

GEF/C.9/7

GEF Council  
April 30 - May 1, 1997  
Agenda Item 10

## RELATIONS WITH CONVENTIONS

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### Recommended Draft Council Decision

The Council, having reviewed document GEF/C.9/7, *Relations with Conventions*, approves the *Memorandum of Understanding between the Conference of the Parties to the Convention on Biological Diversity and the Council of the Global Environment Facility* set forth in Attachment A of the document. The Council also approves the *Annex on the Determination of Funding Necessary and Available for the Implementation of the Convention* to the *Memorandum of Understanding between the Conference of the Parties to the UN Framework Convention on Climate Change and the Council of the Global Environment Facility* set forth in Attachment B of the document and invites the Conference of the Parties to the Climate Change Convention to approve the annex at its next session. The Council takes note of the decisions of the third meeting of the Conference of the Parties to the Convention on Biological Diversity and the early initiatives of the Secretariat and Implementing Agencies to respond to the decisions. The Council invites recipient countries, the Secretariat and Implementing Agencies to reflect the Convention's guidance in the identification and preparation of biodiversity projects proposed for GEF financing. The Council further notes the review process of the GEF that has been initiated by each of the Conventions. The Council requests the Secretariat to inform the GEF political and operational focal points of this process and to invite them to share their views and experiences through their governments' responses to the Convention Secretariats. The Council notes with appreciation the efforts that have been made by the GEF Secretariat and Implementing Agencies, with the cooperation of the Convention Secretariats, to disseminate information on GEF project activities and to facilitate access to GEF funding.

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### INTRODUCTION

1. This document reports on developments of concern to the GEF within the context of the Convention on Biological Diversity and the UN Framework Convention on Climate Change that have occurred since the GEF Council meeting in October 1996.

#### A. Convention on Biological Diversity

*Third Meeting of the Conference of the Parties*

2. The third meeting of the Conference of the Parties to the Convention on Biological Diversity was convened in Buenos Aires, Argentina, from November 4 to 15, 1996. The GEF submitted to

the meeting the *GEF Annual Report for 1995*, the *Quarterly Operational Report* (July 1996), and the report of the GEF on its activities in the area of biological diversity during the period from July 1, 1995, to June 30, 1996. This latter report was approved by the Council at its meeting in October 1996.

3. The following is a summary of the decisions of the Conference of the Parties relevant to the GEF as the institutional structure operating the financial mechanism of the Convention. A copy of the decisions referred below is attached to this document (Attachment A).

*Decision III/5: Additional Guidance to the Financial Mechanism*

4. The third meeting of the Conference of the Parties adopted additional guidance to be followed by the GEF in its role as the operator of the financial mechanism on an interim basis under the convention. The meeting noted that this guidance was additional to that already provided to the GEF in decisions I/2 and II/6 of the first and second meeting of the Conference of the Parties. The guidance adopted by the third meeting begins by urging the Implementing Agencies to enhance cooperation to increase efforts to improve the processing and delivery systems of the GEF. It calls for priority to be given to activities for capacity building for biosafety, taxonomy, the clearinghouse mechanism, and indigenous and local communities embodying traditional lifestyles. The guidance also calls upon the GEF to support efforts for the conservation and sustainable use of biological diversity important to agriculture. The Conference of the Parties reconfirmed the importance of GEF support for incentive measures and requested the GEF, in preparing projects, to include, when relevant to the project's objectives, components addressing targeted research and promotion of the understanding of the conservation and sustainable use of biological diversity. Along with Governments, regional economic integration organizations and competent international, regional and national organizations, the GEF was urged to support capacity building programs promoting the development and implementation of legislative, administrative and policy measures and guidance on access to genetic resources, including scientific, technical, business, legal and management skills and capacities. The GEF was also requested to collaborate with the Secretariat of the Convention in preparing a proposal on the means to address the fair and equitable sharing of benefits arising out of genetic resources. This proposal is to be considered by the fourth meeting of the Conference of the Parties.

*Decision III/7: Guidelines for the Review of the Effectiveness of the Financial Mechanism*

5. The Conference of the Parties adopted terms of reference describing the objectives, methodology, criteria and procedures to be followed for a review of the effectiveness of the financial mechanism. The Conference of the Parties is to undertake a review of the effectiveness of the GEF as the operator of the financial mechanism of the Convention at its fourth meeting in May 1998. In order to provide a basis for the review, the Convention Secretariat is to prepare a synthesis report of information identified in the decision.

