


TRANSMITTAL OF OFFICIAL DOCUMENTS

TO: Official Documents Desk, MSN MC 6-340

DATE: July 13, 2004

FROM: Thomas Duvall, III, Chief Counsel, LEGCF 

EXTENSION: 81513

SUBJECT: **Memorandum of Understanding between the Asian Development Bank and the Secretariat of the Global Environment Facility on Direct Access to GEF Resources**

Attached is the original of Official Document described below for safekeeping and IRIS4 filing.

| Description of Document | Notes/Comments |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| Memorandum of Understanding dated July 7, 2004 between the Asian Development Bank and the Secretariat of the Global Environment Facility on Direct Access to GEF Resources. | |
| No. of Pages: 11 | |

MEMORANDUM OF UNDERSTANDING

between

ASIAN DEVELOPMENT BANK

and

**THE SECRETARIAT OF
THE GLOBAL ENVIRONMENT FACILITY**

on

DIRECT ACCESS TO GEF RESOURCES

July 7, 2004

MEMORANDUM OF UNDERSTANDING

MEMORANDUM OF UNDERSTANDING, dated July 7, 2004, between the SECRETARIAT OF THE GLOBAL ENVIRONMENT FACILITY (respectively, "the Secretariat" and "GEF") and the ASIAN DEVELOPMENT BANK ("ADB").

WHEREAS, pursuant to paragraphs 20(f) and 28 of the *Instrument for the Establishment of the Restructured Global Environment Facility* ("the Instrument"), the Council of the GEF (the "Council") has the authority to approve and periodically review operational modalities for the GEF, including means to facilitate arrangements for project preparation and execution by multilateral development banks;

WHEREAS, effective May 7, 1999, pursuant to such authority, and on the basis of document GEF/C.13/3, *Expanded Opportunities for Executing Agencies*, the Council approved a proposal to allow for the participation of ADB, in the preparation of GEF projects and for its direct access from the Chief Executive Officer/Chairperson of the GEF (the "CEO") to certain Project Preparation and Development Facility resources, namely PDF-B resources (the "Expanded Opportunities Decision");

WHEREAS, following the Expanded Opportunities Decision, the Secretariat and ADB entered into a Letter Agreement and Memorandum of Understanding dated December 2, 2000 concerning the manner in which ADB would request PDF-B resources from the Secretariat and the respective duties and responsibilities of the Secretariat and ADB with respect to allocations of such resources made to ADB;

WHEREAS, effective October 15, 2002, and pursuant to the power granted to it under paragraph 20(f) of the Instrument, the Council, at its October 2002 meeting, approved a proposal to expand ADB's direct access to GEF resources to include direct access to allocations of GEF resources from the Council and the CEO for the implementation of GEF projects (the "Direct Access Decision"); and

WHEREAS, the Secretariat and ADB now desire to replace the Letter of Agreement and Memorandum of Understanding of December 2, 2000 with a new Memorandum of Understanding which will govern the manner in which ADB will seek allocations of GEF resources for the preparation and implementation of GEF projects from the Council and the CEO, as appropriate, and the respective duties and responsibilities of the Secretariat and ADB with respect to allocations of such resources made to ADB (the "MOU").

NOW THEREFORE the Secretariat and ADB agree as follows:

ARTICLE 1

Definitions

Section 1.01. Unless the context otherwise requires, the several terms defined in the Preamble to this MOU shall have the respective meanings set forth therein and the following additional terms shall have the following meanings:

