

SC-1/11: Memorandum of understanding between the Conference of the Parties and the Council of the Global Environment Facility

The Conference of the Parties,

1. *Adopts* the memorandum of understanding between the Conference of the Parties and the Council of the Global Environment Facility, as contained in the annex to the present decision;
2. *Requests* the Secretariat to transmit the memorandum of understanding to the Council of the Global Environment Facility for its consideration and adoption.

Annex to decision SC-1/11

Memorandum of understanding between the Conference of the Parties of the Stockholm Convention on Persistent Organic Pollutants and the Council of the Global Environment Facility

The Conference of the Parties to the Stockholm Convention on Persistent Organic Pollutants and the Council of the Global Environment Facility,

Recalling Article 13, paragraph 2 of the Convention which states that “the developed country Parties shall provide new and additional financial resources to enable developing country Parties and Parties with economies in transition to meet the agreed full incremental costs of implementing measures which fulfil their obligations under this Convention as agreed between a recipient Party and an entity participating in the mechanism described in paragraph 6”;

Further recalling Article 13 of the Convention and recognizing that the financial mechanism established pursuant to it is to provide “adequate and sustainable financial resources to developing country Parties and Parties with economies in transition on a grant or concessional basis to assist in their implementation of the Convention” and is to “function under the authority, as appropriate, and guidance of, and be accountable to the Conference of the Parties for the purposes of this Convention”;

Recalling Article 13, paragraph 7, of the Convention which stipulates that, “pursuant to the objectives of the Convention and paragraph 6 of Article 13, the Conference of the Parties shall at its first meeting adopt appropriate guidance to be provided to the mechanism and shall agree with the entity or entities participating in the financial mechanism upon arrangements to give effect thereto”;

Recalling Article 14 of the Convention which stipulates that “the institutional structure of the Global Environment Facility, operated in accordance with the Instrument for the Establishment of the Restructured Global Environment Facility, shall on an interim basis, be the principal entity entrusted with the operations of the financial mechanism referred to in Article 13, for the period between the date of entry into force of this Convention and the first meeting of the Conference of the Parties, or until such time as the Conference of the Parties decides which institutional structure will be designated in accordance with Article 13;

Recalling paragraph 6 of the *Instrument for the Establishment of the Restructured Global Environment Facility*, as amended at the second Global Environment Facility Assembly in October 2002, which provides that “GEF shall also be available to serve as an entity entrusted with the operation of the financial mechanism of the Stockholm Convention on Persistent Organic Pollutants”;

Having consulted with each other and taking into account the relevant aspects of their governance structures as reflected in their constituent instruments,

Have reached the following understanding:

Definitions

1. For the purpose of the present memorandum of understanding:
 - (a) “Assembly” means the Assembly of GEF as defined in the *Instrument for the Establishment of the Restructured Global Environment Facility*;

- (b) “Conference of the Parties” means Conference of the Parties to the Stockholm Convention on Persistent Organic Pollutants;
- (c) “Convention” means the Stockholm Convention on Persistent Organic Pollutants;
- (d) “Council” means the Council of GEF as defined in the *Instrument for the Establishment of the Restructured Global Environment Facility*;
- (e) “GEF” means the mechanism established by the *Instrument for the Establishment of the Restructured Global Environment Facility*;
- (f) “GEF Instrument” means the *Instrument for the Establishment of the Restructured Global Environment Facility*; and
- (g) “Party” means Party to the Stockholm Convention on Persistent Organic Pollutants; and,
- (h) “POPs” means the chemicals covered under the Stockholm Convention on Persistent Organic Pollutants.

Purpose

2. The purpose of the present memorandum of understanding is to make provision for the relationship between the Conference of the Parties and the Council in order to give effect to the provisions of Article 13, paragraphs 6, 7 and 8, and Article 14 of the Convention and paragraphs 6, 26 and 27 of the GEF Instrument.

Guidance from the Conference of the Parties

3. The Conference of the Parties will provide GEF, as the principal entity entrusted on an interim basis according to Article 14 of the Convention with the operation of the financial mechanism established under Article 13 of the Convention, with appropriate guidance that the Conference of the Parties may adopt, review, update or revise in pursuance of paragraphs 7 and 8 of Article 13 and will subsequently agree with GEF upon any additional arrangements beyond the present memorandum of understanding that may be necessary. The guidance will address, among other things:

- (a) Determination of the policy, strategy and programme priorities, as well as clear and detailed criteria and guidelines regarding eligibility for access to and utilization of financial resources including monitoring and evaluation on a regular basis of such utilization;
- (b) Provision by the Council of regular reports to the Conference of the Parties on adequacy and sustainability of funding for activities relevant to the implementation of the Convention;
- (c) Promotion of multiple-source funding approaches, mechanism and arrangements;
- (d) Modalities for the determination in a predictable and identifiable manner of the amount of funding necessary and available for the implementation of the Convention, keeping in mind that the phasing out of persistent organic pollutants might require sustained funding, and the conditions under which that amount will be periodically reviewed; and
- (e) Modalities for the provision to interested Parties of assistance with needs assessment, information on available sources of funds and on funding patterns in order to facilitate coordination among them;

Conformity with guidance from the Conference of the Parties

4. The Council will ensure the effective operation of GEF, as an entity entrusted on an interim basis with the operations of the financial mechanism under the Convention, as a source of funding activities for the purposes of the Convention in conformity with the guidance provided to it by the Conference of the Parties.