*Decision III/8: Memorandum of Understanding between the Conference of the Parties to the Convention on Biological Diversity and the Council of the Global Environment Facility*

6. The Conference of the Parties adopted a revised text of the *Memorandum of Understanding between the Conference of the Parties to the Convention on Biological Diversity and the Council of the Global Environment Facility* and requested the Executive Secretary to transmit its decision to the GEF Council. The Memorandum of Understanding approved by the Conference of the Parties is attached as Annex B. **The Council is invited to review the Memorandum of Understanding with a view to approving it.** In accordance with paragraph 10.1 of the Memorandum of Understanding, it will become effective upon approval by the Council.

#### *Workshop on GEF projects during the Conference of the Parties*

7. During the third meeting of the Conference of the Parties in Buenos Aires, the GEF organized, with the support of the governments of Argentina and Switzerland, two workshops on GEF activities for the conservation and sustainable use of biological diversity together with an exhibition and project visits. Project directors from three GEF-financed activities presented their experiences in preparing and implementing the projects and answered questions. Approximately 80 people attending the Conference of the Parties visited two GEF projects in Argentina and Uruguay.

#### *Follow-up to the decisions of the Conference of the Parties*

8. The Secretariat has been collaborating with the Implementing Agencies in developing an operational framework for implementing the guidance approved by the Conference of the Parties. This effort is aimed at identifying what activities could be developed within the GEF operational strategy and programs and whether there is a need to expand the strategy or programs to respond to the new guidance. Upon agreement with the Implementing Agencies, the Secretariat will consult with the Convention Secretariat and STAP on the approach to implement the guidance.

9. The Secretariat will be collaborating with the Convention Secretariat on both the review of the financial mechanism and the preparation of a proposal on the means to address the fair and equitable sharing of benefits arising out of genetic resources.

## **B. UN Framework Convention on Climate Change**

#### *Fourth Meeting of the Subsidiary Body for Implementation*

10. The Subsidiary Body for Implementation (SBI) of the UN Framework Convention on Climate Change held its fourth meeting on December 10 and 11, 1996, in Geneva. The main agenda item for the meeting was the review and approval of the annex to the *Memorandum of Understanding between the Conference of the Parties and the Council of the Global Environmental Facility* on the determination of funding necessary and available for the implementation of the Convention. The SBI revised and approved the annex that is attached to this document in Attachment B. The SBI requested that the annex be transmitted to the Council of the GEF for consideration and approval so that the annex could be submitted for adoption at the third session of the Conference of the Parties in December 1997. **The Council is invited to review the draft annex to the Memorandum of Understanding with a view to approving it.**

### *Fifth Meeting of the Subsidiary Body for Implementation*

11. At its second session, the Conference of the Parties requested the SBI to undertake a review of the financial mechanism and to report on the outcome to the Conference of the Parties at its third session. The fifth meeting of SBI, held in Bonn, February 25 to March 6, 1997, began the review process. To assist the review, the GEF Secretariat prepared an up-date to the information concerning its climate change activities that was presented to the second session of the Conference of the Parties. The decision of the SBI entitled, *Financial Mechanism: Review Process Referred to in Decision 9/CP.1*, is appended as Attachment C. The SBI invited Parties to the Convention to submit views on their experience regarding the financial mechanism by May 15, 1997, and requested the Convention Secretariat to prepare a compilation of the submissions. The Convention Secretariat is also requested to prepare a synthesis report of the submissions received and other information listed in the decision for consideration by the Parties at the sixth session of the SBI.

### *Workshops on GEF Activities and on Enabling Activities*

12. The GEF participated in two workshops during the fifth session of the SBI. The first was jointly organized by the Convention Secretariat and the GEF, and it presented information on the preparation of initial national communications by non-annex I countries and the availability of financial resources through the GEF to assist in the preparation of such communications. The GEF Implementing Agencies presented agency procedures for accessing GEF funds. The second workshop presented three GEF projects in the climate change area.

### *Revised Operational Guidelines for Enabling Activities*

13. As reported to the Council at its eighth meeting, the second session of the Conference of the Parties approved guidelines for the preparation of initial communications by Parties not included in annex I to the Convention. These guidelines were used as the basis for the preparation of *Operational Guidelines for Expedited Financing of Initial Communications from Non-Annex I Parties* (see document GEF/C.8/Inf.5). These operational guidelines replace the earlier *Operational Criteria for Enabling Activities: Climate Change*, and will assist in the preparation of enabling activity projects.

