



GEF/C.53/Inf.05
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UPDATE ON THE PROPOSED POLICY ON ACCESS TO INFORMATION

INTRODUCTION

1. The GEF Council, at its 51st meeting in October 2016 and having reviewed document GEF/C.51/09/Rev.01, *Recommendations of the Working Group on Public Involvement*¹, “[requested] the Secretariat to present an updated policy on stakeholder engagement and access to information for consideration at its 53rd meeting in [November] 2017”².
2. Upon consultation with the multi-stakeholder Working Group on Public Involvement³, the Secretariat has worked to develop two draft policies: a policy on stakeholder engagement, and a policy on access to information. The proposed *Policy on Stakeholder Engagement*⁴ has been shared for Council review and decision.
3. This document provides an update on the development of a GEF policy on access to information.

BACKGROUND

4. The *Instrument for the Establishment of the Restructured Global Environment Facility*, (hereafter “Instrument”) contains explicit provisions on transparency, information disclosure, and stakeholder consultation. Specifically, it provides for “a governance that is transparent and democratic”, and requires that “GEF Operational Policies [...] with respect to GEF-financed projects shall provide for full disclosure of all non-confidential information, and consultation with, and participation as appropriate of, major groups and local communities throughout the project cycle”⁵.
5. The Instrument further provides that “[t]he Assembly and the Council shall each adopt by consensus regulations as may be necessary or appropriate to perform their respective functions transparently; in particular, they shall determine any aspect of their respective procedures, including the admission of observers and, in the case of the Council, provision for executive sessions”⁶.

¹ (http://www.thegef.org/sites/default/files/council-meeting-documents/EN_GEF.C.51.09.Rev_01_Recommendations_of_the_WG_on_Pi.pdf)

² *Joint Summary of the Chairs: 51st GEF Council Meeting, October 25–27, 2016* (http://www.thegef.org/sites/default/files/council-meeting-documents/EN_GEF.C.51_Joint_Summary_of_the_Chairs.pdf)

³ The Working Group, which was formed in June 2015, comprises representatives of the GEF Secretariat, the CSO Network, the Council, GEF Partner Agencies, the GEF’s Indigenous Peoples Advisory Group, the Independent Evaluation Office and GEF Operational Focal Points.

⁴ GEF/C.53/05/Rev.01 (http://www.thegef.org/sites/default/files/council-meeting-documents/EN_GEF.C.53.05.Rev_01_Stakeholder_Policy_1.pdf)

⁵ (http://www.thegef.org/sites/default/files/documents/GEF_Instrument-Interior-March23.2015.pdf)

⁶ Ibid.

6. Consistent with the Instrument, the *Rules of Procedure for the GEF Council*⁷ (hereafter “Rules of Procedure”) set out key aspects of the Council’s procedures that are relevant for transparency, including attendance at Council meetings, executive sessions, the transmittal of documents, languages, and records of meetings.

7. Beyond the Instrument and the Rules of Procedure, the disclosure of information related to GEF-financed projects and programs is in part subject to rules established in the *Project and Program Cycle Policy*⁸; and the GEF’s minimum fiduciary standards⁹ and minimum standards on environmental and social safeguards¹⁰ contain several requirements related to information disclosure that all Agencies are expected to meet.

8. Unlike many of its peer organizations, however, the GEF does not have its own policy on information disclosure. In lieu of a GEF policy, the GEF’s practices on the disclosure of information are set out 2011 Council Information document¹¹ (hereafter “Practices”). The Practices affirm the GEF’s commitment to follow international best practice, as well as its presumption in favor of disclosure. The Practices specify, however, that “where disclosure could have a negative impact on the GEF, the implementation of its programs and projects, or more simply, could contrive the legal obligations pertaining to privacy or intellectual property, information is retained as confidential” and “[w]here there are such exceptions, justifications are provided”. On that basis, the document sets out current practice in relation to project information and organizational information, and provides an overview of Agencies’ policies related to information disclosure.

