

# Tactical Opposition: Obstructing Loss and Damage Finance in the United Nations Climate Negotiations

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## Abstract

In 1991, in meetings constructing the United Nations Framework Convention on Climate Change, the small island state of Vanuatu introduced a proposal requiring wealthy countries to pay for damages related to sea level rise. More than thirty years later, countries finally agreed to establish a financing mechanism for loss and damage associated with climate change. Scholars have observed the slow progress on loss and damage finance, but what tactics did countries use to obstruct negotiations? We answer this question using data from primary and secondary sources, observations at negotiations, and key informant interviews. Our analysis details four periods of obstruction and outlines a typology of fourteen tactics countries have used to delay progress. These tactics limited the issue's scope, reduced transparency, manipulated language, and advanced nontransformative solutions. These findings contribute to the study of obstructionism in climate governance and can help loss and damage advocates better anticipate and respond to obstruction.

**Keywords:** obstruction, climate finance, climate justice, global governance, loss and damage, negotiation, United Nations Framework Convention on Climate Change (UNFCCC)

When asked at the 2015 climate negotiations in Paris whether the United States would pay for climate-related damages, lead US negotiator Todd Stern said bluntly, "We are in favor of support, technical and financial support, going to countries with loss and damage. ... There's one thing that we don't accept ... which is the notion that there should be liability and compensation for loss and damage. Virtually all developed countries [agree]" (quoted in Adler 2015, 9). Six years later, at the Glasgow Dialogue in 2021, where parties discussed funding arrangements for loss and damage, Global North countries like the

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United States doubled down on their opposition to establishing a dedicated fund to address the issue (Weise and Mathiesen 2021).

Tensions regarding loss and damage<sup>1</sup> finance in the United Nations Framework Convention on Climate Change (UNFCCC) can be traced to the very beginning of the multilateral negotiations. In 1991, during the Intergovernmental Negotiating Committee (INC) meetings that drafted the foundational text for the convention, Vanuatu submitted a significant proposal on behalf of the Alliance of Small Island States (AOSIS) (Intergovernmental Negotiating Committee [INC] 1991). The proposal outlined an insurance mechanism that wealthy Global North countries would finance to protect against observed and future climate impacts, particularly sea level rise. Yet, countries excluded this proposal from the final text adopted the following year in Rio in 1992. Only Article 4 of the UNFCCC mentions “insurance” as one of several actions that parties “shall give full consideration to” (United Nations Framework Convention on Climate Change [UNFCCC] 1992, 8). A financial mechanism was not formalized until 2022, when parties agreed at the twenty-seventh meeting of the Conference of the Parties to the UNFCCC (COP27) to set up a fund for loss and damage.

Over the more than thirty years between 1991 and 2022, Global South countries and civil society advocates have consistently and increasingly argued that Global North countries should fund losses and damages associated with climate change. These countries are disproportionately responsible for and are far more capable of addressing these impacts. Because finance is fundamental to vulnerable countries’ ability to manage climate impacts independently, opposition to loss and damage finance is “the ultimate manifestation of climate injustice” (Galvão Ferreira 2021, 127). The financial dimension of loss and damage made it more difficult to negotiate. Studies show that finance-related agenda items are more contentious (less “integrative”) than other issues (Odell 2013; Walton and McKersie 1965; Winham 1986). This reflects a broader pattern in global governance, whereby demands for compensation often result in contestation and inaction.

We use the case of loss and damage finance to explore obstructionism in the United Nations (UN) climate negotiations. Specifically, we ask, what tactics have countries used to obstruct loss and damage finance in the UNFCCC? Drawing on data from primary and secondary sources, such as submissions by parties, observations at UN negotiations, and interviews with twelve key informants, we trace the emergence and evolution of loss and damage finance in the UNFCCC from the early 1990s to the 2020s. Based on our analysis, we develop a typology of obstructionist tactics that countries have used to delay action on loss and damage over the last thirty years. We define *obstruction* as any intentional slowing or blocking of policy or action on loss and damage finance. This includes efforts to prevent the adoption of UNFCCC text that acknowledges loss and

1. The capitalization of the phrase *loss and damage* is a subject of political debate (see Hartz 2023). We use lowercase spelling to ease reading and follow the capitalization norms on similar terms, such as *adaptation* and *mitigation*.

damage as a concern and specifies that countries should provide funds to address the issue. This conception builds on the normative stance that finance for loss and damage is an essential mechanism for climate justice, which vulnerable countries have advocated for decades. We interpret obstructionist tactics along a continuum of “hard” and “soft” bargaining to explain how countries kept loss and damage finance out of UNFCCC texts for three decades.

