

SENATE
S. No. 2748

RECEIVED BY: 

Introduced by Senator Jinggoy Ejercito Estrada

AN ACT
GRANTING JURIDICAL PERSONALITY AND LEGAL CAPACITY TO THE LOSS AND DAMAGE FUND BOARD IN THE PHILIPPINES

The Philippines is one of the most vulnerable countries to the impacts of climate change, despite its minimal contributions to global greenhouse gas emissions. Data from the 2023 World Risk Report indicate that the country remains the most at-risk to disasters due to our susceptibility to extreme natural- and climate-related hazards. The World Bank estimates that the country's annual losses from typhoons alone represent 1.2 percent of our gross domestic product (GDP)¹. Economic damage and productivity losses from increasing intensity and frequency of extreme events could reach 7.6 percent of the GDP by 2030 and 13.6 percent by 2040².

Towards the end of protecting its people from climate change's ill effects, the Philippines has employed numerous climate change mitigation and adaptation measures, using both domestic and international sources and mechanisms. This notwithstanding, the Philippines continue to experience such negative impacts of climate change which are unavoidable and irreversible, internationally recognized as 'loss and damage.'

The State therefore, alongside other vulnerable countries and developing countries, advocated for the establishment of a new, additional, predictable, and adequate financial resources to assist developing countries that are particularly

¹ World Bank Group. "Philippines: Country Climate and Development Report". 2022.

² Ibid.

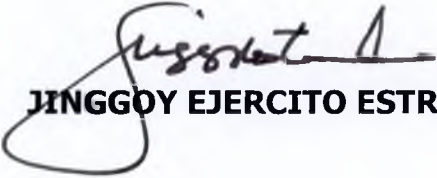
vulnerable to the adverse effects of climate change in responding to economic and non-economic loss and damage.

This gave rise to the establishment of the the Loss and Damage Fund (Fund) through the Decision 2/CMA.4 of the Conference of Parties serving as the meeting of Parties to the Paris Agreement (CMA) and during the 27th Conference of Parties (COP) to the United Nations Framework Convention on Climate Change (UNFCCC) under Decision 2/CP.27 of the COP in November 2022. The Fund was then operationalized in December 2023 during the 28th COP under Decision 1/CP.28 and CMA Decision 5/CMA.5, wherein the Loss and Damage Fund Board (Board) was created to serve as the Fund's governing and decision-making body. The Board issued a Call for Proposals to Host the Board, wherein the Philippines, together with seven (7) other countries, submitted their offers. The Philippines prepared a competitive bid package, with a commitment to confer juridical personality and legal capacity as well as grant privileges and immunities to and execute a Host Country Agreement with the Board, within ninety (90) days from selection as host. During the Board's second meeting on 9 July 2024, the Philippines was selected as the host country for its ability and commitment to global climate action and equity.

This bill will grant the requisite juridical personality and legal capacity to the Board to enable it to perform its mandates, including the capacity to negotiate and conclude and enter into a hosting agreement with the World Bank as interim trustee and host of the Fund's secretariat. The Board will be composed of 26 members, representing a balanced representation of all Parties. Membership will include representatives from developed countries, Asia-Pacific States, African States, Latin American and Caribbean States, Small Island Developing States, Least Developed Countries, and a Developed Country not included in the regional groups and constituencies.

Hosting the LDF Board is a manifestation of the Philippines' commitment to climate justice and equity considering its own vulnerabilities. This specifically provides a platform for the country to establish leadership in climate justice, showcase expertise in disaster risk management and financing, gain fair access to Fund resources, and gather more technical and scientific assistance including capacity building and technology transfer programs.

In view of the foregoing and in consideration of the need to implement effective policy frameworks and to mobilize broad and innovative sources of climate financing to address 'loss and damage,' the urgent approval of this bill is earnestly sought.



JINGGOY EJERCITO ESTRADA

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AND DAMAGE FUND BOARD IN THE PHILIPPINES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

1 Section 1. *Short Title.* – This Act shall be known as the “Loss and Damage Fund
2 Board Act”.

3 Sec. 2. *Declaration of Policy.* – It is the policy of the State to protect and
4 advance the right of the people to a balanced and healthful ecology in accord with the
5 rhythm and harmony of nature.