THE RATIONALE FOR A GEF POLICY ON ACCESS TO INFORMATION

9. Overall the GEF continues to perform well in terms of transparency and access to information. The *Draft Final Report of the Sixth Comprehensive Evaluation of the GEF (OPS6)*¹² concludes that the GEF continues to be a transparent organization in terms of its governance, and a recent independent assessment¹³ by a civil society partner gives the GEF a high transparency rating. The Council’s deliberative process is very transparent, with live webcasting

⁷ (https://www.thegef.org/sites/default/files/publications/11488_English_2.pdf)

⁸ (http://www.thegef.org/sites/default/files/documents/Project_Program_Cycle_Policy_OPPL01.pdf)

⁹ GA/PL/02, *Agency Minimum Fiduciary Standards*

(http://www.thegef.org/sites/default/files/documents/GA.PL_02_Minimum_Fiduciary_Standards_0.pdf)

¹⁰ SD/PL/03, *Agency Minimum Environmental and Social Safeguard Standards Policy*

(http://www.thegef.org/sites/default/files/documents/Policy_Environmental_and_Social_Safeguards_2015.pdf)

¹¹ GEF/C.41/Inf.03, *GEF Practices on Disclosure of Information* (http://www.thegef.org/sites/default/files/council-meeting-documents/C.41.Inf_03_GEF_Practices_on%20Disclosure_of_Information.pdf)

¹² GEF/ME/C.53/Inf.01 (http://www.thegef.org/sites/default/files/council-meeting-documents/EN_GEF.ME_C.53_Inf.01 OPS6_Nov_2017_0.pdf)

¹³ Transparency International 2016, *Protecting Climate Finance: Progress Update on the Global Environment Facility’s Anti-Corruption Policies and Practices*

(https://www.transparency.org/whatwedo/publication/protecting_climate_finance_progress_report_on_the_gefs_anti_corruption_poli)

of Council proceedings, and web-posting of deliberative Council documents at the same time as these are shared with the Council itself.

10. Nevertheless, the Working Group on Public Involvement agreed that there is a need to clarify the GEF's policy, procedures, and practices related to information disclosure. The Working Group noted that the status of the 2011 Practices is not clear given that it is not a Council-approved policy. What further contributes towards the lack of clarity is the fact that the document has been overtaken by other, more recent GEF policies, such as the *Project and Program Cycle Policy*¹⁴, and it does not reflect the most recent expansion of the Partnership from ten to 18 Agencies, or the changes that have occurred across Agencies' policies on information disclosure.

11. In addition, the Council and the Secretariat lack clear procedures for requesting non-disclosed information, and for appealing decisions to restrict access to certain information¹⁵.

12. For these reasons, and notwithstanding the GEF's current, high degree of transparency, the Council may wish to adopt a new GEF policy on access to information.

UPDATE ON THE CURRENT DRAFT POLICY

13. Following the Council's decision in October 2016, and consultations with the Working Group on Public Involvement, the Secretariat has developed a draft *Policy on Access to Information*, which is found in Annex I to this paper.

14. The draft policy has benefited from broad stakeholder consultations, and it takes into account input from Agencies, CSOs, Council Members, and the Trustee. It was also posted on the GEF website for a two-week public consultation period in October.

15. Nevertheless, the Secretariat has concluded that further, targeted consultations are required to ensure that the scope and application of the proposed policy fully reflect the governance and management structure of the GEF. In particular, the proposed policy needs to be based on a clear, shared understanding of the overlapping and interconnected roles of the Council, the Secretariat and Agencies in terms of access to information prepared or received by the Council in the course of its official business.