The article comprises four parts. First, we review international negotiation scholarship and use a hard–soft bargaining continuum to assess obstructionist tactics in the UNFCCC. Second, we provide a brief history of loss and damage in the UNFCCC, including how obstruction to financial obligations emerged and how it has evolved. The first period centers on the 1991 Vanuatu proposal and the lack of progress over the subsequent sixteen years. The second period covers the 2007 Bali Action Plan to the establishment of the Warsaw International Mechanism (WIM) for Loss and Damage in 2013. The third and fourth periods trace the 2013 WIM to the 2015 Paris Agreement and the Paris Agreement to the 2022 decision in Sharm el-Sheikh to establish a fund for loss and damage. We then present a typology of obstructionist tactics used by Global North countries that comprises four tactical categories: limiting the scope of the issue, reducing transparency, manipulating concepts, and pushing nontransformative solutions. This typology could help improve our understanding of negotiating tactics in other areas of environmental governance and global governance more generally. It could also help loss and damage advocates better anticipate and respond to climate obstructionism in the negotiations. We conclude by explaining how scholars and practitioners can use our typology to hold countries accountable for obstructionist positions. We anticipate that work to obstruct the flow of finance to loss and damage will continue, regardless of the recent decision to establish a funding mechanism. Identifying and countering obstructionist practices are crucial for delivering just climate action.

## **Obstruction in International Negotiations: The Case of Loss and Damage**

For decades, countries in the Global South, particularly small islands, have advocated for action on loss and damage (Adelman 2016; Calliari 2018; Mace and Verheyen 2016; Robinson and Carlson 2021). By contrast, countries in the Global North<sup>2</sup> have historically opposed, first, a formal distinction between climate adaptation and loss and damage and, second, liability and compensation to address the issue (Burkett 2016; Linnerooth-Bayer et al. 2019; Page and Heyward 2017; Roberts and Huq 2015; Roberts and Parks 2007; Vanhala and Hestbaek 2016). The highly contentious nature of loss and damage in the UNFCCC (see Boyd et al. 2017; Calliari et al. 2020; McNamara and Jackson

2. We refer to “Global North” countries broadly to indicate wealthy countries, often referred to as “developed” countries or “Annex I” countries in the UNFCCC arena. Many of these countries are also included in the “Umbrella Group” coordinating group.

2019; see also other articles in this issue) makes it an informative case for assessing obstructionist behavior in international negotiations.

Despite growing attention to climate obstruction at the domestic level around the world,<sup>3</sup> obstruction at the international level is relatively underexplored (Green 2020). The most extensive thread of scholarship explores how private actors and coalitions thwart climate action (e.g., Ciple et al. 2015; Levy and Egan 1998; Meckling 2011; Mildenerger 2020; Newell and Paterson 2010; Stokes 2020). A much smaller body of work explores the tactics countries use to impede progress at the international level. For example, Depledge (2008) traces Saudi Arabia's efforts to obstruct mitigation policy in the UNFCCC. Although this case uncovers valuable insights about the specific tactics Saudi Arabia employs, this country represents an extreme case (Depledge 2008, 10). Our analysis builds on these initial studies by examining obstruction carried out in international negotiations by a range of actors over many years and identifies the specific tactics that they have used.

We define international negotiation as “a process in which actors take steps to agree on an outcome, and all the actors seek to make that outcome as good as possible from their own perspectives” (Odell and Tingley 2016, 231). All parties engage in UNFCCC negotiations to advance their interests. Although scholars have categorized negotiating behavior in many ways—value-claiming and value-creating strategies (Odell 2018), (convergent) bargaining and problem-solving bargaining strategies (Wagner 1999), and bargaining and arguing (Dür and Mateo 2010; Risse 2000)—we adopt a distinction between “hard” and “soft” bargaining (Bailer 2012; Dür and Mateo 2010; Weiler 2012). Relative to other classifications, this typology avoids some of the analytical challenges to studying international negotiations. Hard–soft approaches to bargaining are easier to observe empirically; they also omit assumptions about the intentionality underpinning strategies (Dür and Mateo 2010). On one end of the continuum, hard bargaining is an ideal type that encompasses “conflictual or aggressive tactics” that maximize the distribution of resources among some parties relative to others (Dür and Mateo 2010, 561). A hard bargaining tactic might include refusing to accept a priority of another party or misrepresenting one's minimal needs. On the other end of the continuum, soft bargaining comprises “cooperative or friendly” negotiating tactics (Dür and Mateo 2010, 561). Soft bargaining tactics might include emphasizing the collective interests of an issue and advancing new or flexible proposals for compromise.

We use this hard–soft continuum to assess obstructionist behavior in international negotiations. Specifically, we trace how countries have used hard and soft tactics to obstruct loss and damage in the UNFCCC from the 1990s to the 2020s. By *obstruction*, we refer to the intentional slowing or blocking of policy or action on climate change that is commensurate with the current scientific consensus of what is necessary to avoid dangerous human-caused interference with

3. See <https://cssn.org/>, last accessed May 30, 2023.

the climate system (see Ekberg et al. 2023). Loss and damage finance obstruction is a negotiating *strategy*: a long-term guiding plan or objective. And the strategy is composed of negotiating *tactics*: individual actions and steps to get there.