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## ATTACHMENT A

### Decision III/5: ADDITIONAL GUIDANCE TO THE FINANCIAL MECHANISM

The Conference of the Parties,

Bearing in mind Articles 20 and 21 of the convention,

Underlining the importance of paragraphs 1 and 4 of Article 20 of the Convention,

Taking into account, in particular, paragraph 6 of decision;II/6,

Recalling paragraph 6 of decision II/7, which emphasizes the importance of capacity/building and requests the interim financial mechanism under the convention to facilitate the urgent implementation of Articles 6 and 8 of the Convention by making available to developing country Parties financial resources for projects in a flexible and expeditious manner,

Recognizing that the Global Environment Facility, as stated in its Operational Principles for Development and Implementation of its Work Programme will maintain sufficient flexibility to respond to changing circumstances, including evolving guidance of the Conference of the Parties and experience gained from monitoring and evaluation activities,

Recognizing further that the Global Environment Facility, in its operational criteria for enabling activities for biodiversity, anticipates that these criteria will need to be reviewed and revised on the basis of early implementation experience, as necessary,

Recognizing progress made by the Global Environment Facility, in particular, concerning the Global Environment Facility decisions on medium-sized projects and enabling activities,

Recognizing also difficulties encountered with the application of the Operational Strategy of the Global Environment Facility, the project appraisal process, the application of the criteria for determining incremental costs and the procedures applied by the Implementing Agencies,

Recognizing further the need for a balanced implementation of the provisions of the Convention,

Taking note of the report of the Global Environment Facility to the third meeting of the Conference of the Parties, in which information was provided on the efforts to ensure that funding of its activities is in conformity with the policy, strategy, eligibility criteria and programme priorities of the Conference of the Parties, and in particular, the expedited procedures adopted for enabling activities in the biodiversity focal area,

1. Urges the Implementing Agencies of the Global Environment Facility to enhance cooperation to increase efforts to improve the processing and delivery systems of the Global Environment Facility;

2. Decides to provide the following additional guidance to the Global Environment Facility in the provision of financial resources in conformity with decisions I/2 and II/6 of the first and second meetings of the Conference of the Parties. In this regard, the Global Environment Facility shall provide financial resources to developing countries for country-driven activities and programmes, consistent with national priorities and objectives, recognizing that economic and social development and poverty eradication are the first and overriding priorities of developing countries:

(a) For capacity-building in biosafety, including for the implementation by developing countries of the UNEP International Technical Guidelines on Safety in Biotechnology;

(b) For capacity-building, including taxonomy, to enable developing countries to develop and carry out an initial assessment for designing, implementing and monitoring programmes in

accordance with Article 7, taking into account the special need of small island States (Note: The Conference of the Parties endorsed recommendation II/2 of the Subsidiary Body on Scientific, Technical and Technological Advice, concerning capacity-building for taxonomy);

(c) For supporting, as a priority, efforts for the conservation and sustainable use of biological diversity important to agriculture, in accordance with decision III/11;

(d) For supporting the following activities as critical components in the implementation of the clearing-house mechanism at the national, subregional and regional levels, including in the pilot phase, to which critical components the Global Environment Facility shall give effect by implementing its revised operational criteria for enabling activities in relation to the clearing-house mechanism as quickly as possible:

(i) capacity-building for the purpose of the clearing-house mechanism, including training in information systems technologies that will allow developing countries to take advantage of the recent developments in electronic communication, including the Internet;

(ii) country-driven pilot projects, focused on priority areas identified by the Conference of the Parties which would enable developing countries to begin to implement the main features of the pilot-phase of the clearing-house mechanism;

3. Reconfirms the importance of the Global Environment Facility's support for incentive measures, guidance for which was contained in Annex I to decision I/2, paragraph 4 (i), taking note of decision III/18;

4. Urges the Global Environment Facility, along with Governments, regional economic integration organizations, and competent international, regional and national organizations, to support human and institutional capacity-building programmes for Governments, non-governmental organizations and local and indigenous communities, as appropriate, to promote the successful development and implementation of legislative, administrative and policy measures and guidances on access to genetic resources, including scientific, technical, business, legal and management skills and capacities;

