a proposed decision.

11. Decisions approved without a meeting shall be noted at the beginning of the following Board meeting and shall be recorded in the report of that meeting. The report will also reflect comments made through Written Requests pursuant to paragraph 5(ii), unless otherwise indicated in the Written Request.

12. The Secretariat shall circulate the Co-Chairs' report including all Written Requests to members and alternate members of the Board and notify all the members and alternate members of the Board of the action taken pursuant to this paragraph.

B. Procedure for decisions on administrative matters

13. Administrative matters include budgetary issues, staffing, audit and related financial decisions. The procedure may also be used for decisions that follow a request and a subsequent decision from the Board committee in charge of budgetary matters.

14. Approval of the Secretariat's workplan, including for the interim period, is not in the scope of this procedure.

15. The Co-Chairs may issue a proposal for a decision without a Board meeting, using the tacit procedure with the following adjustments:

(a) The prescribed period for replies is generally 14 calendar days and, in any event, no less than 7 days from and including the date of transmittal of the draft decision;

(b) Board members may, within the prescribed period, raise Written Requests to (i) raise a question or request clarification, and/or (ii) record comments, and/or (iii) raise an objection;

(c) If a Written Request is raised by a Board member, the Co-Chairs (including the Secretariat upon delegation by the Co-Chairs) will promptly, and in any event within 36 hours, inform the Board on how they intend to address the Written Request. The Co-Chairs may arrange a virtual technical session on the decision, including if requested by a Board member. A Written Request will not suspend the period prescribed for replies unless it has been received two days (48 hours) or less from the end of the period prescribed for replies, in which case the Co-Chairs will determine when the period prescribed for replies resumes its course and will inform the Board accordingly.

16. At the expiration of the period prescribed for replies, the decision will be deemed approved unless there is a formal objection under paragraph 15(b)(iii) above, complete with written justification for the objection.

17. All other elements of the standard tacit procedure remain applicable to this procedure.