In their initial elaboration of this hard–soft continuum in the context of European Union negotiations, Dür and Mateo (2010) found that parties with more “bargaining power,” directly related to material wealth, were more likely to employ hard bargaining tactics. In the UNFCCC, this would suggest that wealthy countries like the United States would be hard bargainers. In studies of the UNFCCC, some scholars have suggested that Global South countries have actually been those with a hard, uncompromising approach to negotiation, while Global North countries (apart from the United States) have worked to find constructive solutions (Gupta 2012). Others have argued that the structure of international negotiations can override parties’ material power in bargaining (McKibben 2013) and that cultural factors can influence whether a country will employ hard or soft bargaining tactics (Martill and Staiger 2021). The consensus-based bargaining structure of the UNFCCC may then lead parties to take whatever approach is necessary to get others to concede, given the need for a collective agreement. Weiler (2012) finds that the use of soft bargaining in climate negotiations can be more effective in negotiating success when they aim to benefit all concerned parties mutually.

We contribute to this small set of studies by elaborating on the use of hard and soft bargaining in the UNFCCC on an issue of particular importance to parties that are materially weak (Betzold 2010; Cipler et al. 2015; Águeda Corneloup and Mol 2014; Rasheed 2019). The very fact that wealthy countries use obstructionist tactics suggests that power in international climate politics is more than a function of materiality.<sup>4</sup> Though we do not trace hard–soft bargaining tactics among all actors in the UNFCCC around loss and damage finance, our case provides an opportunity to understand how these countries approach bargaining on such a key issue. Finance is ultimately a linchpin for loss and damage negotiations, but scholars have yet to examine the deliberate efforts to obstruct loss and damage finance over time. The analysis that follows addresses this gap.

## Four Periods of Obstruction to Loss and Damage Finance

To determine the tactics countries have used to obstruct loss and damage finance in the UNFCCC, we divide more than thirty years of negotiations into four periods based on significant texts that advanced the issue of loss and damage (Table 1) (for the history on which we base this periodization, see Falzon et al. 2022; see also Galvão Ferreira 2021; Siegele 2021a, 2021b; Vanhala and Hestbaek 2016). In each period, we identify the demands advanced by loss and damage advocates and the obstructionist tactics opponents used to thwart the realization of these demands (see Table 2). To construct this history, we triangulated data gathered from interviews with key informants, observations at

4. We thank the anonymous reviewer who drew our attention to this point.

**Table 1**

Four Periods of Contention over Loss and Damage Finance in the UNFCCC and Positions Taken by Advocates and Opponents

<i>Period</i>	<i>Years</i>	<i>Milestones</i>	<i>L&amp;D Finance Advocates</i>	<i>L&amp;D Finance Obstructionists</i>
1	1991–2007	1991: AOSIS proposal 2007: Bali Action Plan	<ul style="list-style-type: none"> <li>• Vanuatu/AOSIS worked to include L&amp;D in the 1992 text of the UNFCCC Convention, including by proposing an insurance mechanism for the impacts of sea level rise</li> <li>• L&amp;D discussed through language of “adverse effects” and “risk transfer”</li> <li>• Meetings were held on the possibility of an insurance mechanism</li> <li>• The phrase “loss and damage” was included in UNFCCC texts in Bali in 2007</li> </ul>	<ul style="list-style-type: none"> <li>• Global North countries excluded Vanuatu’s proposal for L&amp;D insurance from UNFCCC drafting negotiations</li> <li>• Parties agreed to include insurance as an instrument under Article 4.8 of the UNFCCC, but without a funding mechanism</li> <li>• Parties reached consensus to explore new issues through workshops outside of official UNFCCC negotiations</li> </ul>
2	2008–2013	2008: AOSIS proposal 2010: L&D work program 2012: L&D institutional arrangements 2013: WIM established	<ul style="list-style-type: none"> <li>• AOSIS again introduced a proposal for a compensation mechanism for L&amp;D</li> <li>• AOSIS, the Least Developed Countries (LDC) Group, and the African Group of Negotiators formed a coalition on L&amp;D, which the broader Group of 77 and China (G77 + China) bloc later supported</li> <li>• L&amp;D coalition came prepared with robust proposals for texts at the 2013 Warsaw Conference</li> </ul>	<ul style="list-style-type: none"> <li>• Global North countries agreed to address L&amp;D only through discussion-based work programs</li> <li>• Global North countries, especially the United States, removed and weakened proposed texts for the WIM</li> <li>• The United Kingdom pulled funding for organizations advancing L&amp;D efforts</li> <li>• Global North countries regularly connected and conflated L&amp;D with adaptation</li> </ul>

