



GEF

Global Environment Facility

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GEF Council
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Agenda Item 14

PROPOSED AMENDMENTS TO THE GEF INSTRUMENT

Recommended Council Decision

The Council, having reviewed document GEF/C.19/14, *Proposed Amendments to the GEF Instrument*, agrees with the proposed amendments set forth in the annex to the document and recommends to the Assembly that it approves them at its second meeting to be convened in Beijing, China, from October 16-18, 2002. Upon approval of the amendments, the Assembly should also invite the Implementing Agencies and the Trustee to adopt them as amendments to the Instrument in accordance with their respective rules and procedural requirements.

The Council requests the GEF Secretariat to notify all GEF Participants of these proposed amendments as early as possible so as to allow sufficient time for their consideration prior to the Assembly.

INTRODUCTION

1. At its meeting in December 2001, the Council requested the Secretariat to prepare proposed textual amendments to the Instrument for Council consideration with a view to the Council recommending approval of such amendments by the Assembly at its meeting in October 2002.

Amendments to the Instrument

2. This paper proposes amendments to the Instrument to address two matters:
- (a) designation of land degradation, primarily desertification and deforestation, as a GEF focal area, as a means of enhancing GEF support for the successful implementation of the UN Convention to Combat Desertification; and
 - (b) designation of [Persistent Organic Pollutants][Integrated Chemicals Management, especially persistent organic pollutants] as a GEF focal area and confirmation of the availability of the GEF to serve as an entity entrusted with the operation of the financial mechanism of the Stockholm Convention on Persistent Organic Pollutants.

Designation of land degradation, primarily desertification and deforestation, as a GEF focal area

3. At its meeting in May 2001, the Council considered options presented by the Secretariat to enhance GEF support for the implementation of the UN Convention to Combat Desertification (UNCCD),¹ and it agreed that "...the designation of land degradation (desertification and deforestation) as a GEF focal area should be pursued as a means of enhancing GEF support for the successful implementation of the UN Convention to Combat Desertification (CCD)". This approach to land degradation prevention and control would enhance the GEF's ability to catalyze more predictable financial resources, including co-financing, for sustainable land management activities that have both global environment and sustainable development benefits.

4. The fifth session of the Conference of the Parties (COP) to the UN Convention to Combat Desertification was held in Geneva, October 1-12, 2001, and the Parties approved a decision regarding the GEF which:

- (a) welcomes the decision of the GEF Council at its May 2001 meeting to pursue the designation of land degradation as a GEF focal area;
- (b) encourages the GEF Council to take the necessary steps in pursuit of designating land degradation as a focal area;

¹ Options to Enhance GEF support for the implementation of the United Nations Convention to Combat Desertification GEF/C.17/5.

- (c) requests the Executive Secretary of the UNCCD and the Managing Director of the Global Mechanism to continue to cooperate with the GEF Secretariat on its work on modalities for designating land degradation as a focal area;
- (d) encourages further meetings of the Third Replenishment of the GEF to consider the need for new and additional financial resources to assist in achieving the objectives of the UNCCD; and
- (e) encourages the GEF at its forthcoming replenishment meetings to consider the needs arising from the possible designation of land degradation as a GEF focal area.

5. At its meeting in December 2001, the Council considered a *Note on the Proposed Designation of Land Degradation as a GEF Focal Area*, GEF/C.18/4, and agreed to consider proposed amendments to the Instrument to designate land degradation, primarily desertification and deforestation, as a GEF focal area, as a means of enhancing GEF support for the successful implementation of the UN Convention to Combat Desertification.

6. To achieve such designation, it is proposed that the Instrument be amended as follows:

- (a) Amend paragraph 2 by adding a new subparagraph (e), which would read:
“Land degradation, primarily desertification and deforestation; and”.
- (b) Delete the first sentence of paragraph 3, which reads:
“The agreed incremental costs of activities concerning land degradation, primarily desertification and deforestation, as they relate to the four focal areas shall be eligible for funding.”
- (c) Amend paragraph 21(f) to read:
“Coordinate with the Secretariats of other relevant international bodies, in particular the Secretariats of the conventions referred to in paragraph 6 and the Secretariats of the Montreal Protocol on Substances that Deplete the Ozone Layer and its Multilateral Fund and the Convention to Combat Desertification.”

Stockholm Convention on Persistent Organic Pollutants

7. At its meeting in November 2002, the Council reviewed document GEF/C.16/6, *Draft Elements of an Operational Program for Reducing and Eliminating Releases of Persistent Organic Pollutants*, and took note of the elements as a basis for preparing an operational program, subject to the conclusions and decisions of the International Negotiating Committee (INC) for an International Legally Binding Instrument for Implementing International Action on Certain Organic Pollutants.