5. Requests the Global Environment Facility to examine the support of capacity-building projects for indigenous and local communities embodying traditional lifestyles related to the preservation and maintenance of their knowledge, innovations and practices relevant for the conservation and sustainable use of biological diversity with their prior informed consent and their participation;

6. Requests the Global Environment Facility, in preparing projects in conformity with the Conference of the Parties guidance on policy, strategy, programme priorities and eligibility criteria, to include in such projects, when relevant to the project's objectives and consistent with national priorities, project components addressing:

(a) Targeted research which contributes to conservation of biological diversity and the sustainable use of its components including research for reversing current trends of biodiversity loss and species extinction;

(b) Promotion of the understanding of the importance of, and measures required for, the conservation and sustainable use of biological diversity;

7. Requests the Secretariat of the Convention and the Global Environment Facility to collaborate in preparing, for consideration by the Conference of the Parties at its fourth meeting, a proposal on the means to address the fair and equitable sharing of the benefits arising out of genetic resources including assistance to developing country Parties.

#### Decision III/7: GUIDELINES FOR THE REVIEW OF THE EFFECTIVENESS OF THE FINANCIAL MECHANISM

The Conference of the Parties,

Recalling paragraph 3 of Article 21 of the Convention on Biological Diversity, which provides for the Conference of Parties to review the effectiveness of the financial mechanism,

Recalling further decision II/6, paragraph 3, on the further development of the guidelines for the review of the effectiveness of the financial mechanism for consideration and decision by the Conference of the Parties at its third meeting,

1. Decides to adopt the attached Annex, containing the objectives and criteria for the first review of the effectiveness of the financial mechanism to be conducted in time for the fourth meeting of the Conference of the Parties;
2. Decides also that the review referred to in paragraph 3 of Article 21 of the Convention should be conducted under the authority of the Conference of the Parties;
3. Decides further that, based on the results of the review, the Conference of the Parties shall take appropriate action to improve the effectiveness of the mechanism if necessary.

#### Annex

#### OBJECTIVES AND CRITERIA FOR THE FIRST REVIEW OF THE EFFECTIVENESS OF THE FINANCIAL MECHANISM

##### A. Objectives

1. In accordance with Article 21, paragraph 3, of the Convention, the objectives shall be to review and take appropriate action, if necessary, to improve:

(a) The effectiveness of the financial mechanism in providing financial resources;

(b) The conformity of the activities of the restructured Global Environment Facility (GEF), as the institutional structure operating the financial mechanism on an interim basis, with the guidance of the Conference of the Parties; and

(c) The effectiveness of GEF-funded activities on the implementation of the Convention.

## B. Methodology

2. The review shall draw upon, inter alia, the following sources of information:

(a) Information provided by the Parties on their experiences gained through activities funded by the financial mechanism;

(b) Annual reviews by the Conference of the Parties on the conformity of the activities of the financial mechanism with the guidance of the Conference of the Parties;

(c) The GEF annual report to the Conference of the Parties on its activities as the institutional structure to operate the financial mechanism, the annual reports of GEF and other relevant GEF policy and information documents;

(d) Reports from the GEF monitoring and evaluation programme;

(e) Information available from the United Nations Commission on Sustainable Development and the Organisation for Economic Cooperation and Development, and relevant bilateral and multilateral funding institutions; and

(f) Information provided by inter-governmental organizations and non-governmental organizations.

## C. Criteria

3. The effectiveness of the financial mechanism shall be assessed against, inter alia, the following criteria:

(a) The effectiveness of the financial mechanism in providing financial resources, for the implementation, of the Convention's objectives in respect of, inter alia:

(i) the adequacy, predictability and timely disbursement of funds for projects;

(ii) the responsiveness and efficiency of the GEF project cycle and operational strategy as it relates to biological diversity;

(iii) the ability of GEF to leverage additional finance; and

(iv) the sustainability of funded projects ;

(b) Application of the criteria of agreed full incremental costs to enable developing country Parties to implement the Convention, keeping in mind the provision of new and additional financial resources, in accordance with Article 20.2;



(c) The conformity of the activities of the financial mechanism with the guidance of the Conference of the Parties, as contained in decisions I/2, II/3, II/6, II/7, II/17 and III/5, which include:

(i) the eligibility criteria;

(ii) programme priorities;

(iii) the provision of financial resources for projects in a flexible and expeditious manner to facilitate the Parties' urgent implementation of Articles 6 and 8 of the Convention;

(iv) the programme of grants for medium-sized projects; and

(v) decision II/17 on national reporting by the Parties; and

(d) The effectiveness of GEF-funded activities on the implementation of the Convention.