3	2014–2015	<p>2014: L&amp;D two-year work plan</p> <p>2015: Paris Agreement</p>	<ul style="list-style-type: none"> <li>• Strategically broadened the framing of L&amp;D appeals</li> <li>• Increased media and nongovernmental organization attention to L&amp;D</li> <li>• Succeeded in including a stand-alone article on L&amp;D in the 2015 Paris Agreement (Article 8)</li> </ul>	<ul style="list-style-type: none"> <li>• The nondifferentiation of the Paris Agreement broadened the scope of L&amp;D to apply to all parties</li> <li>• The United States and Australia, among others, worked to prevent L&amp;D from appearing in the Paris Agreement entirely</li> <li>• The United States, among others, foreclosed the possibility of linking L&amp;D to liability and compensation in the Paris Agreement</li> </ul>
4	2016 to present	<p>2016: WIM review</p> <p>2017: L&amp;D five-year work plan</p> <p>2018: expert dialogue</p> <p>2022: L&amp;D finance on agenda, parties agree to a L&amp;D Fund</p>	<ul style="list-style-type: none"> <li>• G77 + China repeatedly requested an agenda item on L&amp;D at the Subsidiary Body meetings</li> <li>• Worked to consider L&amp;D in the global stocktake</li> <li>• Worked to keep the WIM under the jurisdiction of the COP</li> <li>• Advocated for a financing mechanism and L&amp;D Fund</li> <li>• G77 + China demanded a dedicated agenda item on L&amp;D financing, which was accepted for discussion at COP27 in Sharm el-Sheikh</li> </ul>	<ul style="list-style-type: none"> <li>• Global North countries opposed adding L&amp;D as a stand-alone agenda item apart from the WIM</li> <li>• Global North countries stayed silent in L&amp;D dialogues and discussions</li> <li>• Global North countries refused additional financing for L&amp;D, including establishing a new fund</li> <li>• Global North countries focused their suggestions on weak and partial alternatives for finance (e.g., insurance)</li> </ul>

**Table 1**  
(Continued)

<i>Period</i>	<i>Years</i>	<i>Milestones</i>	<i>L&amp;D Finance Advocates</i>	<i>L&amp;D Finance Obstructionists</i>
			<ul style="list-style-type: none"> <li>• G77 + China succeeded in establishing a UNFCCC L&amp;D finance facility at COP27</li> </ul>	<ul style="list-style-type: none"> <li>• Global North countries attempted to move the WIM to be exclusively under the Paris Agreement agenda to preclude claims of liability and compensation</li> <li>• The United States and Australia, among others, delayed deciding on financial arrangements for L&amp;D until COP29 in 2024</li> </ul>

L&D = loss and damage.



UNFCCC meetings between 2013 and 2022, primary documents from the UNFCCC (e.g., country submissions, reports, decision texts), and secondary documentation of events from researchers, reporters, and advocacy groups, including the Climate Action Network and the Third World Network. We selected informants based on their close involvement in key loss and damage negotiations and related committees and groups (e.g., country negotiators, legal advisors, leading climate advocates, and academics from countries in the Global South and North). The interview protocol for each interviewee began with questions to elicit their perspective on the history of loss and damage finance in the negotiations, from the beginning of their involvement. We asked follow-up questions for details regarding specific events in the negotiations identified through our document analysis (e.g., the establishment of the WIM) and moments that they identified as significant. All informants were granted anonymity as the basis for their contribution to this study. As a result, the information presented herein is never attributed to specific individuals.

As Table 1 shows, the first period began in 1991, when Vanuatu advanced a landmark proposal on behalf of AOSIS to establish an insurance mechanism funded by the most climate-culpable countries. The submission specified that the mechanism's revenue should be "new, additional, and adequate," with mandatory contributions from the Global North. Specifically, AOSIS suggested that 50 percent of the revenue should be based on a developed country's gross national product (GNP) relative to the total GNP of all developed country parties, representing a country's capacity. The remaining 50 percent of revenue would be based on a developed country's carbon emissions, representing the country's level of responsibility for climate change (INC 1991).

However, at the 1992 Earth Summit in Rio de Janeiro that followed the INCs, countries agreed to a convention text that contained a provision on insurance (Article 4.8) but excluded Vanuatu's proposal. In the latter half of the 1990s, when COP meetings began, AOSIS continued advancing proposals for an insurance mechanism. Still, none were incorporated into official UNFCCC texts (Burkett 2015). In 2001, the IPCC's *Third Assessment Report* revealed new evidence about the projected impacts of climate change in the Global South. In response to scientific findings and sustained advocacy from AOSIS, the phrase "loss and damage" appeared in the 2007 Bali Action Plan. In this text, parties agreed to *explore* "means to address loss and damage associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change" (UNFCCC 2012, Decision 1/CP.13, para. 1[c][iii]).