8. The Council agreed that should the GEF be designated as the financial mechanism for the legally binding agreement to address certain organic pollutants, additional financial resources for this purpose will be made available through the third replenishment. The Council also recognized that should the GEF be the financial mechanism for the legally binding agreement, it would be willing to initiate early action with regard to the proposed enabling activities with existing resources.

9. At its meeting in May 2000, the Council approved initial guidelines for enabling activities of the Stockholm Convention on Persistent Organic Pollutants as an early response for assisting developing countries and countries with economies in transition to implement measures to fulfill their obligations under the Convention.

10. The Stockholm Convention was opened for signature in May 2001. Article 15 of the Convention states that the GEF shall, on an interim basis, be the principal entity entrusted with the operations of the financial mechanism referred to in Article 13 of the Convention for the period between the 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 of the Convention. Article 13(6) states that the mechanism shall function under the authority of the Conference of the Parties to the Convention.

11. Further, pursuant to Resolution of the Stockholm Convention, the GEF is requested to considering establishing a new focal area to support the implementation of the Convention (UNEP/POPS/CONF/4).

12. This process of establishing a financial mechanism within the Convention and the Conference of the Parties formally identifying the entity to which to entrust its operation tracks closely the process followed for the Convention on Biological Diversity (CBD) and the UN Framework Convention on Climate Change (UNFCCC).

13. In order to designate Persistent Organic Pollutants as a focal area of the GEF and to enable the GEF to serve as the entity entrusted with the operation of the financial mechanism, the following amendments to the Instrument are proposed:

(a) Amend paragraph 2 by adding a new subparagraph (f), which would read:

“[Persistent organic pollutants] [Integrated Chemicals Management, especially persistent organic pollutants].”²

(b) Insert a new sentence before the penultimate sentence of paragraph 6, which would read:

² A discussion of the appropriate scope of the proposed focal area is presented in document GF/C.19/Inf.4, *Note on the Technical Aspects of the Designation of a GEF Focal Area relating to Persistent Organic Pollutants*.

“The 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.”³

(c) Amend the penultimate sentence of paragraph 6 to read:

“In such respects, the GEF shall function under the guidance of, and be accountable to, the Conferences of the Parties which shall decide on policies, program priorities and eligibility criteria for the purposes of the conventions.”

Conclusion

14. Pursuant to paragraph 34 of the Instrument, amendments may be approved by consensus by the Assembly upon the recommendation of the Council, after taking into account the views of the Implementing Agencies and the Trustee, and shall become effective after adoption by the Implementing Agencies and the Trustee in accordance with their respective rules and procedural requirements.

15. A complete listing of the proposed amendments described above is included in the Annex to this paper. The Council is invited to review these proposed amendments with a view to recommending their approval to the Assembly. If the Assembly approves these amendments, it should also invite the Implementing Agencies and the Trustee to adopt them as amendments to the Instrument in accordance with their respective rules and procedural requirements.

³ This will serve to include the Stockholm Convention in all references to the conventions referred to in paragraph 6. See paragraphs 9, 15, 20, 21, and 26 of the Instrument.

ANNEX: PROPOSED AMENDMENTS TO THE INSTRUMENT

- (1) Amend paragraph 2 by adding two new subparagraphs (e) and (f), which would read:

“(e) Land degradation, primarily desertification and deforestation; and

(f) [Persistent organic pollutants] [Integrated Chemicals Management, especially persistent organic pollutants].”

- (2) Delete the first sentence of paragraph 3, which reads:

“The agreed incremental costs of activities concerning land degradation, primarily desertification and deforestation, as they relate to the four focal areas shall be eligible for funding.”

- (3) Insert a new sentence before the penultimate sentence of paragraph 6, which would read:

“The 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.”

- (4) Amend the penultimate sentence of paragraph 6 to read:

“In such respects, the GEF shall function under the guidance of, and be accountable to, the Conferences of the Parties which shall decide on policies, program priorities and eligibility criteria for the purposes of the conventions.”

- (5) Amend paragraph 21(f) to read:

“Coordinate with the Secretariats of other relevant international bodies, in particular the Secretariats of the conventions referred to in paragraph 6 and the Secretariats of the Montreal Protocol on Substances that Deplete the Ozone Layer and its Multilateral Fund and the Convention to Combat Desertification.”