

51st GEF Council Meeting
October 25 – 27, 2016
Washington, D.C.

Agenda Item 14

**DRAFT AMENDMENTS TO THE MEMORANDUM OF UNDERSTANDING
BETWEEN THE CONFERENCE OF THE PARTIES TO THE UNITED NATIONS CONVENTION
TO COMBAT DESERTIFICATION IN THOSE COUNTRIES EXPERIENCING SERIOUS
DROUGHT AND/OR DESERTIFICATION, PARTICULARLY IN AFRICA
AND THE COUNCIL OF THE GLOBAL ENVIRONMENT FACILITY**

Recommended Council Decision

The Council, having considered document GEF/C.51/10, *Draft Amendments to the Memorandum of Understanding between the Conference of the Parties to the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly Africa and the Council of the Global Environment Facility*:

- (a) Invites Council Members to submit to the GEF Secretariat any comments that they may have on the draft Amendments by January 31, 2017;
- (b) Requests the GEF Secretariat to reflect Council Members' views in its collaboration with the Secretariat of the United Nations Convention to Combat Desertification (UNCCD) to revise the draft Amendments to Memorandum of Understanding, and further requests the GEF CEO to submit the document jointly with the Executive Secretary of the UNCCD to the next Conference of the Parties to the UNCCD for its approval.

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INTRODUCTION

1. The collaboration between the GEF and the United Nations Convention to Combat Desertification (UNCCD) is currently governed by a Memorandum of Understanding.¹ This Memorandum of Understanding was approved by the GEF Council at its 25th meeting in April 2005 in Decision GEF/C.25/5, and adopted by the seventh Conference of the Parties (COP 7) to UNCCD in October 2005 in its decision 6/COP.7.

Elaboration of the Amendments to Memorandum of Understanding

2. The UNCCD COP 10, held in October 2011, considered the amendments to the Memorandum of Understanding. Decision 11/COP.10, Paragraph 13, *“requests the Executive Secretary to consult with the Chief Executive Officer of the Global Environment Facility on whether amendments to the existing Memorandum of Understanding between the UNCCD and the Global Environment Facility are required, and on possible proposals in light of recent developments, and to report to the eleventh session of the Conference of the Parties.”*

3. In response to the COP 10 decision, the UNCCD Executive Secretary and the GEF CEO held consultations, and concluded that amendments were needed.

4. At the UNCCD COP 11, held in September 2013, Parties deliberated the Memorandum of Understanding amendment. Decision 11/COP. 11, Paragraph 12, *“requests the Executive Secretary, in consultation with the Chief Executive Officer of the Global Environment Facility, to prepare draft amendments to the existing Memorandum of Understanding between the UNCCD and the Global Environment Facility and to report on the proposed draft amendments to the Conference of the Parties at its twelfth session on this matter.”*

5. In response to the COP 11 decision, the two Secretariats collaborated to prepare draft Amendments to the existing Memorandum of Understanding.

6. At the UNCCD COP 12, held in October 2015, Parties deliberated the subject. Decision 11/COP.12 *“invited the UNCCD secretariat to continue working with the secretariat of the GEF to revise the memorandum of understanding (MOU) in light of the text of the Convention, including its objective, as well as decisions from COP 12, in particular 9/COP.12, paragraph 4, 8/COP.12, and 3/COP.12. It requested the secretariat of the UNCCD to report on progress to the Bureau of the COP and, through the Bureau, to consult with Parties on the text of the draft MOU.”*

7. In response to COP 12 guidance, the UNCCD Secretariat and the GEF Secretariat collaborated in drafting an amended Memorandum of Understanding. A draft text of the proposed amendments to the Memorandum of Understanding was circulated by the UNCCD

¹ http://beta.thegef.org/sites/default/files/council-meeting-documents/C.25.5_Proposed_MOU_between_UNCCD_and_GEF_5.pdf

Secretariat to the COP Bureau in April 2016, as per COP 12 guidance. The comments received from the COP Bureau were further reflected in the draft.

