

GLOBAL
ENVIRONMENT
FACILITY

SCOPE OF GEF ACTIVITIES
CONCERNING
INTERNATIONAL WATERS

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I. INTRODUCTION

1. Although there are numerous international agreements and conventions on international waters, GEF is not the designated operating entity for any financial mechanism in this focal area. Therefore there are no institutional arrangements for providing GEF with external guidance similar in type to that which it will receive from the two conventions for which, on an interim basis, it does operate the financial mechanism. Consequently, for the international waters focal area, the GEF Council itself will have to provide, first, the overall strategic rationale for its supportive role and, second, more specific guidance on what it can finance.

2. This paper suggests a *scope* of work -- that is, the types of objectives and measures eligible for GEF support in this focal area. Policies that are applicable to all focal areas, such as those on country eligibility and on incremental cost, are discussed in other Council papers.

II. INTERNATIONAL WATERS

3. STAP has defined the extent of international waters to include "the oceans, enclosed and semi-enclosed seas and estuaries, rivers, lakes, aquifers and wetlands, their living and non-living resources, shared by more than one country. 'Sharing' means the sharing of the use of waters, and associated resources, including shared access."¹ The common global hydrological cycle dynamically links and unifies watersheds, estuaries, coastal, marine and open ocean waters, while the sharing gives them an international significance often reflected in conventions and agreements.

4. Pollution of marine and freshwater ecosystems and the degradation and scarcity of fresh water are caused by poor development practices, and these can only be addressed by changing policies and sectoral investment priorities to make them compatible with principles of sustainable development. However, financial shortfalls mean that in many cases governments are unable to meet their commitments, including legally binding obligations, to sustainable water management.

III. GEF'S POTENTIAL ROLE

5. GEF funds have been mobilized to support activities in four focal areas: biodiversity, climate change, ozone depletion, and international waters. GEF operates the financial mechanism of conventions governing only the first two, namely the *Convention on Biological Diversity* (CBD) and the *United Nations Framework Convention on Climate Change* (FCCC). It is expected that the bulk of GEF financing will pass through these two financial mechanisms.

6. GEF also provides some support for activities consistent with the *Montreal Protocol* (in ozone depletion) and in international waters. GEF may also make grants for activities within the climate

¹STAP *Analytical Framework for International Waters*, section 4.1.1.

change or biodiversity focal areas but outside of the framework of the financial mechanism.²

7. International waters is clearly a very broad area, covered by numerous international conventions and agreements (see the annex for a brief description of these). It will be necessary to situate the GEF in relation to the multiple funding sources and diverse objectives covered by this body of law. Because the overall financial needs in this area are very great while GEF funds available are limited, it will be necessary for GEF to establish its own independent *program priorities* and *eligibility criteria* for its activities. In addition, and as is the case in all focal areas, GEF would provide grants only in respect of incremental costs for global environmental benefits.³

8. While GEF has a special role in grant financing the incremental costs for the global environmental benefits, it could also have a much broader and stronger influence through catalyzing sustainable development activities within an integrated approach of international waters. Subject to Council's decisions on financing policy options, GEF could use the following modalities of assistance:

Facilitation

9. To facilitate activities

- GEF could coordinate with existing sources of financing for actions affecting GEF Strategic Programs;
- GEF could try to broker regional agreements for cost sharing where mainly regional interests are involved (e.g., sharing the costs and benefits of protecting an international lake or inland sea);
- GEF could help devise and implement innovative sources of financing (e.g., prepare ports wastes facilities *and* the institutions that will mobilize the resources to cover the costs from taxes on international shipping); and
- GEF could help mobilize private sector sources of funds. For example, there could be many opportunities for the private sector to construct and operate facilities and waste treatment plants for tributary rivers or direct discharges to low-flush seas. These could be private sector ventures or build-operate-transfer plants selling a service to the public.

Grant Finance

10. Grant financing is for the agreed incremental costs and is the special modality of the GEF. The same general principles apply to international waters as to any other focal area. In particular:

- It will be necessary to establish a baseline in order to estimate the incremental cost. Existing regional and national action plans may provide useful starting points for the

²*Instrument*, paragraph 9 (b). In these cases, the grants would be for eligible recipient countries that are party to the convention concerned.

³*Incremental Costs and Financing Policy Options*, GEF/C.2/6

- country dialogue needed to establish plausible baselines against which the incremental cost and incremental global environmental benefit could be estimated.
- The eligible expenditures would be for actual measures undertaken in developing countries and not for basic staffing and other administrative costs associated with the implementation of international agreements.

Loan Finance

11. Subject to Council policy on non-grant modalities and provided the proposed measures are otherwise eligible and *part of a Council-approved Strategic Program*, GEF could provide concessional or contingent finance.

Concessional Finance

- After facilitating finance to the greatest extent possible and satisfying itself that without additional finance the measure would not be implemented, GEF could consider providing concessional finance.

