



GEF/R.5/28
February 12, 2010

Fifth Meeting for the Fifth Replenishment of the GEF Trust Fund
March 9-10, 2010
Rome, Italy

**DRAFT GEF-5 REPLENISHMENT RESOLUTION
FOR APPROVAL BY THE WORLD BANK EXECUTIVE DIRECTORS**

(PREPARED BY THE WORLD BANK AS TRUSTEE)

**DRAFT GEF-5 REPLENISHMENT RESOLUTION
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I. Introduction

1. This paper provides the draft text for the GEF-5 replenishment resolution to be approved by Participants and submitted for the GEF Council's endorsement as Annex C to the GEF-5 Summary of Negotiations (GEF/R.5/29). Upon endorsement by the Council, the Summary will be transmitted to the World Bank with a request that the World Bank Executive Directors be invited to adopt Resolution No. [____], Global Environment Facility Trust Fund: Fifth Replenishment of Resources, thereby authorizing the World Bank, as Trustee of the GEF Trust Fund, to manage the resources made available under the GEF-5.
2. Since the restructuring of the GEF, the Trust Fund has been replenished every four years in a well-defined replenishment process. This approach has allowed Participants and other stakeholders to identify and introduce periodic reforms to improve the GEF's effectiveness. As stated in paragraph 49 of the Policy Recommendations for the Fifth Replenishment of the GEF Trust Fund (GEF/R.5/26), Participants have agreed that the replenishment process does not preclude new or existing Contributing Participants from providing new or additional contributions to the GEF during the four-year replenishment period under the agreed terms of the replenishment. Such paragraph also states that Participants have also agreed that in addition to replenishment resources, it is possible to use separate trust funds to target further funding for specific purposes under the mandate of the GEF.
3. With respect to the ability of the Trustee to accept new or additional contributions to the GEF, paragraph 1 of the Replenishment Resolution provides that the Trustee is authorized to accept contributions to the GEF Trust Fund; (a) by way of a grant from each Contributing Participant in the GEF Trust Fund in the amount specified for each Contributing Participant in Attachment 1; and (b) otherwise as provided herein. Sub-paragraph 3(e) of the Replenishment Resolution provides that contributions to the GEF Trust Fund provided under (b) above shall be paid in accordance with the terms on which such contributions are accepted by the Trustee. Accordingly, under the Replenishment Resolution, in addition to the contributions specified in Attachment 1, the Trustee may accept, at any time during the Replenishment period, additional contributions from the Contributing Participants named in Attachment 1 and contributions from additional Participants, on terms accepted by the Trustee.

**RESOLUTION NO. [____], GLOBAL ENVIRONMENT FACILITY TRUST FUND
FIFTH REPLENISHMENT OF RESOURCES**

WHEREAS:

(A) The participants contributing to the Global Environment Facility Trust Fund ("the GEF Trust Fund"), (jointly, "the Contributing Participants", each "a Contributing Participant") having considered the prospective financial requirements of the GEF Trust Fund, have concluded that additional resources should be made available to the GEF Trust Fund for new financing commitments for the period from July 1, 2010 to June 30, 2014 (the "Fifth Replenishment") and have agreed to ask their legislatures, where necessary, to authorize and approve the allocation of additional resources to the GEF Trust Fund in the amounts set out in Attachment 1 and according to the provisions set forth herein;

(B) The Council of the Global Environment Facility (the "GEF" or "Facility") (the "Council") having considered the Summary of The Negotiations on the Fifth Replenishment, including the policy recommendations made on the basis of the Fourth Overall Performance Study of the GEF, other reports emanating from the GEF monitoring and evaluation program during the prior replenishment period, and the views and proposals of the Participants, has requested the Executive Directors of the International Bank for Reconstruction and Development (the "World Bank") to authorize the World Bank as Trustee of the GEF Trust Fund to hold in trust and manage the resources made available for the Fifth Replenishment;

(C) It is desirable to administer any remaining funds from the fourth replenishment of the GEF Trust Fund authorized by the Instrument for the Establishment of the Restructured Global Environment Facility, as amended (the "Instrument"), and approved by Resolution No. 2006-0008 of the World Bank, adopted on October 19, 2006 (the "Fourth Replenishment"), as part of this Fifth Replenishment;

(D) The World Bank, as provided for in Paragraph 8 and Annex B of the Instrument (adopted on May 24, 1994, pursuant to Resolution No. 94-2 of the Executive Directors of the World Bank), is Trustee of the GEF Trust Fund and, in that capacity, will hold in trust and manage the resources made available for the Fifth Replenishment.