8. The text of a proposed draft Amendments to the Memorandum of Understanding is attached as Annex I.

Key Modifications Proposed

9. Key modifications in the proposed amendments to the Memorandum of Understanding include reference to the 2010 amendment to the GEF instrument relating to the availability of the GEF to serve as a financial mechanism for UNCCD, and UNCCD 10-year strategy.

10. The proposed amended Memorandum of Understanding is between the Conference of the Parties to UNCCD and the GEF Council, to be consistent with arrangements with other Conventions for which the GEF serves as a/the financial mechanism. The existing Memorandum of Understanding from 2005 is between UNCCD and the GEF, jointly prepared by the Executive Secretary of the UNCCD and the CEO/Chairman of the Facility.

11. The proposed amendments also include: reporting on implementation of UNCCD COP decisions related to the collaboration with the GEF; reporting on information on the GEF's experience in integrating activities to promote sustainable land management practices and to achieve land degradation neutrality through the Land Degradation focal area and other focal areas and synergies among the focal areas; and reference to desertification, land degradation and drought.

Process towards Approval of Memorandum of Understanding Amendment

12. The process towards the approval of the Amended Memorandum of Understanding will have the following steps:

- (a) The Council members are invited to submit any comments that they may have on the draft Amendments to the Memorandum of Understanding, presented in the Annex of this document, by January 31, 2017, to the GEF Secretariat;
- (b) The GEF Secretariat will reflect the Council Members' views in the draft Amendments to the Memorandum of Understanding, in collaboration with the UNCCD Secretariat;
- (c) The Executive Secretary of the UNCCD and the CEO of the GEF will jointly submit the draft Amendments to the Memorandum of Understanding to the next COP to the UNCCD for its approval;
- (d) Upon approval by the COP of the Amendments to the Memorandum of Understanding, the Executive Secretary of the UNCCD and the CEO of the GEF will jointly submit the document to the GEF Council for approval at the first GEF Council that takes place after the COP;

- (e) Once the GEF Council and the COP approve the Memorandum of Understanding, it enters into force.

ANNEX 1. DRAFT AMENDMENTS TO THE MEMORANDUM OF UNDERSTANDING BETWEEN THE CONFERENCE OF THE PARTIES TO THE UNITED NATIONS CONVENTION TO COMBAT DESERTIFICATION IN THOSE COUNTRIES EXPERIENCING SERIOUS DROUGHT AND/OR DESERTIFICATION, PARTICULARLY IN AFRICA AND THE SECRETARIAT OF THE GLOBAL ENVIRONMENT FACILITY

AMENDED MEMORANDUM OF UNDERSTANDING BETWEEN THE CONFERENCE OF THE PARTIES TO THE UNITED NATIONS CONVENTION TO COMBAT DESERTIFICATION IN THOSE COUNTRIES EXPERIENCING SERIOUS DROUGHT AND/OR DESERTIFICATION, PARTICULARLY IN AFRICA, AND THE COUNCIL OF THE GLOBAL ENVIRONMENT FACILITY ON ENHANCED COLLABORATION

The Conference of the Parties to the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, particularly in Africa (hereinafter the UNCCD), represented by its Executive Secretary and the Global Environment Facility (hereinafter the GEF) Council represented by its Chief Executive Officer/Chairperson,

Whereas, a Memorandum of Understanding, dated 28 October 2005, was concluded between the GEF and the UNCCD;

Whereas, pursuant to article 21 of the UNCCD which provides that “the Conference of the Parties shall promote the availability of financial mechanisms and shall encourage such mechanisms to seek to maximize the availability of funding for affected developing country Parties, particularly those in Africa, to implement the Convention”;

Whereas, the decision of the Fourth GEF Assembly (Punta del Este, Uruguay, May 25-26, 2010) amended the GEF Instrument so that GEF shall be available to serve as a financial mechanism of the UNCCD;