Contingent Finance

- Where there are technical or institutional risks, the concessional loan could be made on a contingent (forgiveable) basis. For example, to get a ports wastes facility started, GEF could finance the facility but would expect to be repaid once the ports authorities had mobilized sufficient resources from international shipping. If the project failed to mobilize adequate resources, part of the loan could be forgiven, i.e. turned into a grant for the incremental costs that were incurred.

IV. PROPOSED SCOPE

12. There is considerable overlap among the climate change, biodiversity, and international waters focal areas. Activities in the climate change and biodiversity focal areas that are financed through the financial mechanisms would be subject to the guidance of the relevant conventions. However, there may be additional activities in those two focal areas that could be financed outside the framework of the financial mechanisms and some of them could be considered under the International Waters focal area. Even when outside the framework of the financial mechanisms, activities would nevertheless be consistent with the relevant objectives of the convention. Climate change adaptation activities, in particular, would be consistent with decisions on staging and scope made by the Conference of the Parties (or the Intergovernmental Negotiating Committee) of the FCCC.

13. It is therefore proposed that GEF concentrate on cost-effective, country-driven measures meeting any of the following four objectives:

- (a) To protect marine and coastal biodiversity through integrated coastal zone management (ICZM) measures.

- (b) To assist vulnerable countries in the planning for adaptation to climate change threats (such as sea level rise and changes in hydrologic regimes) through ICZM measures or appropriate measures for the management of freshwater.
- (c) To protect carbon sinks in international waters.
- (d) To protect biodiversity in international rivers, river basins, lakes, inland seas, and watersheds.

14. To meet these objectives, GEF would address the proximate causes. In particular, and where appropriate, GEF would need to support measures to reduce pollution from land-based sources. These are the major sources of pollution for international freshwater and marine ecosystems and a major threat not only to biodiversity and carbon sinks but also to fish stocks and sustainable development generally.

15. The additional advantage of considering measures such as those above in the framework of international waters is that it provides the opportunity for coordination with development financing and for integration of the GEF-supported activities with sustainable development plans.

V. FOLLOW-UP ACTIVITIES

Program Guidance for 1995

16. At the November 1994 meeting, the GEF Council will consider the scope of GEF activities in the focal area of international waters. Following this, and if so directed by Council, the GEF Secretariat will, in consultation with the Implementing Agencies, draw up

- a revised scoping paper; and/or
- a proposed Operational Strategy together with an initial Strategic Program of planned activities for consideration by the Council at the January 1995 meeting.

Strategic Programs

17. In general, Strategic Programs would describe the following:

- (a) Reasons for the priority accorded to the particular objective or the global environmental benefits being sought. Criteria for this could include among other things: the severity of the global environmental problem being addressed; the degree to which the identified problems are common to other geographic regions and the transferability of results; and the contribution to the region's sustainable development.
- (b) Coordination with an existing international convention or agreement covering the international waters concerned.
- (c) Criteria for the country-driven opportunities for action to produce the global

- environmental benefits sought.
- (d) Proposed measures -- including capacity building, policy changes, and investment opportunities where applicable.
 - (e) Proposed modalities -- including incremental cost financing where appropriate and part of an overall plan.
 - (f) Costs and timetable for implementation.

INTERNATIONAL CONVENTIONS AND AGREEMENTS IN INTERNATIONAL WATERS

1. The 1982 *United Nations Convention on the Law of the Sea* (UNCLOS), establishes a comprehensive, legal framework of obligations on which basis actions at the global, regional and national level must be taken. Under this Convention, all parties have a fundamental duty to protect and preserve the marine environment. There also is a network of more specific international legal instruments on the protection of the marine environment, including the *Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter* (the "London Convention"), the *Convention for Prevention of Pollution from Ships* (MARPOL 73/78), the *International Convention on Pollution Preparedness, Response and Co-operation* (OPRC),⁴ and the nine Regional Seas Conventions and their Protocols (concerning for example, protection from the spillage of oil and other harmful substances, the protection of special areas, and the control of land-based sources of pollution). In addition to the Regional Seas Conventions, UNEP sponsors Regional Seas Programmes in East Asia, South and Southeast Asia, and the Northwest Pacific.
2. There are also numerous regional agreements concerning freshwater resources, including *La Plata Basin Agreement*, the *Treaty for Amazonian Cooperation*, and other international programs on the integrated management of international river and lake basins, such as the Ganges River, Mekong River, Niger River, Nile River, Senegal River, Zambezi River, Aral Sea and Lake Chad.
3. The legal instruments typically provide for financial and institutional arrangements to assist their implementation. There is considerable variation in the financial arrangements supporting such agreements: some operate as trust funds, others through direct funding. Many programs, though, remain severely underfunded with regard to project assistance for developing country parties.
4. Other instruments containing provisions that affect international waters include the *Basel Convention*, the *Bamako Convention*, the *Convention on Wetlands of International Importance Especially as Waterfowl Habitat* (the "Ramsar Convention"), the *Convention on Biological Diversity* (CBD), the *United Nations Framework Convention on Climate Change* (FCCC), and the *World Heritage Convention*.

⁴This convention has not yet entered into force.