NOW THEREFORE the Executive Directors of the World Bank hereby note with approval the replenishment of the GEF Trust Fund in the amounts and on the basis set forth herein and authorize the World Bank as Trustee of the GEF Trust Fund (the "Trustee") to manage the resources made available for the Fifth Replenishment as follows:

Contributions

1. The Trustee is authorized to accept contributions to the GEF Trust Fund; (a) by way of a grant from each Contributing Participant in the GEF Trust Fund in the amount specified for each Contributing Participant in Attachment 1; and (b) otherwise as provided herein.

Instruments of Commitment

2. (a) Contributing Participants to the Fifth Replenishment shall deposit with the Trustee an instrument of commitment substantially in the form set out in Attachment 2 ("Instrument of Commitment"), subject to sub-paragraph 2(b).

(b) When a Contributing Participant agrees to pay a part of its contribution without qualification and the remainder is subject to enactment by its legislature of the necessary appropriation legislation, it shall deposit a qualified instrument of commitment in a form acceptable to the Trustee ("Qualified Instrument of Commitment"); such Contributing Participant undertakes to exercise its best efforts to obtain legislative approval for the installment amounts of its contribution by the payment dates set out in sub-paragraph 3(a) below.

(c) At every Council meeting, the Trustee will inform the Council of the status of Instruments of Commitment and Qualified Instruments of Commitment deposited with the Trustee.

Payments

3. (a) Contributions to the GEF Trust Fund under sub-paragraph 1(a) that a Contributing Participant agrees to pay without qualification shall be paid to the Trustee in four equal installments by November 30, 2010, November 30, 2011, November 30, 2012 and November 30, 2013, provided that:

(i) The Trustee and a Contributing Participant may agree to earlier payment;

(ii) If the Fifth Replenishment shall not have become effective (as described in sub-paragraph 6(a) below) by October 31, 2010, payment of any installment which would otherwise have been due prior to the Effective Date (as defined in sub-paragraph 6(a) below) shall become due 30 days after the Effective Date;

(iii) Upon the written request of a Contributing Participant, the Trustee may agree to allow such Contributing Participant to postpone the payment of any installment, or part thereof, up to, but not beyond, June 30 of the calendar year following the year in which such installment is due. Payments made pursuant to any such agreement with the Trustee shall constitute timely payments; and

(iv) If any Contributing Participant shall deposit an Instrument of Commitment with the Trustee after the date on which any installment of the contribution is due,

payment of any such installment(s) shall be made to the Trustee within 30 days after the date of deposit of such Instrument.

(b) Contributions to the GEF Trust Fund under sub-paragraph 1(a) that a Contributing Participant agrees to make pursuant to a Qualified Instrument of Commitment shall be paid to the Trustee as follows:

(i) If any Contributing Participant deposits a Qualified Instrument of Commitment with the Trustee after the date on which any installment of the contribution would have been due under sub-paragraph 3(a) if the Contributing Participant had deposited an unqualified Instrument of Commitment, payment of any such installment(s), or part thereof, shall be made to the Trustee within 30 days after the date of deposit of such Instrument to the extent that such Instrument has been unqualified.

(ii) If any Contributing Participant that has deposited a Qualified Instrument of Commitment thereafter notifies the Trustee that an installment, or part thereof, is unqualified after the date when such installment would have been due under sub-paragraph 3(a) if the Contributing Participant had deposited an unqualified Instrument of Commitment, payment of such installment, or part thereof, shall be made within 30 days of such notification.

