



Global Environment Facility

GEF/C.29/5
August 9, 2006

Special Council Meeting
Cape Town, South Africa
August 28, 2006

Agenda Item 6

GOVERNANCE OF THE CLIMATE CHANGE FUNDS

Recommended Decision

The Council reconfirms that the policies and procedures and the governance structure of the GEF will apply to the climate change funds, managed by the GEF in accordance with the decisions of the Conference of the Parties to the UN Framework Convention on Climate Change (UNFCCC), unless the Council decides otherwise. The Council also reconfirms that for purposes of the Least Developed Countries Fund for Climate Change (LDCF) and the Special Climate Change Fund (SCCF), the GEF will function under the guidance of the Conference of the Parties. For purposes of the Adaptation Fund (AF), the GEF will function under the guidance of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol.

The Council also confirms that the policies and procedures separately established for the climate change funds will not be taken to establish any precedent for the operation of the GEF Trust Fund.

The administrative costs of managing each fund will be financed from the resources of the relevant fund.

The Council agrees that the general decision making principles applied to the operation of the LDCF and the SCCF, as approved by the Council at its May 2002 meeting on the basis of Document GEF/C.19/6, *Arrangements for the Establishment of the New Climate Change Funds*, should be modified as follows.

With respect to decision making for the LDCF and SCCF, the Council will meet as the Council for the LDCF and the SCCF. A formal vote by the Council will be taken where consensus cannot be achieved. Such vote will be conducted by a double weighted majority, that is, an affirmative vote representing both a 60 percent majority of GEF Participants and a 60 percent majority of the total contributions to such fund. The total contributions will be calculated based on the actual cumulative payments made to the respective fund.

Pursuant to the request of the SBI inviting relevant institutions to submit information on issues raised in the compilation document on the AF, the Council agrees that in the case of the AF, the Council would meet as the Council for the AF. Decisions of the Council on matters concerning the operation of the fund would be taken by consensus among all Council Members representing Participants that are parties to the Kyoto Protocol. A formal voting procedure would be agreed by the Council meeting as the Council for the AF following further guidance of the COP/MOP and taking into account the GEF Instrument.

The Council requests the Secretariat and the Trustee to make necessary arrangements to effect the changes reflected in this decision.

Introduction

1. At the seventh session of the Conference of the Parties to the UN Framework Convention on Climate Change held in Marrakesh, from October 29 to November 10, 2001, (COP7) the GEF, as the financial mechanism of the Convention, was requested to operate two new funds related to the UNFCCC (the Least Developed Countries Fund and the Special Climate Change Fund)¹ as well as the Adaptation Fund under the Kyoto Protocol.²

2. The GEF was invited to make arrangements for the establishment of these funds and to report to COP8, to be held in October 2002, on its response.

3. At the Council meeting in May 2002, the Council reviewed Document GEF/C.19/6, *Arrangements for the Establishment of the New Climate Change Funds*, and approved the arrangements proposed for the new funds. The Council also: (a) invited the World Bank to act as Trustee of the three new funds; (b) requested the Secretariat to mobilize resources for the funds based on an assessment of financing needs that takes into account the guidance approved by the Conference of the Parties to the UNFCCC; and (c) requested the Secretariat to inform the eighth session of the Conference of the Parties to the UNFCCC on the arrangements made for the establishment of the funds.

4. The arrangements for the funds include the following general principles:

“In operating the funds, the operational policies and procedures and governance structure of the GEF will apply to the operation of all the funds, unless the Conference of the Parties determines through guidance concerning the modalities for operating the funds that other arrangements should be made³. Any additional operational policies that may be required for the operation of the funds will be brought to the Council’s attention for review and approval as issues emerge in developing specific project proposals. Future Council decisions related to operational policies, procedures and the governance structure of the GEF, where appropriate, will be extended to the management of the new funds. This should serve to make operations as transparent and streamlined as possible.

“In operating the funds, the GEF will emphasize a culture of quality and results while continuously striving to improve its responsiveness to countries and to the guidance of the Parties and to make its processes more streamlined and efficient. Any additional streamlining of procedures to be applied specifically for purposes of one of the new funds will depend on factors such as emerging guidance, the size of the new funds and the size and nature of the projects they support.

¹ Decision 7/CP.7, *Funding under the Convention*.

² Decision 10/CP.7, *Funding under the Kyoto Protocol*.

