



Global Environment Facility

GEF/C.24/10
October 15, 2004

GEF Council
November 17-19, 2004

Agenda Item 14

PROPOSED AMENDMENTS TO THE INSTRUMENT

Recommended Council Decision

The Council, having reviewed document GEF/C.24/10, *Proposed Amendments to the Instrument*, agrees to recommend to the third GEF Assembly the following amendments to the *Instrument of the Establishment of the Restructured Global Environment Facility*:

Paragraph 13 of the Instrument should be amended to read:

The Assembly shall consist of Representatives of all Participants. Each Participant may appoint one Representative and one Alternate to the Assembly in such manner as it may determine. Each Representative and each Alternate shall serve until replaced. The Assembly shall be convened after the conclusion of negotiations on each replenishment of the GEF Trust Fund, or at such other frequency as the Council may decide, at a location agreed by the Council. The Assembly shall elect its Chairperson from among the Representatives.

Paragraph 17 of the Instrument should be amended to read:

The Council shall meet semi-annually or as frequently as necessary to enable it to discharge its responsibilities. The Council shall meet at the seat of the Secretariat unless the Council decides otherwise. Two-thirds of the Members of the Council shall constitute a quorum.

The Secretariat is requested to submit these recommendations to the third GEF Assembly.

EXECUTIVE SUMMARY

The Instrument for the Establishment of the Restructured Global Environment Facility provides the following procedures for the amendment of the Instrument:

Amendment or termination of the present Instrument may be approved by consensus by the Assembly upon the recommendations 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.

In the ten years since the Instrument was adopted, experience has shown that with regard to the logistical planning of the Assembly and Council meetings, it is not always practical nor feasible to adhere to provisions in the Instrument providing for the scheduling or location of these meetings. Therefore, in anticipation of the third GEF Assembly and the opportunity an Assembly presents to consider amendments to the Instrument, it is proposed that the Council consider recommending to the Assembly two amendments to the Instrument.

The first amendment would be to paragraph 13 of the Instrument and would specify that the Assembly is to be convened after the conclusion of negotiations on each replenishment of the GEF Trust Fund or at such other frequency as the Council may decide and at a location agreed by the Council.

The second amendment would be to paragraph 17 of the Instrument and would provide that Council meetings are to be held at the seat of the Secretariat unless the Council decides otherwise.

The Council is invited to review these proposals with a view to recommending them for approval at the next GEF Assembly.

PROPOSED AMENDMENTS TO THE INSTRUMENT

1. The Instrument for the Establishment of the Restructured Global Environment Facility provides the following procedures for the amendment of the Instrument:

Amendment or termination of the present Instrument may be approved by consensus by the Assembly upon the recommendations 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.¹

2. In the ten years since the Instrument was adopted, experience has shown that with regard to the logistical planning of the Assembly and Council meetings, it is not always practical nor feasible to adhere to provisions in the Instrument providing for the scheduling or location of these meetings. Therefore, in anticipation of the third GEF Assembly and the opportunity an Assembly presents to consider amendments to the Instrument, it is proposed that the Council consider recommending to the Assembly the following two amendments to the Instrument.

ASSEMBLY MEETINGS

3. The GEF has convened two Assemblies. The first was in New Delhi in April 1998, and the second was in Beijing in October 2002.

4. Although it recognized that paragraph 13 of the Instrument provides “the Assembly shall meet once every three years,” the Council agreed that the second Assembly should be held four years after the first. In making this decision, the Council, at its meeting in May 2000, agreed, “that the Assembly should be linked with the completion of replenishment discussions and that it would therefore be important for the forthcoming GEF Assembly to be held after the completion of negotiations for the third replenishment of the GEF Trust Fund. The Council also concluded that it would be useful for the Assembly to be held after the convening of the Rio+10 conference to allow the Assembly to take into account the results and new directions agreed to by the conference.”

5. When the Instrument was negotiated, there was an expectation that the GEF Trust Fund would be replenished every three years. The period for replenishments is not defined in the Instrument, however, and the replenishment period is determined during the replenishment negotiations. Under GEF1, the Trustee was authorized to accept contributions to the GEF Trust Fund for the period from July 1, 1994 to June 30, 1997 (a three year period). GEF2, however, provided for additional resources to be made available to the GEF Trust Fund over a four year period from July 1, 1998 to June 30, 2002, and GEF 3 runs for a similar four year period from July 1, 2002 to June 30, 2006.

6. Planning for the third GEF Assembly has not yet begun, and as a first step, the Secretariat is seeking a host Government for the meeting. In addition, it is clear that negotiations on the

¹ *Instrument for the Establishment of the Restructured Global Environment Facility*, paragraph 34.

fourth replenishment of the GEF Trust Fund will not be concluded until late 2005 or early 2006. Therefore, it is very likely that the third GEF Assembly can only be convened sometime in 2006.

7. Recognizing the importance of convening the Assembly after the conclusion of the replenishment negotiations, so the Assembly can take fully into account the policy recommendations of the replenishment in its review of the GEF, it is proposed that the Council be given the authority to determine the scheduling of the Assembly. Specifically, it is proposed that paragraph 13 of the Instrument be amended to read:

*The Assembly shall consist of Representatives of all Participants. Each Participant may appoint one Representative and one Alternate to the Assembly in such manner as it may determine. Each Representative and each Alternate shall serve until replaced. **The Assembly shall be convened after the conclusion of negotiations on each replenishment of the GEF Trust Fund, or at such other frequency as the Council may decide, at a location agreed by the Council.** The Assembly shall elect its Chairperson from among the Representatives.*

8. Such an amendment would reflect the practice that the Council has followed with regard to the first and second Assemblies. It is also expected that the Council will determine the location and scheduling for the third GEF Assembly which it is proposed be convened in 2006 after the completion of the negotiations on the fourth replenishment of the GEF.

COUNCIL MEETINGS

9. Paragraph 17 of the Instrument provides that the Council “shall meet at the seat of the Secretariat.” The Council has met at the seat of the Secretariat in Washington, D. C., on all but two occasions. For purposes of the Council meetings associated with the two GEF Assemblies, the Council agreed that the two meetings should be held in the same location as the Assembly: the first in New Delhi and the second in Beijing.

10. Experience has shown that there have been other occasions on which the Council would have liked to hold their meetings in a place other than the seat of the Secretariat, but it felt constrained by the provisions of the Instrument from doing so.

11. The location of periodic meetings of an organization’s governing body is the type of logistical arrangement that is frequently to the discretion of the governing bodies itself. For example, Rule 2 of the Rules of Procedure for the Executive Board of UNDP provides:

Unless the Executive Board decides to meet elsewhere, annual sessions shall be held alternately at United Nations Headquarters and at the Geneva Office of the United Nations.

12. Rule 4 of the Rules of Procedure of the Governing Council of UNEP also provides:

Regular sessions shall be held at the headquarters of the United Nations Environment Program, unless otherwise decided by the Governing Council at a previous session.

13. It is proposed that paragraph 17 of the Instrument should be amended to read as follows:

*The Council shall meet semi-annually or as frequently as necessary to enable it to discharge its responsibilities. **The Council shall meet at the seat of the Secretariat unless the Council decides otherwise.** Two-thirds of the Members of the Council shall constitute a quorum.*

14. Such an amendment would maintain the presumption that Council meetings will be held at the seat of the Secretariat. The Council would, however, have the flexibility to decide to hold a meeting elsewhere if circumstances justified such a decision, such has been the case on the occasion of the first and second Assemblies.