(c) Payments under sub-paragraph 1(a) shall be made, at the option of each Contributing Participant, (i) in cash or (ii) through the deposit of notes or similar obligations (such as letters of credit) issued by the government of the Contributing Participant or the depository designated by the Contributing Participant, which shall be non-negotiable, non-interest bearing, and payable at their par value on demand to the account of the Trustee on the following terms:

(i) Subject to sub-paragraph 3(a)(iii), payment in cash may be made on terms agreed between the Contributing Participant and the Trustee that shall be no less favorable to the GEF Trust Fund than payment made through the deposit of notes or similar obligations pursuant to sub-paragraph 3(c)(ii).

(ii) The Trustee shall encash notes or similar obligations on an approximately pro rata basis among Contributing Participants, at reasonable intervals as needed for disbursement and transfers referred to in paragraph 8, as determined by the Trustee. An indicative encashment schedule is set out in Attachment 3. At the written request of a Contributing Participant experiencing exceptionally difficult budgetary circumstances, the Trustee may permit postponement of encashment for (i) up to two years in respect of a Contributing Participant that is also an eligible recipient under the GEF Trust Fund, and (ii) up to 45 days in respect of all other Contributing Participants.

(iii) At the request of a Contributing Participant, the Trustee may agree to encash notes or similar obligations on a basis other than a pro rata basis; provided

that, subject to sub-paragraph 3(c)(iv), the schedule of encashment agreed for such notes or obligations shall be no less favorable to the GEF Trust Fund than the schedule that would apply according to the pro rata basis provided for under sub-paragraph 3(c)(ii).

(iv) If the sum total of a Contributing Participant's notes or similar obligations deposited with the Trustee is insufficient to meet the indicative encashment schedule referred to in sub-paragraph 3(c)(ii) (as such schedule may be amended from time to time), such Contributing Participant shall exercise its best efforts, subject to its domestic budgetary and legislative practices and requirements, to meet a schedule of encashment for the notes or similar obligations it thereafter deposits with the Trustee that would be no less favorable to the GEF Trust Fund than the schedule that would otherwise have applied according to the pro rata basis provided for under sub-paragraph 3(c)(ii).

(d) Sub-paragraph 3(c) does not apply to, or affect, the schedule for the payment of installments set out in sub-paragraph 3(a) or, in the case of a Contributing Participant that has deposited a Qualified Instrument of Commitment, the obligations undertaken pursuant to sub-paragraph 2(b). Further, nothing in sub-paragraph 3(c) authorizes the Trustee to increase a Contributing Participant's contribution or to impose financial penalties for any reason.

(e) Contributions to the GEF Trust Fund under sub-paragraph 1(b) shall be paid in accordance with the terms on which such contributions are accepted by the Trustee.

(f) The Trustee shall make regular reports to the Council on the status of Contributing Participants' contributions.

Timely Availability of Resources

4. (a) If (i) a Contributing Participant does not make payment in accordance with sub-paragraph 3(a) or 3(b); or (ii) a Contributing Participant that has deposited a Qualified Instrument of Commitment, is unable, despite its best efforts undertaken in accordance with sub-paragraph 2(b), to obtain legislative approval to unqualify a sufficient amount of its contribution to meet the payment dates set out in sub-paragraph 3(a), and such delay continues for 30 days, the Trustee shall notify the Contributing Participant of the delay. In doing so, the Trustee shall request the Contributing Participant to make payment promptly, or, as appropriate, to exercise its best efforts to obtain legislative approval to unqualify sufficient funds to make payment promptly. The Trustee shall also remind the Contributing Participant of the obligation it will incur under the further requirements of this sub-paragraph if the delay persists. If payment has not been made 30 days before the date of the Council meeting following the date on which the delay was incurred, the responsible Minister of the Contributing Participant concerned shall provide the Chief Executive Officer/Chairperson of the Facility (the "CEO") with a written communication stating the reasons for the delay and the measures being taken to address it. The CEO shall forward any such communication to the Council, with a copy to the Trustee.