6 As a party to the United Nations Framework Convention on Climate Change
7 (UNFCCC) and the Paris Agreement, the State lauds the creation of the Loss and
8 Damage Fund (Fund) under the Decision 2/CMA.4 of the Conference of Parties serving
9 as the meeting of Parties to the Paris Agreement (CMA) and during the 27th Conference
10 of Parties (COP) to the UNFCCC under Decision 2/CP.27 of the COP, and its
11 operationalization during the 28th COP under COP Decision 1/CP.28 and CMA Decision
12 5/CMA.5. The State resolutely welcomes its establishment to finance and assist the
13 most vulnerable developing countries’ response and recovery from losses and
14 damages caused by climate change.

15 In recognition of the role that the State must take to advance climate and
16 disaster risk resilience, it shall be the policy of the State to take a whole of government
17 approach in creating and implementing effective policy frameworks and to mobilize
18 broad and innovative sources of climate financing, addressing loss and damage.

1 To further unlock opportunities in accelerating access to climate finance and
2 investments which are critical for futureproofing the economy and ensuring
3 sustainable and inclusive growth for all Filipinos, the State supports the hosting of the
4 Loss and Damage Fund Board ("Board") in the Philippines. Towards this end, the State
5 recognizes the need to grant juridical personality and legal capacity to the Board to
6 enable it to discharge its roles and functions.

7 *Sec. 3. Juridical Personality and Legal Capacity of the Loss and Damage Fund*
8 *Board.* – The Board, as the governing body of the Fund established by the COP and
9 CMA shall be granted juridical personality with full legal capacity to:

- 10 a) Contract;
- 11 b) Acquire and dispose of immovable and movable property;
- 12 c) Institute legal proceedings;
- 13 d) Negotiate, conclude, and enter into a hosting arrangement with the World
14 Bank as interim trustee and host of the Fund's secretariat; and
- 15 e) Undertake related or necessary activities to carry out the purpose for which
16 the Board was created.

17 *Sec. 4. Privileges, Immunities, and Exemptions.* – The Board, as an
18 international organization, shall enjoy the status, prerogatives, immunities, privileges,
19 and exemptions granted under the host country agreement entered into with the
20 Government of the Republic of the Philippines (GOP).

21 *Sec. 5. Tax Exemptions.* – The property, operations, and transactions of the
22 Fund and its Board shall be exempt from the payment of all taxes, duties, and other
23 charges imposed by the GOP and local authorities. The Fund and its Board shall also
24 be exempt from any obligation for the payment, withholding or collection of any tax
25 or duty.

26 The Fund and its Board shall be exempt from the payment of all taxes, duties,
27 and other charges imposed by the GOP and local authorities, except charges for
28 storage, transport and services supplied, on the importation of equipment, machinery,
29 motor vehicles, and materials intended for use in the Board meeting. The same shall
30 be processed in the manner and under existing procedures applied by the Department
31 of Finance in similarly situated cases.

1 The non-Filipino Fund officials and invited experts and observers shall be
2 exempt from the payment of income tax on salaries, stipends, emoluments,
3 indemnities, and sickness and accident benefits, received from the Fund, regardless
4 of currency used. The GOP retains its rights to tax its own nationals. They shall likewise
5 not be subject to taxes on their local purchases in the quantity as appropriate for the
6 duration of the Board meeting.

7 The non-Filipino Fund officials and invited experts and observers shall be
8 exempt from the payment of all taxes, duties, and other charges imposed by the GOP
9 and local authorities, except charges for storage, transport and services supplied, on
10 the importation of personal effects in the quantity as appropriate for the duration of
11 the Board meeting.

12 Goods released tax-free and duty-free pursuant to this Act and under the host
13 country agreement between the GOP and the Board shall be subject to applicable
14 taxes and duties if sold, transferred, or exchanged in the Philippines to non-exempt
15 persons or entities, computed based on the value of the goods at the time of the
16 importation pursuant to existing rules and regulations.

17 *Sec. 6. Separability Clause.* – Should any provision herein be declared
18 unconstitutional, the other provisions not affected shall remain in full force and effect.

19 *Sec. 7. Repealing Clause.* – All laws, decrees, orders, rules and regulations or
20 other issuances or parts inconsistent with the provisions of this Act are hereby
21 repealed, amended, or modified accordingly.

22 *Sec. 8. Effectivity.* – This Act shall take effect upon publication in the *Official*
23 *Gazette* or in at least two (2) newspapers of general circulation.

Approved,