³ Decision 7/CP.7, which establishes the special climate change fund and the least developed country fund, provides that the Conference of the Parties is to provide guidance to the entity operating the funds on modalities for operating the funds, including expedited access.

5. At the eighth session of the COP to the UNFCCC, the Parties welcomed the arrangements that had been made for operationalizing the Special Climate Change Fund and the Least Developed Countries Fund. (Decision 7/CP.8 and decision 8/CP.8).

Update on COP/MOP guidance on the Adaptation Fund

6. In establishing the Adaptation Fund at its seventh session, the Conference of the Parties decided (a) that the Adaptation Fund (AF) is to finance concrete adaptation projects and programs; (b) that the Adaptation Fund should be financed from the share of proceeds from the clean development mechanism project activities and other sources of funding, including contributions from donor countries; and (c) that the AF should be operated and managed by an entity entrusted with the operation of the financial mechanism of the Convention. The Conference of the Parties invited the entity entrusted with the operation of the financial mechanism of the Convention to make the necessary arrangements for this purpose.

7. At its eleventh session, the Conference of the Parties serving as the Meeting of the Parties to the UNFCCC adopted its first decision on *Initial guidance to the entity entrusted with the operation of the financial mechanism of the Convention, for the operation of the Adaptation Fund*.⁴ The decision took note of the arrangements made by the GEF for the operation of the AF. It then included management criteria for the AF (including a country-driven approach, sound financial management and transparency, separation from other funding sources and a “learning-by-doing” approach) and requested Parties to submit their views on the policies, programs, and eligibility criteria for the fund. It also requested Parties and international organizations to submit their views on the arrangements for the management of the fund for consideration by the Subsidiary Body for Implementation at its twenty-fourth session. The GEF Secretariat made a submission on the characteristics of the GEF relevant to the management of the fund. As noted in the GEF submission, the COP7 agreement that the GEF should manage the three new climate change funds contributes significantly to ensuring coherence among the three funds as well as funding provided through the GEF Trust Fund for adaptation activities. Adaptation to climate change is a relatively new field of intervention. Early experiences will have a critical role to play in demonstrating good practice and innovative approaches to respond to climate change impacts. The GEF already occupies a central place in financing adaptation activities that produce on-the-ground results through its management of the GEF Trust Fund, the LDCF and the SCCF. A copy of the Secretariat’s submission is before the Council as document GEF/C.29/Inf.2.

8. At its twenty-fourth session in May 2006, the SBI took note of the submissions from Parties and intergovernmental organizations on the management of the AF as well as the report of a workshop on the Adaptation Fund convened in May 2006. The SBI made progress in its consideration of the AF and prepared a compilation document containing possible elements for a draft decision on the AF, without prejudice to further inputs of the Parties. The draft decision contains options for the governance of the Adaptation Fund. The compilation is before the Council as document GEF/C.29/Inf.3.

⁴ COP/MOP decision 28/CMP.1

9. The Parties also invited “relevant international institutions including, among others, those contained in the compilation document, without prejudice to any institution, to submit to the [Convention] secretariat, by August 4, 2006, information on issues contained in the compilation document, and taking into account views expressed by Parties, including those contained in document FCCC/SBI/2006/MISC.7 and Add.1 and FCCC/SBI/2006/MISC.11.” The GEF Secretariat will be making a submission to the Convention Secretariat as requested and will circulate the submission to the Council as document GEF/C.29/Inf.4.

10. The SBI will continue its deliberations on the AF, on the basis of the compilation document and of responses provided by institutions, with a view to recommending a draft decision for adoption by the COP/MOP at its second session in November 2006.

Governance of the climate change funds

11. At a meeting of donors to the climate change funds held in Copenhagen, Denmark, in April 2006, the Secretariat was requested to explore whether and how the GEF could make arrangements to provide for decision making procedures, in particular a voting mechanism, which differ from those applied to the Global Environment Facility (GEF) Trust Fund, to be used in respect of any voluntary fund operated under the governance structure of the GEF.

12. The Secretariat sought the views of Bank legal staff on this issue. Their response is set out below:

“With respect to the question of whether and how decision making procedures, in particular voting mechanism, which differ from those applied to the Global Environment Facility (GEF) Trust Fund, can be used in respect of any voluntary fund operated under the governance structure of the GEF, the situation is as follows:

Currently such voluntary funds include the Least Developed Countries Fund for Climate Change (the LDCF) and the Special Climate Change Fund (the SCCF), which are under operation, as well as the Adaptation Fund, which establishment is currently under discussion.