- (a) "ADB Fees" means the fees authorized by the Council or the CEO, as appropriate, as payable to ADB to cover ADB's costs in respect of project cycle management services performed under the ADB/GEF Program;
- (b) "ADB/GEF Fund" means the fund established and maintained by ADB in accordance with the terms of the Financial Procedures Agreement, for purposes of receiving, holding and administering GEF funds;
- (c) "Allocation" means the GEF resources approved by the Council or the CEO, as appropriate, as allocable to ADB on the basis of a Project Document;
- (d) "Executing Agencies" means the executing agencies who implement GEF Projects under the Expanded Opportunities Decision and/or the Direct Access Decision;
- (e) "Financial Procedures Agreement" means the Financial Procedures Agreement between ADB and the International Bank for Reconstruction and Development as Trustee of the Global Environment Facility Trust Fund, dated as of the date hereof;
- (f) "GEF Project" means a project, project component(s) or project preparation activities for which GEF funding has been approved;
- (g) "GEF Trust Fund" means the Global Environment Facility Trust Fund established in accordance with the Instrument;
- (h) "Major Changes" has the meaning assigned to the term in Annex D of Document, GEF/C.22/Inf.9, *GEF Project Cycle: An Update*;
- (i) "Project Document" means a document submitted by ADB to the Secretariat seeking approval of an allocation of GEF resources to ADB from the Council or the CEO, as appropriate, for a project, project component(s) or project preparation activities that promote(s) achievement of the purposes of the GEF; and
- (j) "Trustee" means the International Bank for Reconstruction and Development acting as Trustee of the GEF Trust Fund in accordance with paragraph 8 and Annex B of the Instrument.

ARTICLE II

General Principles

Section 2.01. All provisions of this MOU shall be interpreted and carried out in accordance with the Instrument and policies and decisions of the Council and the Agreement Establishing the Asian Development Bank and in a manner consistent with the regulations and rules, guidelines, directives and procedures of the Secretariat and ADB.

Section 2.02. If any decisions or guidance referred to under section 2.01 are inconsistent with the pertinent policy or practice of the GEF or ADB, the Secretariat and ADB shall promptly take all appropriate actions to resolve any such inconsistency.

ARTICLE III

Administration of GEF Funds

Section 3.01. From time to time ADB shall submit proposals to the Secretariat seeking the allocation of GEF resources to ADB for projects or project preparation activities that promote achievement of the purposes of the GEF. Each proposal shall be set out in a Project Document, in a form agreed between the Secretariat and ADB, which shall contain a description of the activities to be funded by the GEF, a specific budget for such activities and a proposed Allocation amount.

Section 3.02. The proposals submitted by ADB to the Secretariat shall be reviewed by the Secretariat and forwarded to the Council or the CEO, as appropriate, for approval in accordance with GEF policies and practices. For those proposals requiring Council approval, following approval by the Council, ADB shall submit a final project proposal to the CEO for endorsement. The final Allocation amount to be provided to ADB for each proposal shall be the amount specified in the final project proposal approved or endorsed, as appropriate, by the CEO.

Section 3.03. All Allocations shall be denominated in US Dollars. GEF resources received by ADB pursuant to this MOU may be freely converted by ADB into any other currency as may facilitate their disbursement.

Section 3.04. The commitment and transfer of funds to ADB pursuant to this MOU shall be effected in accordance with the terms of the Financial Procedures Agreement.

Section 3.05. GEF funds made available to ADB in respect of each Allocation shall be disbursed by ADB in accordance with ADB's standard rules and procedures.

Section 3.06. Notwithstanding the amount specified for a specific budget line item set out in a Project Document approved by the Council or the CEO, as appropriate, for a given Allocation, ADB may reallocate funds provided for a specific budget line item under a given

Allocation among the categories of items to be funded by such Allocation in accordance with ADB's standard procedures so long as such reallocation does not effect Major Changes to the GEF Project for which the Allocation is provided. ADB shall inform the Secretariat of any such modifications in accordance with the GEF's operational policies and procedures.

Section 3.07. In the event that any proposed modification to the specific budget set out in an approved Project Document is likely to effect Major Changes to the GEF Project for which the Allocation is provided, ADB shall inform the Secretariat of any such proposed modification and seek the Secretariat's guidance on the necessary steps to be taken to effect such proposed modification.

ARTICLE IV

ADB Fees

Section 4.01. In accordance with the policies and procedures approved by the Council for the determination and payment of project cycle management services fees payable to the Executing Agencies, as such policies and procedures may be amended from time to time and implemented by the Secretariat, ADB shall receive a fee for project cycle management services performed pursuant to this MOU.