Whereas, the decision of the Second GEF Assembly (Beijing, China, October 16-18, 2002) to amend the Instrument for the Establishment of the Restructured GEF to include land degradation, primarily desertification and deforestation, as one of the six focal areas of the GEF, and to include as a function of the GEF Secretariat, coordination, on behalf of the Council, with the Secretariat of the UNCCD;

Whereas, decision 6/COP.6 of the UNCCD accepted the GEF as a financial mechanism of the UNCCD pursuant to article 20, paragraph 2 (b) and article 21 of the Convention and in accordance with the GEF Instrument as amended gave the UNCCD Secretariat as part of its functions, to coordinate, on behalf of the UNCCD COP, with the GEF;

Whereas, decisions 6/COP.7, 6/COP.8, 10/COP.9, 11/COP.10, and 11/COP.11 of the UNCCD provided for collaboration between the GEF Secretariat and the UNCCD Secretariat;

Whereas, the 36th Session of the GEF Council Meeting (Washington, D.C., November 10, 2009) adopted a decision regarding the funding of enabling activities in addition to the System for a Transparent Allocation of Resources;

Recalling decision 6/COP.10 on the Governance and institutional arrangements of the Global Mechanism;

Recalling decision 3/COP.8 of the UNCCD on the Ten Year Strategy;

Recalling the Instrument for the Establishment of the Restructured Global Environment Facility, as amended by the Second, Third, Fourth and Fifth GEF Assemblies;

Whereas, the Memorandum of Understanding between the GEF and the UNCCD, dated 28 October 2005, needs to be amended in accordance with decision 11/COP.10 and decision 11/COP.11 of the UNCCD;

Whereas, decision 11/COP.12 invites the UNCCD secretariat to continue working with the secretariat of the GEF to revise the Memorandum of Understanding in light of the text of the Convention, including its objective, as well as decisions from COP 12, in particular 9/COP.12, paragraph 4, 8/COP.12, and 3/COP.12.

Have agreed as follows:

ARTICLE I

Definitions

For the purpose of this Memorandum of Understanding:

- (a) "Assembly" means the Assembly of the GEF as defined in the paragraph 13 of the Instrument for the Establishment of the Restructured Global Environment Facility;
- (b) "Conference of the Parties" means the Conference of the Parties to the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa defined in article 22 of the Convention;
- (c) "Convention" means the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa;
- (d) "GEF Council" means the Council of the GEF as defined in paragraphs 15 to 20 of the Instrument for the Establishment of the Restructured Global Environment Facility;

(e) “Focal areas of the GEF” means the focal areas provided in paragraph 2 of the Instrument for the Establishment of the Restructured Global Environment Facility;

(f) “GEF” means the Global Environment Facility established pursuant to the Instrument for the Establishment of the Restructured Global Environment Facility;

(g) “GEF Instrument” means the Instrument for the Establishment of the Restructured Global Environment Facility as amended;

(h) “Implementing and Executing Agencies” means the Implementing Agencies as defined in paragraph 22 of the GEF Instrument and Implementing and Executing Agencies benefiting from expanded opportunities pursuant to the decisions of the Council;

(h) “MoU” means this Amended Memorandum of Understanding; and

(i) “Party” means Party to the United Nations Convention to Combat Desertification.

ARTICLE II

Coherence between the UNCCD and the GEF

2.01 The coherence between the objectives of the GEF Land Degradation Focal Area and the objectives of the Convention and its Strategies are recognized as a basis for mutually beneficial collaboration. The GEF Secretariat and the UNCCD Secretariat will collaborate on substantive matters that the GEF Council and the UNCCD COP agree upon to pursue in order to strengthen this coherence and enhance collaboration between the GEF and the UNCCD.

2.02 All provisions of this MOU will be interpreted in accordance with (i) GEF Policies and Procedures; and (ii) UNCCD COP Decisions.

ARTICLE III

Strategies, programmes and projects concerning desertification, land degradation and drought

3.01 In formulating strategies, programmes and projects, the GEF will take into account the relevant decisions of the UNCCD COP.