By way of background, it is important to note that these voluntary funds are (or are expected to be, in case of the Adaptation Fund) established not by virtue of the Instrument for the Establishment of the Restructured Global Environment Facility (the Instrument), but by virtue of multi-donor trust fund administration agreements (TF AA) entered into between the International Bank for Reconstruction and Development (the Bank) as trustee of the respective fund and parties contributing to such funds. The LDCF and the SCCF were established following the decision of the Conference of the Parties (COP) to the United Nations Framework Convention on Climate Change (the UNFCCC) at its Seventh Session to invite the GEF to operate such funds. (Decision 7/CP.7 of the UNFCCC). At its meeting in May 2002, the GEF Council (the Council) approved the arrangements proposed for the establishment of the three voluntary funds and invited the Bank to act as trustee of them. (GEF/C.19/6). When the Bank considered the invitation

from the Council, the Bank concluded, after having reviewed the provisions of the Instrument, that it will not require an amendment to the existing Instrument, because the Instrument does not preclude the GEF from managing additional trust funds in its capacity as the financial mechanism for the UNFCCC. Accordingly, the LDCF and SCCF were established by the Bank through respective TF AAs entered into between the Bank as trustee and parties contributing to the respective trust fund, without amending the Instrument. In approving establishment of these voluntary funds, it was agreed by the Council as well as the Bank management that as a general rule, the operational policies and procedures and governance structure of the GEF would apply to these voluntary funds.

Administration and use of resources held in the LDCF and the SCCF are governed by the terms and conditions set forth in the respective TF AAs. Reflecting the approval of the Council that the operational policies and procedures and governance structure of the GEF applies to the voluntary trust funds, TF AAs for the LDCF and the SCCF provide that the resources of the LDCF and the SCCF, respectively, may be used for any purpose authorized by the Council or the Chief Executive Office of the GEF, in respect of such resources. In the absence of any contrary provision either in the Instrument or the relevant TF AA, the decision making procedures set forth under the Instrument are applied to the LDCF and the SCCF. Such procedures include the voting mechanism set forth under paragraph 25(c) of the Instrument.

In respect of the particular question of whether and how a separate voting mechanism differing from the one applied to the GEF Trust Fund can be used with respect to a voluntary fund operated under the governance structure of the GEF, such specific mechanism may be specified and provided for under the respective TF AA establishing such voluntary fund, subject to agreement of the Council as well as all parties to the TF AA. As explained above, because a voluntary fund is (or is expected to be) established by a separate legal instrument from the Instrument, namely a TF AA, no amendment to the Instrument will be necessary. In sum, therefore, in order to have a different decision making and voting procedures apply to the voluntary funds, two things have to happen: (i) the Council must agree to such procedures, and (ii) each party to the TF AA for each of the voluntary funds must agree to such procedures with the Bank as trustee; such agreement would be reflected in an amendment to the TF AA between the Bank and the party to the TF AA for the respective voluntary funds.

Finally, the Council should keep the COP fully informed of its decisions as part of its normal reporting to the COP..”

13. Following the discussion of the special climate change funds at the June 2006 Council meeting, one Council Member requested that an item on the governance of the funds be added to the agenda for the August 2006 special Council meeting. The Secretariat was also requested to prepare a proposal as to how decision making could be changed to reflect donors’ contributions to the special funds, as well as recent discussions at the UNFCCC on the Adaptation Fund,

Decision making with respect to the GEF Trust Fund

14. It will be recalled that decision making with respect to the GEF Trust Fund was agreed in the *Instrument for the Establishment of the Restructured GEF*. The Instrument provides that:

- (a) decisions of the Council will be taken by consensus;
- (b) if, in the consideration of any matter of substance, all practicable efforts by the Council and its Chairperson have been made and no consensus appears attainable, any Member of the Council may require a formal vote;
- (c) decisions requiring a formal vote by the Council are to be taken by a double weighted majority; that is, an affirmative vote representing both a 60 percent majority of the total number of Participants and a 60 percent majority of the total contributions;
- (d) each Member of the Council is to cast the votes of the Participant countries in the constituency. A Member may cast separately the votes of each Participant in the constituency; and
- (e) for the purpose of voting power, total contributions are to consist of the actual cumulative contributions made to the GEF Trust Fund.