#### D. Procedures

4. Under the authority and with the support of the Conference of the Parties, the Secretariat shall prepare background documentation for review by the Conference of the Parties and submit this documentation to the Parties at least three months before the fourth meeting of the Conference of the Parties, according to the above criteria, and shall, if necessary, appoint a consultant for this purpose.

5. In compiling the information for the review the Secretariat shall develop a questionnaire using the criteria adopted in this decision be sent to the Parties for the provision of required information.

6. The Secretariat shall also ensure that field visits are effected in a selected number of country Parties in all geographical regions, in order to assess the process and to identify impediments, if any.

7. The Secretariat shall take the opportunity of relevant meetings to meet and interview stakeholders, including GEF and its Implementing Agencies.

8. On the basis of all information received, the Secretariat will prepare a synthesis to assess the progress in meeting the requirements of this annex. This synthesis will be sent for appraisal by five representatives of Parties nominated on a regional basis to ensure that the requirements of this annex will be met in a timely and comprehensive manner. Taking account of comments received, the Secretariat will distribute copies of the synthesis to all Parties and relevant bodies for their comments and any further contributions. On the basis of these, the Secretariat will prepare a draft report, which will be presented to the above regional representatives to ensure its compliance with the terms of this annex. The draft report will also be made available to GEF and the Implementing Agencies. The Secretariat will submit the synthesis report, with supporting documents as necessary, to Parties not later than three months prior to the fourth meeting of the

Conference of the Parties. The supporting documents will include any comments and other information identified by source.

9. The Conference of the Parties shall, if necessary, take appropriate actions to improve the effectiveness of the financial mechanism and/or the effectiveness of this review procedure.

Decision III/8: MEMORANDUM OF UNDERSTANDING BETWEEN THE CONFERENCE OF THE PARTIES TO THE CONVENTION ON BIOLOGICAL DIVERSITY AND THE COUNCIL OF THE GLOBAL ENVIRONMENT FACILITY

The Conference of the Parties,

Recalling Articles 20 and 21 of the Convention on Biological Diversity,

Recalling further decision 11/6 on financial resources and mechanism,

1. Adopts the Memorandum of Understanding contained in the annex to the present decision;
2. Requests the Executive Secretary to transmit this decision to the Council of the Global Environment Facility.

Annex

MEMORANDUM OF UNDERSTANDING BETWEEN THE CONFERENCE OF THE PARTIES TO THE CONVENTION ON BIOLOGICAL DIVERSITY AND THE COUNCIL OF THE GLOBAL ENVIRONMENT FACILITY

Preamble

The Conference of the Parties to the Convention on Biological Diversity (hereinafter the Conference of the Parties) and the Council of the Global Environment Facility (hereinafter the Council),

Recognizing the characteristics of the financial mechanism for the provision of financial resources for the purposes of the Convention on Biological Diversity (hereinafter the Convention) outlined in Article 21, paragraph 1, of the Convention, and the provisions of Article 21, paragraph 2, of the Convention, which call upon the Conference of the Parties to decide on the arrangements to give effect to Article 21, paragraph 1, after consultation with the institutional structure entrusted with the operation of the financial mechanism,

Recognizing further the willingness of the Global Environment Facility (hereinafter GEF) to serve for the purposes of the financial mechanism for the implementation of the Convention,

Recognizing that the financial mechanism shall function under the authority and guidance of and be accountable to the Conference of the Parties for the purposes of the Convention and that GEF

as decided by the Conference of the Parties will operate the financial mechanism of the Convention on an interim basis in accordance with Article 39 of the Convention,

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:

### 1. Purpose

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 21, paragraph 1, of the Convention and paragraph 26 of the GEF Instrument and, on an interim basis, in accordance with Article 39 of the Convention.

### 2. Guidance from the Conference of the Parties

2.1 In accordance with Article 21 of the Convention the Conference of the Parties will determine the policy, strategy, programme priorities and eligibility criteria for access to and utilization of financial resources available through the financial mechanism, including monitoring and evaluation on a regular basis of such utilization. GEF, in operating the financial mechanism under the Convention, will finance activities that are in full conformity with the guidance provided to it by the Conference of the Parties. For this purpose, the Conference of the Parties will communicate its guidance, and any revisions to such guidance as it may adopt, on the following matters:

- (a) Policy and strategy;
- (b) Programme priorities;
- (c) Eligibility criteria;
- (d) An indicative list of incremental costs;
- (e) A list of developed country Parties and other Parties which voluntarily assume the obligations of developed country Parties;
- (f) Any other matter relating to Article 21, including periodic determination of the amount of resources needed as detailed in paragraph 5 of this Memorandum.