ARTICLE IV

Reporting

4.01 The GEF will prepare a report to be submitted to each regular session of the UNCCD COP, through the UNCCD Secretariat, on the financing of programmes and projects concerning desertification, land degradation and drought.

4.02 This report will include inter alia:

- (a) a synthesis of programmes and projects approved by the GEF Council during the reporting period concerning desertification, land degradation and drought with an indication of the GEF financing and co-financing allocated to such projects;
- (b) a listing of programmes and projects approved by the Council concerning desertification, land degradation and drought with an indication of the cumulative financial resources allocated in the GEF to such programmes and projects;
- (c) information on the GEF's experience in integrating activities to promote sustainable land management practices and to achieve land degradation neutrality through the Land Degradation focal area and other focal areas and synergies among the focal areas;
- (d) information on GEF replenishment agreements and the funding programmed under the Land Degradation Focal Area;
- (e) information on GEF monitoring and evaluation activities related to projects concerning land degradation;
- (f) information on financing provided to eligible Parties for enabling activities for the land degradation focal area;
- (g) implementation of UNCCD COP decisions related to the collaboration with the GEF;

4.03 The UNCCD will prepare a report for information to be submitted to the GEF Council through the GEF Secretariat after each regular session of the Conference of the Parties, on the decisions taken by the Parties of relevance to the GEF. The report shall contain information on discussions within the Conference of the Parties on GEF activities for financing of activities concerning land degradation.

ARTICLE V

Cooperation between secretariats

5.01 The GEF Secretariat and the UNCCD Secretariat will communicate and cooperate with each other and consult on a regular basis on desertification, land degradation and drought issues as they relate to decisions of the GEF Council and the UNCCD COP.

5.02 The GEF Secretariat and the UNCCD Secretariat will reciprocally consult with each other on (i) proposed strategies, programmes and projects on land degradation; and (ii) draft texts of documents relevant to the GEF and the UNCCD prior to issuing the texts of such documents for consideration by the GEF Council or the UNCCD COP.

ARTICLE VI

Reciprocal representation

6.01 The UNCCD secretariat will invite the GEF Secretariat to attend meetings of the Conference of the Parties and the GEF secretariat will invite the UNCCD secretariat to attend meetings of the GEF Council and Assembly.

ARTICLE VII

Monitoring and Evaluation

7.01 The GEF will provide the Conference of the Parties with the reports of the GEF Independent Evaluation Office relevant to GEF activities in the area of land degradation.

ARTICLE VIII

Dispute Resolution

8.01 If differences arise in the interpretation of the present Memorandum of Understanding, the Executive Secretary of the UNCCD and the CEO/Chairman of the GEF will jointly inform the Conference of the Parties and the Council and will invite them to advise on a mutually acceptable solution.

ARTICLE IX

Amendments

9.01 Amendments to this Memorandum of Understanding shall be approved by the Conference of the Parties and the Council. Proposed amendments will be submitted jointly, for consideration and approval by the Conference of the Parties and the Council, by the Executive Secretary of the UNCCD and the CEO/Chairman of the GEF after consultation and agreement between them.

ARTICLE X

Termination

10.01 Either the UNCCD or the GEF Secretariats may terminate this Memorandum of Understanding at any time upon written notification to the other, after approval by the Conference of the Parties or the Council, as appropriate. The withdrawal will take effect six months after notification and will not affect the validity or duration of activities initiated before such termination.

10.02 Notwithstanding Section 10.01, if there are outstanding activities under this MOU, including GEF Projects under which a GEF Implementing and Executing Agencies entered into commitments with third parties, at the time of termination of this MOU, the provisions of this

MOU will continue to apply to any such outstanding activities until such activities have been fully completed.

ARTICLE XI

Effectiveness

11.01 This MOU will come into force and effect upon on the date aforementioned on the first page of this MOU, and will supersede and replace the Memorandum of Understanding between the GEF and the UNCCD, dated 28 October 2005.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this MOU with effect as indicated in Section 11.01 above.