(b) As provided in sub-paragraph 25(c) of the Instrument, for the purpose of determining voting power in the event of a formal vote by the Council, a Contributing Participant's total contributions shall consist of the actual cumulative contributions made by a Contributing Participant to the GEF Trust Fund, including actual contributions made to the Fifth Replenishment, contributions made to the Global Environment Trust Fund (the "GET"), and the grant equivalent of co-financing and parallel financing made under the GEF pilot program, or agreed with the Trustee before the effective date of the GEF Trust Fund.

Currency of Denomination and Payment

5. (a) Contributing Participants shall denominate their contributions in Special Drawing Rights ("SDR"), or in a currency that is freely convertible, as determined by the Trustee, except that if a Contributing Participant's economy experienced a rate of inflation in excess of ten percent per annum on average in the period 2006 to 2008 as determined by the Trustee as of the date this Resolution is adopted, its contribution shall be denominated in SDR.

(b) Contributing Participants shall make payments in SDR, a currency used for the valuation of the SDR, or with the agreement of the Trustee, in another freely convertible currency. The Trustee may, in its discretion, freely exchange contributions received for any such currencies.

(c) Each Contributing Participant shall maintain, with respect to its currency paid to the Trustee and the currency of such Contributing Participant derived therefrom, the same convertibility as existed on the date on which this Resolution is adopted.

Effective Date

6. (a) The Fifth Replenishment shall become effective on the date when Contributing Participants whose contributions aggregate not less than SDR [REDACTED] million¹ shall have deposited with the Trustee Instruments of Commitment or Qualified Instruments of Commitment (the "Effective Date").

(b) The Trustee shall promptly notify all Contributing Participants when the Fifth Replenishment becomes effective.

(c) If the Fifth Replenishment does not become effective by March 31, 2011, the Trustee shall so inform the Contributing Participants and consult with them on possible steps to be taken to prevent any interruption of GEF financing. The Trustee, in collaboration with the CEO, will inform the Council of the results of such consultations, and seek the Council's guidance on the steps to be taken, including, as may be necessary, the convening of a meeting of the Contributing Participants.

¹ Sixty percent of the total contributions of all Contributing Participants, as set out in Attachment 1

Advance Contributions

7. (a) In order to avoid an interruption in the Trustee's ability to make financing commitments pending the effectiveness of the Fifth Replenishment, and if the Trustee shall have received Instruments of Commitment or Qualified Instruments of Commitment from Contributing Participants whose contributions aggregate not less than SDR [REDACTED] million², the Trustee may deem, prior to the Effective Date, one quarter of the total amount of each contribution for which an Instrument of Commitment or Qualified Instrument of Commitment has been deposited with the Trustee as an advance contribution, unless the Contributing Participant specifies otherwise in its Instrument of Commitment or Qualified Instrument of Commitment.

(b) The Trustee shall specify when advance contributions pursuant to sub-paragraph 7(a) above are to be paid to the Trustee.

(c) The terms and conditions applicable to contributions to the Fifth Replenishment shall apply also to advance contributions until the Effective Date, when such contributions shall be deemed to constitute payment towards the amount due from each Contributing Participant for its contribution.

Commitment or Transfer Authority

8. (a) Contributions shall become available for commitment by the Trustee, for disbursement or transfer as needed to cover the work program, the administrative budget of the GEF, and any other expenses approved by the Council under the Instrument, upon receipt of payment by the Trustee of the contributions set out in sub-paragraphs 1(a) and (b) except as provided in sub-paragraph 8(c) below.

(b) The Trustee shall promptly inform all Contributing Participants if a Contributing Participant that has deposited a Qualified Instrument of Commitment and whose contribution represents more than 20 percent of the total amount of the resources to be contributed pursuant to the Fifth Replenishment has not unqualified at least 50 percent of the total amount of its contribution by November 30, 2011, or 30 days after the Effective Date, whichever is later, and at least 75 percent of the total amount of its contribution by November 30, 2012, or 30 days after the Effective Date, whichever is later, and the total amount thereof by November 30, 2013, or 30 days after the Effective Date, whichever is later.