16. The current draft is based on the understanding that Agencies would continue to rely on their own policies and systems for the disclosure of information. Similarly, the Trustee, the Independent Evaluation Office (IEO), as well as the Ethics Committee and Ethics Officer would

¹⁴ (http://www.thegef.org/sites/default/files/documents/Project_Program_Cycle_Policy_OPPL01.pdf)

¹⁵ Transparency International 2016, *Protecting Climate Finance: Progress Update on the Global Environment Facility's Anti-Corruption Policies and Practices* (https://www.transparency.org/whatwedo/publication/protecting_climate_finance_progress_report_on_the_gefs_anti_corruption_poli)

continue to follow the World Bank Policy on Access to Information¹⁶. The Secretariat would be subject to the World Bank policy as well, supplemented by the proposed GEF policy and any Council decisions to address the particular needs of the GEF.

17. While the proposed scope broadly reflects the way in which the GEF currently operates, the Secretariat believes that further consultations may be warranted. Council members may wish to consider what kind of policy on access to information would best meet the needs and circumstances of the GEF, particularly as it relates to the Council's own deliberative process.

NEXT STEPS

18. The Secretariat proposes that further consultations on the proposed *Policy on Access to Information* be carried out among interested Council members, with a view to presenting a policy for Council review and decision at its 55th meeting in the fall of 2018.

¹⁶ (<https://policies.worldbank.org/sites/ppf3/PPFDocuments/Forms/DispPage.aspx?docid=3693>)

ANNEX I: DRAFT POLICY ON ACCESS TO INFORMATION

Definitions

Adviser means an individual providing advice to a Council Member or Alternate Council Member, as communicated by the Council Member or Alternate Council Member to the Secretariat

Alternate Council Member means an alternate for a Council Member as used in the Instrument

Assembly means the GEF Assembly that convenes all Participants to the GEF every three to four years as set out in the Instrument

Non-Confidential Council Information means Council Information that is not restricted from public access

Council means the 32 members that make up the GEF Council as set out in the Instrument

Council Information means documents of any type, such as paper, electronic, photograph, audio or video recordings prepared or received by the Council in the course of its official business

Council Member means any member of the Council as used in the Instrument

Ethics Committee means the committee of the Council established by a decision of the Council to provide Council oversight over the implementation of its policy on *Ethics and Conflict of Interest for Council Members, Alternates, and Advisers*¹⁷ and to help prevent and monitor situations that might affect the reputation and integrity of the Council

Ethics Officer means the person in the World Bank's Ethics and Business Conduct Vice Presidency tasked to support the Ethics Committee in the coordination, communication and administration tasks related the management of the policy on *Ethics and Conflict of Interest for Council Members, Alternates, and Advisers*¹⁸

Executive Session means executive sessions of Council meetings as defined in Paragraph 23 of the *Rules of Procedure for the GEF Council*¹⁹

¹⁷ GA/PL/03 (http://www.thegef.org/sites/default/files/documents/Ethics_Conflict_of_Interest_Policy.pdf)

¹⁸ Ibid.

¹⁹ (https://www.thegef.org/sites/default/files/publications/11488_English_2.pdf)

Independent Evaluation Office means the Independent Evaluation Office of the GEF whose responsibility it is to carry out independent evaluations consistent with decisions of the Council, as set out in the Instrument

Instrument means the *Instrument for the Establishment of the Restructured Global Environment Facility*²⁰, effective July 7, 1994 and as amended

GEF Partner Agency or Agencies means an agency eligible to request and receive GEF resources directly for the design, implementation, and supervision of GEF projects

Scientific and Technical Advisory Panel means the body that provides the GEF with scientific and technical advice as set out in the Instrument

Secretariat means the GEF Secretariat that services and reports to the GEF Assembly and the Council as set out in the Instrument

Trustee means the Trustee of the GEF Trust Fund as set out in the Instrument

Introduction

1. The Instrument provides for “a governance that is transparent and democratic”, and requires that “GEF Operational Policies [...] with respect to GEF-financed projects shall provide for full disclosure of all non-confidential information, and consultation with, and participation as appropriate of, major groups and local communities throughout the project cycle”.²¹
2. Transparency and access to information are critical for the GEF’s ability to protect the global environment and promote sustainable development. Easy and timely access to information underpins the GEF’s commitment to transparent governance, accountability and integrity, and it contributes towards reducing risks, effective stakeholder engagement, public awareness and trust, as well as the dissemination of knowledge, experience and lessons learned.