5. The Council may raise with the Conference of the Parties any matter arising from the guidance adopted by the Conference of the Parties. In particular, if the Conference of the Parties provides

guidance to GEF subsequent to its first meeting, the Council may consult with the Conference of the Parties to update and clarify existing guidance in light of any new or additional guidance that it receives.

6. The funding decisions for specific projects and activities should be agreed between the developing country Party or the Party with economy in transition concerned and GEF in accordance with policy, strategy, programme priorities and eligibility criteria established by the Conference of the Parties. The GEF Council is responsible for approving the GEF work programmes. If a Party considers that a decision of the Council regarding a specific project was not consistent with the policies, programme priorities and/or eligibility criteria established by the Conference of the Parties in the context of the Convention and if after consideration the Conference of the Parties decides the concern of the relevant Party has merit, it will seek clarification from GEF and analyse the observations presented to it by the concerned Party and the response by GEF. In the event that the Conference of the Parties considers that this specific project decision does not comply with the policy, strategy, programme priorities and/or eligibility criteria established by the Conference of the Parties, it may decide to request GEF to propose and implement a course of action to address the concern regarding the project in question.

Reporting

7. In order to meet the requirements of accountability to the Conference of the Parties, the Council will prepare and submit regular reports to the Conference of the Parties at each ordinary meeting of the Conference of the Parties. The report of the Council will be an official document of the meeting of the Conference of the Parties.

8. The reports will include specific information on how GEF has applied the guidance determined by the Conference of the Parties, as well as any other decision of the Conference of the Parties communicated to GEF, under Article 13 of the Convention.

9. In particular, the reports will provide the following information:

(a) Information on how GEF has responded to the guidance provided by the Conference of the Parties including, where appropriate, through its incorporation in the strategies and operational policies of GEF;

(b) A synthesis of projects approved by the Council during the reporting period in the persistent organic pollutants focal area with an indication of GEF and other resources allocated to such projects and the approval status of each project;

(c) A listing of projects approved by the Council in the persistent organic pollutants focal area, with an indication of the total financial resources allocated to these projects; and

(d) In case of any project proposal included in a work programme that is not approved by the Council, the reasons for not being approved.

10. The Council will also report on GEF monitoring and evaluation activities concerning projects in the persistent organic pollutants focal area.

11. The Council will also provide information on other matters concerning the discharge of functions under Article 13, paragraph 6, as may be requested by the Conference of the Parties. If the Council has difficulties in responding to any such request, it will explain its concerns to the Conference of the Parties, and the Conference of the Parties and the Council will find a mutually agreed solution.

12. The Council will include in its report to the Conference of the Parties any views it may have on the guidance decided by the Conference of the Parties.

13. The Conference of the Parties may raise with the Council any matter arising from the reports received.

Monitoring and evaluation

14. As provided for in Article 13, paragraph 8, of the Convention, the Conference of the Parties will review, on a regular basis, the effectiveness of the financial mechanism established under the Convention, its ability to address the changing needs of developing country Parties and Parties with economies in transition, the criteria and guidance referred to in Article 13, paragraph 7 of the

Convention, the level of funding as well as the effectiveness of the performance of GEF as an institutional entity entrusted on an interim basis with the operation of the financial mechanism.

15. In preparing its review on the effectiveness of the financial mechanism, the Conference of the Parties will, as appropriate, take into account the reports of the GEF independent monitoring and evaluation unit and the views of GEF. The GEF independent monitoring and evaluation unit will consult, as appropriate, with the Secretariat of the Convention when preparing evaluations of the activities of GEF related to persistent organic pollutants.

16. The Conference of the Parties, based on the above-mentioned reviews, will communicate to the Council relevant decisions taken by the Conference of the Parties as a result of such reviews, to improve the performance and effectiveness of the financial mechanism in assisting developing country Parties and Parties with economies in transition to implement the Convention.

Cooperation between Secretariats

17. The Secretariat of the Convention and the Secretariat of GEF will communicate and cooperate with each other and consult on a regular basis to facilitate the effectiveness of the financial mechanism in assisting developing country Parties and Parties with economies in transition to implement the Convention.

18. In particular, in accordance with the GEF project cycle the Secretariat of the Convention will be invited to comment on the project proposals related to persistent organic pollutants under consideration for inclusion in a proposed work programme, especially with regard to the consistency of the project proposals with the guidance provided by the Conference of the Parties.

19. The Secretariats of the Convention and of GEF will reciprocally consult with each other on draft texts of documents relevant to the Convention and GEF prior to issuing the final texts of such documents.

20. Official documentation of GEF, including information on project activities, will be made available on its web site. Official documentation of the Convention will be made available on its web site.

Reciprocal representation

21. On a reciprocal basis, representatives of GEF will be invited to attend meetings of the Conference of the Parties and representatives of the Convention will be invited to attend meetings of the Council and Assembly.

Amendments

22. The present memorandum of understanding may be amended at any time by written agreement between the Conference of the Parties and the Council.

Interpretation

23. If differences arise in the interpretation of the present memorandum of understanding, the Conference of the Parties and the Council will make every effort to reach a mutually acceptable solution. If necessary the issue may be referred, as appropriate, to the Conference of the Parties and /or the Council of GEF for consideration.

Entry into effect

24. The present memorandum of understanding will come into effect upon approval by the Conference of the Parties and by the Council and will remain in force until such time as the Conference of the Parties decides which institutional structure will be designated in accordance with Article 13 of the Convention.

Withdrawal

25. Either the Conference of the Parties or the Council may terminate the present memorandum of understanding at any time upon written notification to the other. The withdrawal will take effect six months after its notification and shall not affect the validity or duration of activities initiated before such termination.