(c) Within 45 days of the dispatch of notice by the Trustee under sub-paragraph 8(b) above, each Contributing Participant receiving such notice may notify the Trustee in writing that (i) the commitment by the Trustee of the second, third or fourth installment, whichever is applicable, of such Contributing Participant's contribution shall be deferred while, and to the extent that, any part of the contribution referred to in sub-paragraph 8(b) remains qualified; or (ii) it wishes to extend the decision period for the right to defer commitment of its Contribution from 45 days to 120 days. The Trustee shall make no commitments in respect of the resources to

² Twenty percent of the total contributions of all Contributing Participants, as set out in Attachment 1

which the notice pertains unless the right of the Contributing Participant is waived pursuant to sub-paragraph 8(d) below.

(d) The right of a Contributing Participant under sub-paragraph 8(c) above may be waived in writing, and it shall be deemed waived if the Trustee does not receive, within the 45-day period or 120-day period specified in sub-paragraph 8(c), as appropriate, a written notice informing the Trustee pursuant to such sub-paragraph that the Contributing Participant has decided to defer commitment of a portion of its contribution.

(e) The Trustee, in collaboration with the CEO, shall consult with the Contributing Participants and seek the Council's advice on possible steps to be taken where, in its judgment: (i) there is a substantial likelihood that the total amount of the contributions referred to in sub-paragraph 8(b) above shall not be committed to the Trustee without qualification by June 30, 2014, or (ii) as a result of Contributing Participants exercising their rights under sub-paragraph 8(c), the Trustee is, or may shortly be, precluded from entering into new commitments for disbursement or transfer.

(f) Commitment and transfer authority shall be increased by:

(i) The income earned on the investment of resources held in the GEF Trust Fund pending disbursement or transfer by the Trustee; and

(ii) Payments received by the Trustee as repayment, interest or charges on loans made by the GEF Trust Fund.

(g) The Trustee may enter into agreements to provide financing from the GEF Trust Fund, conditional on the commitment of such financing becoming effective and binding on the GEF Trust Fund when resources become available for commitment by the Trustee.

Administration of the Fourth Replenishment

9. Funds, receipts, assets and liabilities held by the Trustee under the Fourth Replenishment, including the full carryover reflected in Attachment 1 hereto, will be administered under the Fifth Replenishment.

(adopted on [____])

**ATTACHMENT 1: GLOBAL ENVIRONMENT FACILITY TRUST FUND
FIFTH REPLENISHMENT OF RESOURCES**

TABLE OF CONTRIBUTIONS

[TO BE PROVIDED BY THE TRUSTEE AFTER DONORS CONCLUDE PLEDGING]

**ATTACHMENT 2: GLOBAL ENVIRONMENT FACILITY TRUST FUND
FIFTH REPLENISHMENT OF RESOURCES**

INSTRUMENT OF COMMITMENT

Reference is made to Resolution No. [] of the Executive Directors of the International Bank for Reconstruction and Development (the "World Bank") entitled "Global Environment Facility Trust Fund: Fifth Replenishment of Resources," which was adopted on [] (the "Resolution").

The Government of _____ hereby notifies the World Bank as Trustee of the Global Environment Facility Trust Fund, pursuant to paragraph 2 of the Resolution, that it will make the contribution authorized for it in Attachment 1 of the Resolution, in accordance with the terms of the Resolution, in the amount of _____.

(Date)

(Name, Title and Office)

**ATTACHMENT 3: GLOBAL ENVIRONMENT FACILITY TRUST FUND
FIFTH REPLENISHMENT OF RESOURCES**

INDICATIVE ENCASHMENT SCHEDULE

Fiscal Year	Percentage of Total Pledge
2011	8.0
2012	11.0
2013	14.0
2014	14.5
2015	14.0
2016	12.0
2017	10.0
2018	8.0
2019	5.0
2020	3.5
Total	100.0