2.2 The Council will communicate to the Conference of the Parties all relevant information, including information on the projects in the area of biological diversity funded by GEF outside the framework of the financial mechanism of the Convention.

### 3. Reporting

3.1 The Council will prepare and submit a report for each ordinary meeting of the Conference of the Parties.

3.2 The reports will include specific information on how the GEF Council, its Secretariat and its Implementing and Executing Agencies have applied the guidance and implemented the policy, strategies, programme priorities and eligibility criteria determined by the Conference of the Parties, as well as any other decision of the Conference of the Parties communicated to GEF, under Article 21 of the Convention. The Council should also report on its monitoring and evaluation activities concerning projects in the biodiversity focal area.

3.3 In particular, the reports will provide detailed information on the GEF biodiversity focal area, including:

(a) Information on how GEF has responded to the guidance provided by the Conference of the Parties as described by paragraph 2, including, where appropriate, through its incorporation in the GEF operational strategy and operational programmes;

(b) The conformity of the approved work programmes with guidance of the Conference of the Parties;

(c) A synthesis of the different projects under implementation and a listing of the projects approved by the Council in the biodiversity focal area, as well as a financial report with an indication of the financial resources allocated to these projects;

(d) A list of project proposals submitted for approval to the Council, through the GEF Implementing Agencies, by eligible Parties, including reporting on their approval status and, in cases of projects not approved, the reasons therefore;

(e) A review of the project activities approved by GEF and their outcomes, including information on funding and progress in implementation; and

(f) Additional financial resources leveraged by GEF for the implementation of the Convention.

3.4 In order to meet the requirements of accountability to the Conference of the Parties, reports submitted by the Council will cover all GEF-financed activities carried out for the purpose of the Convention, whether decisions on such activities are made by the Council or by the GEF Implementing and/or Executing Agencies. To this end, the Council will make arrangements as might be necessary with the Implementing Agencies regarding disclosure of information.

3.5 The Council will also provide information on other matters concerning the discharge of its functions under Article 21, paragraph 1, 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.

#### 4. Monitoring and evaluation

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

4.2 The funding decisions for specific projects should be agreed between the developing country Party 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 made in compliance with the policies, programme priorities and eligibility criteria established by the Conference of the Parties in the context of the Convention, the Conference of the Parties should analyse the observations presented to it by the Party and take decisions on the basis of compliance with such policy, strategy, programme priorities and eligibility criteria. 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 eligibility criteria established by the Conference of the Parties, it may ask the GEF Council for further clarification on the specific project decision.

4.3 As provided for in Article 21, paragraph 3, of the Convention, the Conference of the Parties will periodically review the effectiveness of the financial mechanism in implementing the Convention and communicate to the Council relevant decisions taken by the Conference of the Parties as the result of such review, to improve the effectiveness of the financial mechanism in assisting developing country Parties to implement the Convention.

## 5. Determination of funding requirements

5.1 In anticipation of the replenishment of GEF, the Conference of the Parties will make an assessment of the amount of funds that are necessary to assist developing countries, in accordance with the guidance provided by the Conference of the Parties, in fulfilling their commitments under the Convention over the next GEF replenishment cycle, taking into account:

- (a) Article 20, paragraph 2, and Article 21, paragraph 1, of the Convention;
- (b) Guidance to the financial mechanism from the Conference of the Parties which calls for future financial resources;
- (c) The information communicated to the Conference of the Parties in the national reports submitted in accordance with Article 26 of the Convention;
- (d) National strategies, plans or programs developed in accordance with Article 6 of the Convention;
- (e) Information communicated to the Conference of the Parties from GEF on the number of eligible programmes and projects that were submitted to GEF, the number that were approved for funding, and the number that were turned down owing to lack of resources;
- (f) Experience gained by those concerned in the implementation of projects.

5.2 On the occasion of each replenishment, GEF will, in its regular report to the Conference of the Parties as provided for in paragraph 3 of this Memorandum of Understanding, indicate how it has responded during the replenishment cycle to the previous assessment by the Conference of the Parties prepared in accordance with paragraph 5.1 and inform the Conference of the Parties of the conclusion of replenishment negotiations.