Purpose

3. This Policy sets out the principles and mandatory requirements for the public accessibility of Council Information, thereby contributing to the transparent governance of the GEF.

Application

²⁰ (https://www.thegef.org/sites/default/files/documents/GEF_Instrument-Interior-March23.2015.pdf)

²¹ (http://www.thegef.org/sites/default/files/documents/GEF_Instrument-Interior-March23.2015.pdf)

4. This Policy applies to Council Information.
5. The Ethics Committee, the Ethics Officer, the Independent Evaluation Office and the Trustee are subject to the *World Bank Policy on Access to Information*²².
6. The Secretariat is subject to the *World Bank Policy on Access to Information*²³ supplemented by this Policy and any Council decisions to address the particular needs of the GEF.
7. The Scientific and Technical Advisory Panel and GEF Partner Agencies are subject to their respective policies and procedures on access to information.

Guiding Principles

8. This Policy is based on the following principles:
 - a. The Council allows access to any Council Information unless it is on the list of exceptions set out in Paragraph 11.
 - b. Non-Confidential Council Information is disclosed proactively, such as on the GEF website, where possible.
 - c. Non-Confidential Council Information that is not disclosed proactively is disclosed upon request, in accordance with clear time standards.
 - d. Where Council Information is restricted from public access, a justification is provided based on the list of exceptions set out in Paragraph 11.

Policy Requirements

9. Where feasible, the Secretariat, on behalf of the Council, discloses any Non-Confidential Council Information on the GEF website.
10. Where Non-Confidential Council Information is not available on the GEF website, the Secretariat discloses such information upon request on behalf of the Council.
11. The following list of exceptions justify restricting certain Council Information from public access:
 - a. Personal information on Council Members, Alternates and Advisers;

²² (<https://policies.worldbank.org/sites/ppf3/PPFDocuments/Forms/DispPage.aspx?docid=3693>)

²³ Ibid.

- b. Information that may compromise the security, safety or health of any individual or the environment;
- c. Information received in confidence or restricted under separate disclosure/ access to information regimes or equivalent and/or conveyed to the Council as restricted from public access in accordance with the owner's policies on access to information or equivalent;
- d. Information shared as part of Executive Sessions and other deliberative information as decided by the Council;
- e. Information subject to attorney-client privilege.

12. The Secretariat makes final Council Information in the form of working documents and information documents publicly available on the GEF website immediately upon transmission to the Council, unless Council Information contained in such documents is restricted in accordance with Paragraph 11.

13. The Secretariat, on behalf of the Council, responds within ten (10) business days to a request from the public for Council Information. The Secretariat, on behalf of the Council, informs the requester if additional time is required because of the nature, scale and scope of the request.

14. Should the Secretariat receive a request for Council Information that is restricted from public access in accordance with this Policy, it informs the requester accordingly.

15. Should a requester wish to appeal the Council's decision to restrict certain Council Information from public access in accordance with this Policy, the Secretariat conveys such appeals to the Council for its consideration.

16. The Council may decide, in exceptional circumstances, to provide access to certain Council Information shared as part of Executive Sessions, or other deliberative information restricted from public access, if it determines that the benefit from doing so outweighs the potential harm to the interests that the exception in Paragraph 11 (d) above seeks to protect.

Review of the Policy

17. The Council decides on the review and revision of this Policy.

Effectiveness

18. This Policy comes into effect on the date approved by the Council, and remains in effect until amended or superseded by the Council.

References and Related Documents

GEF Policies

- *Agency Minimum Standards on Environmental and Social Safeguards (OP/PL/01)*
- *Minimum Fiduciary Standards for GEF Partner Agencies (GA/PL/02)*
- *Monitoring and Evaluation Policy*
- *Project and Program Cycle (OP/PL/01)*

Guidelines

- *Guidelines on the Project and Program Cycle Policy (GEF/C.52/Inf.06)*