15. The double weighted majority voting structure is a hybrid of the decision making structures of UN bodies (a vote is allocated to each member of the institution) and the international financial institutions (votes are allocated based on the contributions of the shareholder members). It is worth noting that to date all decisions of the Council have been made by consensus.

Proposal for decision making with respect to LDCF and SCCF

16. For purposes of the LDCF and the SCCF, it is proposed that similar rules apply, including a double weighted majority, with the following amendments:

- (a) all efforts should be made to reach decisions by consensus among Council Members.
- (b) a formal vote by the Council will be taken when consensus cannot be achieved.
- (c) such a vote will be conducted by a double weighted majority, and decisions will require an affirmative vote representing both a 60 percent majority of GEF Participants and a 60 percent majority of total contributions to the fund.
- (d) each Member of the Council is to cast the votes of the Participant countries in the constituency. A Member may cast separately the votes of each Participant in the constituency; and

- (e) for the purpose of voting power, total contributions are to consist of the actual cumulative contributions made to the respective climate change fund.

17. Such a decision making structure, while maintaining the basic principles of decision making in the GEF, would more accurately reflect stakeholder involvement in the funds.

18. It is further proposed that the Council will meet as the Council for the LDCF and the SCCF to discuss any matter relating to the funds and that such meetings will be organized in advance of, or just after, regular meetings of the Council.

Proposal for decision making with respect to the Adaptation Fund

19. At its twenty-fourth session, the SBI invited relevant international institutions to submit information on issues contained in the compilation document containing possible elements for a draft decision of the COP/MOP on the AF. It would be useful if the Council were to agree on proposals to address some of the broad concerns raised during the SBI discussions in advance of the next SBI meeting in November.

20. Discussion in the SBI stressed the link between the AF and the Kyoto Protocol. In so doing, many Parties voiced the view that decision making with respect to the Adaptation Fund should be restricted to parties to the Kyoto Protocol. It is therefore proposed that in the case of the AF, it be agreed that decisions of the Council on matters concerning the operation of the fund would be taken by consensus among all Council Members representing Participants that are parties to the Kyoto Protocol.

21. Since discussion in the UNFCCC has not yet concluded on the management of the fund, it is premature to propose particular voting procedures for the fund. It is, therefore, recommended that the Council indicate its willingness to agree upon specific voting procedures after conclusion of the COP/MOP discussions and taking into account relevant guidance of the COP/MOP and the GEF Instrument. The Secretariat will collaborate with the Secretariat of the UNFCCC to follow discussions within the Convention on the Adaptation Fund and to ensure that the guidance is implemented and brought to the attention of the Council.

Proposed Council Decision

22. The following draft decision is proposed for Council consideration:

The Council reconfirms that the policies and procedures and the governance structure of the GEF will apply to the climate change funds, managed by the GEF in accordance with the decisions of the Conference of the Parties to the UN Framework Convention on Climate Change (UNFCCC), unless the Council decides otherwise. The Council also reconfirms that for purposes of the Least Developed Countries Fund for Climate Change (LDCF) and the Special Climate Change Fund (SCCF), the GEF will function under the guidance of the Conference of the Parties. For purposes of the Adaptation Fund (AF), the GEF

will function under the guidance of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol.

The Council also confirms that the policies and procedures separately established for the climate change funds will not be taken to establish any precedent for the operation of the GEF Trust Fund.

The administrative costs of managing each fund will be financed from the resources of the relevant fund.

The Council agrees that the general decision making principles applied to the operation of the LDCF and the SCCF, as approved by the Council at its May 2002 meeting on the basis of Document GEF/C.19/6, *Arrangements for the Establishment of the New Climate Change Funds*, should be modified as follows.

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Pursuant to the request of the SBI inviting relevant institutions to submit information on issues raised in the compilation document on the AF, the Council agrees that in the case of the AF, the Council would meet as the Council for the AF. Decisions of the Council on matters concerning the operation of the fund would be taken by consensus among all Council Members representing Participants that are parties to the Kyoto Protocol. A formal voting procedure to be followed when consensus cannot be achieved would be agreed by the Council meeting as the Council for the AF following further guidance of the COP/MOP and taking into account the GEF Instrument.

The Council requests the Secretariat and the Trustee to make necessary arrangements to effect the changes reflected in this decision.