5.3 On the basis of the report referred to in paragraph 5.2 of this Memorandum of Understanding the Conference of the Parties will review the amount of funding necessary for the implementation of the Convention, on the occasion of each replenishment of the financial mechanism.

## 6. Reciprocal representation

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 GEF.

## 7. Inter-secretariat cooperation

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 to implement the Convention. In particular, the two secretariats will consult on the project proposals under consideration for inclusion in a proposed work programme, especially with regard to the consistency of the project proposals with the guidance of the Conference of the Parties. Official documentation of GEF will be made available to the Secretariat of the Convention on Biological Diversity.

## 8. Amendments

Any amendments to the present Memorandum of Understanding will be decided upon by the Conference of the Parties and the Council in writing.

## 9. Interpretation

If differences arise in the interpretation of the present Memorandum of Understanding, the Conference of the Parties and the Council will reach a mutually acceptable solution.

## 10. Entry into effect

10.1 The present Memorandum of Understanding will come into effect upon approval by the Conference of the Parties and by the Council. Either participant may withdraw this Memorandum of Understanding at any time by written notification addressed to the other. The withdrawal will take effect six months after its notification.

10.2 The withdrawal of this Memorandum of Understanding by either Party to this Memorandum of Understanding shall not affect any projects considered and/or approved in accordance with the Memorandum of Understanding prior to the withdrawal.

#### **Decision 1/SBI 4**

#### **Memorandum of Understanding between the Conference of the Parties and the Council of the Global Environment Facility: annex on the determination of funding necessary and available for the implementation of the Convention**

*The Subsidiary Body for Implementation,*

*Recalling* Article 11.3 of the United Nations Framework Convention on Climate Change,

*Recalling* decision 9/CP.1 of the Conference of the Parties at its first session on the maintenance of the interim arrangements referred to in Article 21, paragraph 3, of the Convention and decision 10/1 on arrangements between the Conference of the Parties and the operating entity or entities of the financial mechanism,

*Recalling* also Decision 12/CP.2 by which the Conference of the Parties at its second session adopted the Memorandum of Understanding between the Conference of the Parties and the Global Environment Facility,

*Recalling* further Decision 13/CP.2 of the Conference of the Parties at its second session by which it decided to refer the Annex on the Determination of Funding necessary and available for the implementation of the Convention adopted by the Council of the Global Environment Facility and the draft annex submitted by the Group of 77 and China (FCCC/SBI/1996/L.4/Rev.1) for consideration by the Subsidiary Body for Implementation at its fourth session,

*Having considered* the text of the annex to the Memorandum of Understanding approved by the Council of the Global Environment Facility at its April 1996 session,

1. *Decides* to adopt the Annex attached to this decision which is derived from the text approved by the Council of the Global Environment Facility and to transmit it to the Council of the Global Environment Facility for expeditious consideration and approval so that the SBI could recommend its adoption by COP 3,
2. *Requests* the Executive Secretary to bring this decision to the attention of the Council of the Global Environment Facility.

#### **ANNEX TO THE MEMORANDUM OF UNDERSTANDING**

#### **Determination of funding necessary and available for the implementation of the Convention**

In accordance with Article 11.3(d) of the Convention, which calls for arrangements to determine in a predictable and identifiable manner the amount of funding necessary and available for the

implementation of the Convention and the conditions under which that amount shall be periodically reviewed, the COP and the Council will jointly determine the aggregate GEF funding requirements for the purpose of the Convention in accordance with the following procedures.

1. In anticipation of a replenishment of the GEF, the COP will make an assessment of the amount of funds that are necessary to assist developing countries, in accordance with the guidance provided by the COP, in fulfilling their commitments under the Convention over the next GEF replenishment cycle, taking into account:

(a) The amount of funds necessary to meet the agreed full costs to be incurred by developing country Parties in order to prepare their national communications under Article 12.1 of the Convention on the basis of the guidelines for national communications of non-Annex I Parties adopted by the Conference of the Parties at its second session, and the information communicated to the COP under Article 12 of the Convention;

(b) Financial resources needed by the developing country Parties to meet the agreed full incremental costs of implementing measures that are covered by Article 4.1 of the Convention and that are agreed between a developing country Party and the international entity or entities referred to in Article 11 of the Convention;

(c) Information communicated to the COP from the GEF on the number of eligible programmes and projects that were submitted to the GEF, the number that were approved for funding, and the number that were turned down owing to lack of resources;

(d) Other sources of funding available for the implementation of the Convention.