The second period began at COP14 in Poznań, Poland, in 2008, when AOSIS proposed a "multi-window facility" to address loss and damage. Their proposal called for a new fund that would compensate for all risks, including sea level rise, temperature increases, loss of land, damage to coral reefs, loss of fisheries, and salinization of aquifers (Earth Negotiations Bulletin 2008). Although parties did not include this proposal in the COP14 decisions, they

agreed to discuss the facility at COP16 in Cancún in 2010 via a “work programme” (Ladislaw 2010). Parties delayed discussing specific elements of the work program until COP17 in Durban in 2011, where they ultimately called for a series of expert meetings. The following year, AOSIS established a coalition with the Least Developed Countries (LDCs) Group to increase the authority of their demands for loss and damage action. Bolivia, along with China, Ecuador, El Salvador, Guatemala, Nicaragua, the Philippines, and Thailand, also issued a statement calling for a “solidarity fund” to compensate vulnerable countries for “permanent” and “irreversible” loss and damage associated with climate change (Subsidiary Body for Implementation 2012, 6, 4). Despite the growing interest in establishing a loss and damage fund among G77 + China members, the United States and other countries in the Global North claimed it would inhibit adaptation efforts and place a monetary value on lives and livelihoods in vulnerable countries (McNamara 2014). Combative negotiations at COP18 in Doha in 2012 repeatedly stalled, especially on financial arrangements, as US representatives sought to remove the paragraph that would establish a funding mechanism for loss and damage. After thirty-six hours of nonstop deliberations in Doha, representatives agreed to further concretize the work program (McNamara 2014).

After COP18, representatives from the G77 + China, including AOSIS, the LDCs, and other loss and damage advocates, convened to develop a draft text for what would become the WIM. Civil society organizations and the media also generally supported Global South countries’ demands going into COP19 in Warsaw in 2013 (Allan and Hadden 2017). Just as the negotiations began, Super Typhoon Haiyan hit the Philippines. Haiyan’s devastation prompted Yeb Saño, a negotiator for the Philippines, to engage in a hunger strike that drew significant attention to the realities of climate impacts and created, according to one of our informants, a “public relations nightmare” for Global North countries that opposed a loss and damage mechanism. G77 + China negotiators walked out of one negotiation when they perceived that Australia’s delegation was not taking the talks seriously (Vidal 2013). Civil society observers noisily walked out the next day. Although parties eventually agreed to the text for the WIM, parties from the Global North succeeded in ensuring that the final text included only a work plan, without mention of a financial mechanism.

The establishment of the WIM in 2013 kicked off the third period, culminating in a stand-alone article on loss and damage in the 2015 Paris Agreement (UNFCCC 2015). The G77 + China arrived at the Paris talks with a draft text for Article 8 that avoided language on liability and compensation. Given Global North countries’ long-standing resistance to this language, this text constituted a significant political compromise from the bloc (Vanhala and Hestbaek 2016). By contrast, with support from other Global North countries, the United States presented a text that did not mention loss and damage. To address the North–South standoff on loss and damage, US climate envoy John Kerry held closed-door meetings with leaders from small island states to reach an agreement.

Article 8 was included in the Paris decision document, but it was accompanied by the text of paragraph 51, which read, “Article 8 of the [Paris] Agreement does not involve or provide a basis for any liability or compensation” (UNFCCC 2016, Decision 1/CP.21). Paragraph 49 of the decision text also arguably weakens the WIM’s mandate from “avoid and reduce” loss and damage to “avert, minimize, and address” loss and damage (UNFCCC 2016, Decision 1/CP.21). Furthermore, parties did not formally connect Article 8 to the articles on finance and transparency, meaning that there is no mechanism under the Paris Agreement to raise or administer funding for loss and damage or to monitor progress on the issue in the regular global stocktaking of country actions.

In the fourth period, after Paris, the United States and its Global North allies worked to prevent loss and damage from progressing via the WIM and Article 8, including by avoiding discussing finance in the WIM’s rolling five-year work plan. The same countries also refused to consider loss and damage in finance negotiations, removed language on transparency for tracking loss and damage, and narrowed the frequency and scope of loss and damage discussions. They then attempted to bring the WIM under the exclusive authority of the Paris Agreement to make it beholden to paragraph 51. During the Suva Expert Dialogue at the forty-eighth session of the Subsidiary Bodies (SB48) in 2018, discussions around insurance dominated, even though, by that time, insurance was only a slice of the funding sought by the G77 + China for loss and damage. During the dialogue, Global North countries were uncharacteristically silent and largely abstained from the discussion. Later that year, Japan, the United States, and Australia failed to include loss and damage in their reporting under the enhanced finance transparency framework. When the G77 + China called for a “Glasgow Loss and Damage Facility” at COP26 in 2021, the United States, Australia, and the European Union (EU) agreed only to a dialogue on “arrangements for the funding of activities to avert, minimize and address loss and damage” to take place at midyear meetings from 2022 to 2024 (Rowling 2021).

After the first Glasgow Dialogue at SB56 in 2022, the G77 + China’s persistence for an agenda item on loss and damage finally paid off. The provisional agenda for COP27 included an item titled “matters related to funding arrangements to address loss and damage” under “matters relating to finance.” However, the United States and other Global North countries attempted to remove it in the days leading up to COP27. After overnight deliberations, parties changed the agenda item to “matters relating to funding arrangements responding to loss and damage associated with the adverse effects of climate change, including a focus on addressing loss and damage.” COP27 president Sameh Shoukry introduced the item with the caveat that “the outcomes of this agenda item are based on cooperation and facilitation, and do not involve liability or compensation,” echoing paragraph 51. Although Global North parties worked to codify President Shoukry’s verbal caveat in the decision text, they were unsuccessful. Ultimately, by the end of COP27, parties agreed to “establish new funding arrangements for assisting developing countries that are particularly vulnerable

to the adverse effects of climate change” and to “establish a fund for responding to loss and damage whose mandate includes a focus on addressing loss and damage.”<sup>5</sup> While the funding mechanism(s) (actual sources of money) have yet to be established, the decision to create them is the closest the UNFCCC has come in its thirty-year history to financing loss and damage.

## Tactics of Obstruction

A picture of obstruction emerges by tracing the negotiation processes and outcomes across four historical periods. Global North countries have actively and passively sought to avoid financial obligations for loss and damage via hard and soft negotiation tactics. Drawing on Lamb et al.’s (2020) typology of discourses of climate delay, we identify fourteen tactics countries have used to delay or prevent progress on loss and damage in the UNFCCC (see Table 2). These fall into four broad and interrelated categories: first, limiting the scope of the agenda items; second, reducing transparency by failing to monitor the problem; third, manipulating the meaning of the language; and fourth, pushing for nontransformative solutions.

Limiting the scope of loss and damage includes rejecting and excluding the issue from the agenda, passing it between negotiating tracks, and denying its legitimacy. Second, reducing transparency prevents parties from collecting information on the issue and making significant decisions in closed-door meetings. Third, countries manipulate loss and damage finance concepts. These tactics include replacing clear language with ambiguous text and narrowing, diluting, and swapping concepts. Finally, countries push nontransformative solutions, which include parties agreeing only to further discussions, calling for more scientific input, waiting on more “perfect” policy proposals, and diverting attention to progress on other issues. Countries often use these tactics simultaneously, which increases the difficulty of countering them.

The tactics used to obstruct loss and damage finance exist along a conceptual continuum of two ideal types, “hard” and “soft” bargaining (Dür and Mateo 2010). The “limiting the scope” and “reducing transparency” tactics fall toward the hard bargaining end of the spectrum. By contrast, the “manipulating language” and “pushing nontransformative solutions” tactics better align with soft bargaining. We categorized tactics into hard and soft ideal types based on whether they push uncooperative, hard-line answers to contentions proposals or promote seemingly cooperative solutions that offer a way to progress on the issues, even if those solutions effectively work to delay addressing the issue. Rather than placing the tactics along a continuum (for example, we might identify “open rejection” as “very hard” and “concept dilution” as “somewhat soft”),

5. As of this writing, final decision texts have not been released. The draft text for Decision *-/CP.27 -/CMA.4, “Funding Arrangements for Responding to Loss and Damage Associated with the Adverse Effects of Climate Change, Including a Focus on Addressing Loss and Damage,”* can be found at <https://unfccc.int/documents/624440>, last accessed May 30, 2023.

**Table 2**  
Tactics Obstructing Loss and Damage Finance in the UNFCCC

<i>Tactic</i>	<i>Description</i>	<i>Hard Versus Soft</i>	<i>Example from L&amp;D negotiations</i>	
<i>Limiting the Scope</i>				
1	Open rejection	Refusing to agree to include proposed elements in draft texts	Hard	Keeping financial mechanisms like insurance out of the convention and denying any language that would imply compensation for climate impacts
2	Agenda exclusion	Rejecting proposed elements in negotiations	Hard	Excluding L&D from the agenda of Subsidiary Body meetings post-Paris
3	Venue shifting	Manipulating institutional infrastructure to restrict the scope of new and existing mechanisms	Hard	Working to shift L&D to sole jurisdiction under the Paris Agreement rather than the convention; passing finance discussions between negotiating tracks
4	Denying credibility	Reducing the legitimacy of an issue	Hard	Japan, the United States, and Australia failing to report on L&D in the enhanced finance transparency framework
<i>Reducing Transparency</i>				
5	Omission of monitoring	Impeding the collection of information on an issue to limit future consideration	Hard	Keeping L&D out of reporting requirements under the Paris Agreement and global stocktake