2. The GEF replenishment negotiations will take into account fully and comprehensively the COP's assessment.

3. On the occasion of each replenishment, the GEF will, in its regular report to the COP as provided for in paragraphs 6 and 7 of this Memorandum of Understanding, indicate how it has responded during the replenishment cycle to the COP's previous assessment prepared in accordance with paragraph 1 of this annex, inform the COP of the conclusion of replenishment negotiations and indicate the amount of new and additional funding to be contributed to the GEF Trust Fund in the next replenishment cycle for the purposes of the GEF, including the implementation of the Convention. The COP may, in its action on the GEF reports, consider the adequacy of the resources available for implementation of the Convention.

4. The reiteration of this process on the occasion of each replenishment will present the opportunity to review the amount of funding necessary and available for the implementation of the Convention in accordance with Article 11.3(d).

**FINANCIAL MECHANISM: REVIEW**

**PROCESS REFERRED TO IN DECISION 9/CP.1**



1. The Subsidiary Body for Implementation (SBI), at its fifth session, noted that in accordance with Article 11.4 of the Convention, the Conference of the Parties (COP) by its Decision 9/CP.1 agreed to review the Financial Mechanism within four years of the first COP, and take appropriate measures, including a determination of the definitive status of the Global Environment Facility (GEF) in the context of the Convention.

2. The SBI further noted that decision 11/CP.2 mandates the SBI at its fifth session to undertake the review process referred to in decision 9/CP.1 and report on the outcome to the COP at its third session.

3. The SBI, in considering the matter noted that:

- The new information at the disposal of this session of the SBI comprised the report prepared by the GEF (see FCCC/SBI/1997/2), discussions at two workshops conducted by the GEF and a question and answer session between the GEF and the SBI. This information was welcomed. In this regard, the Parties would need additional time for the review of the content of the documents;

- In order to facilitate a fully-informed review, information from other sources, including Parties, would be particularly important; and

- The report of the Special Session of the U.N. General Assembly reviewing the implementation of Agenda 21 would be of interest to the SBI in its review of the financial mechanism.

4. Accordingly, the SBI agreed that it would begin the review process on the basis of the attached guidelines. The SBI invited Parties to submit views on their experience regarding the financial mechanism by May 15 1997 and requested the secretariat to prepare a compilation of the submissions. The SBI also requested the secretariat on the basis of the submissions received and other information as enumerated in the guidelines to prepare a synthesis report for consideration by the Parties at the sixth session of the SBI. The need for a full replenishment was highlighted during the meeting.

### **Guidelines for the Review of the Financial Mechanism**

#### **A. Objectives**

1. In accordance with Article 11, paragraph 4, of the Convention, the objectives will be to review the financial Mechanism and take appropriate measures regarding:

- its conformity with the provisions of Article 11 of the Convention;

- its conformity with the guidance of the COP;

- the effectiveness of the activities of funds in implementing the Convention;

- its effectiveness in providing financial resources on a grant or concessional basis, including for the transfer of technology, for the implementation of the Convention's objective on the basis of the guidance provided by the COP;

- its effectiveness in providing resources to developing country Parties under Article 4.3.

## **B. Methodology**

2. The review shall draw upon the following sources of information:

- information provided by the Parties on their experiences regarding the financial mechanism;

- annual reviews by the COP on the conformity of the activities of the financial mechanism with the guidance of the COP;

- the GEF annual report to the COP on its activities as the operating entity of the financial mechanism, the annual reports of the GEF and other relevant GEF policy and information documents;

- reports from the GEF monitoring and evaluation programme;

- reports from the UN Commission on Sustainable Development and relevant bilateral and multilateral funding institutions;

- relevant information provided by other inter-governmental organizations and non-governmental organizations.

## **C. Criteria**

3. The effectiveness of the financial mechanism will be assessed taking into account the following:

- the transparency of decision-making processes;

- the adequacy, predictability and timely disbursement of funds for activities in developing country Parties;

- the responsiveness and efficiency of the GEF project cycle and expedited procedures, including its operational strategy, as they relate to climate change;

- the amount of resources provided to developing country Parties, including financing for technical assistance and investment projects;

- the amount of finance leveraged;

- the sustainability of funded projects.