**Table 2**  
(Continued)

	<i>Tactic</i>	<i>Description</i>	<i>Hard Versus Soft</i>	<i>Example from L&amp;D negotiations</i>
6	Fortress building	Excluding actors to limit the number of participants who make decisions, reducing transparency	Hard	Holding L&D negotiations in closed meetings
<i>Manipulating Language</i>				
7	Issue narrowing	Reducing the scope and framing of a concept	Soft	Discussing only discrete dimensions of L&D, e.g., insurance mechanisms
8	Concept dilution	Weakening the language of a proposed area of action	Soft	Diluting the language, e.g., “averting, minimizing, and addressing loss and damage” to expand the scope of the issue to include mitigation and adaptation actions
9	Concept swapping	Replacing broad issues with singular, acceptable components	Soft	Redefining L&D to mean disaster risk reduction and response, especially with insurance
10	Strategic ambiguity	Agreeing on text that allows parties to interpret the language according to their interests	Soft	The WIM and various documents relating to L&D discuss “support” for L&D without specifying what it involves or its nature, level, or sources

*Pushing Nontransformative Solutions*

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11	All talk, no action	Agreeing to discussions on topics to forestall action	Soft	Keeping L&D in workshops and work programs as long as possible
12	Waiting on the science	Delaying action via calls for more research	Soft	Calling for more research on the science of attribution of extreme events to climate change
13	Policy perfectionism	Delaying action via the pursuit of an unobjectionable policy solution, especially which avoids “fault”	Soft	Failing to establish a L&D fund with a funding mechanism based on responsibility, and a system to allocate funds in practice
14	Redirecting attention	Deflecting attention from nonaction in governance spaces to action elsewhere	Soft	The United States and other Global North countries highlighting places where they are already doing related work, such as contributing to regional risk-pooling schemes

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we maintain the broad categories of “hard” and “soft” to acknowledge that each tactic may vary in its “hardness” or “softness,” depending on that particular context. In short, this hard–soft characterization helps us assess when and how countries have been (un)cooperative on the issue of loss and damage finance over time. We argue that the United States’ red line on liability and compensation drove an “all hands on deck” strategy, where countries with vested interests in keeping loss and damage finance out of the UNFCCC did whatever they could to obstruct it. What follows is an elaboration on some of these tactics.

In each of the four periods, Global North countries endeavored to limit the scope of discussions on loss and damage finance. The hard tactics of agenda exclusion and open rejection, which countries often paired together, were both noncooperative and aggressive. The first instance of openly rejecting loss and damage finance (though this was not the operative language at the time) was when parties excluded Vanuatu’s 1991 proposal for an insurance mechanism from the convention text. More recently, countries openly rejected responsibility-based loss and damage finance via paragraph 51 of the Paris Agreement decision, which precluded the possibility of compensation for loss and damage. These actions kept loss and damage finance off the agenda, despite calls from developing country parties and activists (Climate Action Network 2022; McGrath 2022). Shifting the issue between negotiating tracks and denying its credibility only further limited the scope of the issue by shutting down discussions on it.

Countries have primarily resorted to hard tactics comprising “reducing transparency” in the fourth period in response to the incorporation of loss and damage in official texts via the WIM and the Paris Agreement. In particular, the structure of the Paris Agreement may have spurred these tactics since the primary accountability mechanisms for implementing the agreement are regular reviews of countries’ progress on climate action through “global stocktakes” (GSTs), along with reviews of national communications and biennial reviews. Because there is no connection between the articles on transparency and loss and damage in the Paris Agreement, Global North countries have repeatedly refused the Global South’s calls to include loss and damage in national reviews and the first GST in 2023, even as a sub-issue area under adaptation.

Global North countries have also used softer tactics to obstruct action on loss and damage. Soft tactics like “policy perfectionism” and “redirecting attention” give the appearance of advancing effective solutions that support the common good. For example, the United States agreed to participate in loss and damage discussions as they arose but often advocated for nontransformative solutions that did not include finance. One of the most significant and common soft tactics of loss and damage obstruction is relegating the issue to dialogues and work programs. This tactic exemplifies “all talk, no action,” where countries stymie concrete outcomes by delaying policy making without entirely rejecting the issue.

Key parties in the Global North consistently justify continuing work programs and dialogues by claiming that we need more scientific evidence and



inputs (i.e., “waiting on the science”). The United States, for instance, used this tactic to obstruct AOSIS’s 2008 proposal for insurance and other loss and damage finance mechanisms (McNamara 2014; Siegele 2021a). Developed country parties also rejected Vanuatu’s 1991 proposal based on the need for more scientific evidence, according to an informant who participated in the INCs. The work program preceding the establishment of the WIM in 2013 was a rare exception that led to a concrete outcome, albeit without a financial mechanism. More recently, the Glasgow Dialogue, which began after COP26 in 2021, was initiated with no mandated outcome for loss and damage finance. This lack of mandate became a chief complaint of the G77 + China, animating its successful campaign to establish a new financing mechanism at COP27 by 2024.

The United States and other Global North countries also manipulated the core concepts of the issue. For example, developed country parties strongly supported the language of “averting, minimizing, and addressing” loss and damage. This language incorporates mitigation and adaptation actions that “avert” and “minimize” into loss and damage discussions. This move increases the risk of double-counting funding and minimizes the need for a new financial mechanism for loss and damage. Though undermining the phrasing preferred by the G77 + China, we characterize this tactic as soft because it is more conciliatory than outright rejection. The United States, among others, has also consistently swapped the concept of loss and damage with more narrow dimensions of the issue, such as disaster risk reduction or disaster insurance. This tactic avoids a broader discussion on loss and damage by focusing on a specific, less contentious aspect. Similarly, wealthy country parties have worked to narrow the finance issue to include only insurance mechanisms. We classify this tactic as soft because, at face value, it appears to be an attempt at cooperation.

Ultimately, these results demonstrate that the United States and other materially powerful countries in the Global North have employed both hard and soft bargaining tactics to obstruct loss and damage in the UNFCCC over time. While these materially powerful countries often use hard bargaining tactics (Dür and Mateo 2010), our findings support McKibben’s (2013) contention that the bargaining structure can minimize the effects of material power. In the consensus-based UNFCCC context, wealthy countries appear to use whatever bargaining tactic(s) might be most concession promoting at a given moment. The salience of climate justice as a moral imperative in climate negotiations may enhance the bargaining power of the G77 + China and its constituent groups when they employ injustice as a frame, making the relations of power between countries more complex than other international negotiations (Betzold 2010; Ciptlet et al. 2015; Águeda Corneloup and Mol 2014; Rasheed 2019).

## Conclusions

Our case study of obstruction to loss and damage finance spotlights the hard and soft bargaining tactics that Global North countries have used to forestall

opportunities for climate justice in the UNFCCC. Although they caused the loss and damage occurring in the Global South, these countries refused for decades the creation of funding mechanisms to address it. We have demonstrated that the United States and other Global North countries have outright rejected and repeatedly stalled progress on loss and damage finance over more than thirty years of climate negotiations. While the requirement of consensus among parties in the UNFCCC negotiations allows countries to easily obstruct an issue by withdrawing their support, our analysis shows that it also gives countries with less geopolitical power leverage to assert their priorities. The diversity of tactics we have identified supports the idea that materially powerful countries are, therefore, forced to take nuanced approaches in the face of contestation from subordinate actors in climate negotiations (McKibben 2013).

Our study contributes to a growing literature on climate obstruction. The obstruction tactics we identify expand on, for example, Lamb et al.'s (2020) typology of delaying mitigation action. Rather than contradicting existing frameworks for understanding obstruction, we believe that each new case study of an arena of climate decision-making will reveal the particularities of obstruction in different contexts, building a nuanced landscape of climate obstruction that is both far reaching and specific. For example, tactics of "climate doomism" that Global North countries use for mitigation (Lamb et al. 2020) might actually work to bolster Global South countries' arguments for a loss and damage fund, making them inappropriate for this context.

For loss and damage, greater awareness of the tactics used to block or delay action on finance may serve actors who are seeking to advance equitable climate solutions in the UNFCCC. Spotlighting obstructionism helps reduce the effectiveness of these tactics. This typology could also serve as the basis for similar typologies tailored to other global governance contexts beyond the UNFCCC. For example, financial compensation for damages is also a matter of concern for countries in the Global South under the General Agreement on Tariffs and Trade and World Trade Organization agreements; nuclear arms accords; and, of course, development finance expectations and systems at the World Bank Group, the International Monetary Fund, regional development banks, and so on. Proposals of developing nations in those venues advance or stall, depending in part on tactics taken by both sides.

Scholars can build on this study in several ways. First, we need more analysis of the domestic determinants of the strategies countries use in international negotiations, particularly in powerful countries like the United States (Bailer 2012; Dür and Mateo 2010; Falkner 2012; Wagner 1999; Weiler 2012). For example, it would be helpful to account for how industrial interests shaped the United States' early opposition to responsibility-based mechanisms in the UNFCCC in the 1990s. Second, we do not understand the conditions under which specific obstructionist tactics are used or are more likely to succeed. Understanding how negotiation tactics emerge among negotiators, countries, and coalitions, or what happens when various tactics come into conflict in

settings like the UNFCCC, could shed light on how and why international negotiations progress the way they do.

Last, the parties' recent decision to establish loss and damage financial arrangements, including a fund, under the UNFCCC raises a critical question: what form will obstruction take moving forward? Fundamental equity issues related to the yet-to-be-named loss and damage fund remain unresolved, including who will pay, how much, and using what sources of funding. At the time of writing, parties have yet to make pledges aside from very modest external institutional funds promised by the leaders of Scotland, Belgium, Denmark, and a few other countries. Ultimately, obstruction will likely continue in the UNFCCC on this and other climate justice-related issues. Identifying and overcoming these tactics will only become more urgent as climate disasters proliferate.

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