ARTICLE V

Standard of Care

Section 5.01. ADB shall be solely responsible for the administration of GEF funds made available to it and will carry out such administration in accordance with its regulations and rules, standard practices and procedures and with the same degree of care as it uses in the administration of its own funds, taking into account the provisions of this MOU.

Section 5.02. ADB shall take all appropriate measures to ensure that each Allocation is used for the purposes for which it was provided, as set out in the pertinent Project Document, and shall be accountable to the Council for all activities funded by the Allocations, including the preparation and cost-effectiveness of GEF Projects, and for the implementation of the operational policies, strategies and decisions of the Council with respect to such activities.

ARTICLE VI

Procurement

Section 6.01. The procurement of goods and services (including consultants' services) for activities financed by the Allocations shall be done in accordance with ADB regulations and

rules, policies, guidelines and procedures, including the Guidelines for Procurement and Guidelines on the Use of Consultants. The recording and reporting to the Secretariat on such procurement shall be done in a manner agreed between ADB and the Secretariat.

ARTICLE VII

Records and Reporting

Section 7.01. ADB shall provide the Secretariat with the following reports and financial statement on the ADB/GEF Fund prepared in accordance with ADB's accounting and reporting procedures:

- (a) annual report on status of GEF Projects in ADB's portfolio for the ADB/GEF Fund, substantially in the form of Attachment 1 attached hereto;
- (b) as soon as practicable after the termination of this MOU, a final audited financial statement for the ADB/GEF Fund; and
- (c) such other reports, including reports on procurement of goods and services for activities financed by the Allocation, as may reasonably be requested by the Secretariat from time to time.

The financial statement referred to in paragraph (b) above will be identical in form and content to the report to be furnished to the Trustee pursuant to Section 12.2 (f) of the Financial Procedures Agreement.

Section 7.02. ADB shall provide the Monitoring and Evaluation Unit of the GEF with such reports as may reasonably be requested by such unit from time to time.

ARTICLE VIII

GEF Activities

Section 8.01. ADB shall be solely responsible for:

- (a) Ensuring that the documentation (including but not limited to Project Documents) submitted by ADB to the Secretariat for review and/or approval meet GEF requirements, including consistency with the GEF's operational policies and procedures and the form required by the Secretariat;
- (b) Ensuring that the development, preparation, implementation, monitoring and evaluation of the activities financed by the Allocations are consistent with the GEF's operational policies and procedures, particularly those concerning eligibility criteria, the estimation of incremental costs, the definition of global

benefits, the GEF project cycle, including project monitoring and evaluation, and the policy for stakeholder participation and disclosure of information;

- (c) Preparing ADB's Project Documents for consideration by the Secretariat and approval by the Council or the CEO, as appropriate;
- (d) Administering and managing the use of funds provided to it pursuant to this MOU;
- (e) Supervising activities performed under approved Project Documents;
- (f) Reporting to the Secretariat in accordance with Article VII hereof; and
- (g) Informing the Secretariat of any conditions it believes may interfere with its performance of its obligations under this MOU or the implementation of any activities due to be performed under any Project Document.

Section 8.02. At the request of ADB, the Secretariat shall provide guidance to ADB on GEF's operational policies and procedures and forms so as to assist ADB in the discharge of its responsibilities under Section 8.01.

ARTICLE IX

Consultation

Section 9.01. ADB and the Secretariat shall consult and share information with each other from time to time and at the request of either party on matters arising out of this MOU.

ARTICLE X

Communications

Section 10.01. All communications concerning this MOU shall be made to the relevant person at the address, facsimile number, telephone number or electronic mail address, from time to time designated by that party to the other for that purpose. The address, facsimile number, telephone number and electronic mail address so designated are set out below.

(a) For ADB:

Asian Development Bank
6 ADB Avenue, Mandaluyong City
0401 Metro Manila, Philippines

Attention: Director, Environment and Social Safeguard Division,
Regional and Sustainable Development Department

Telephone: +63 (2) 632-6883
Fax: +63 (2) 636-2381
Electronic mail: njahmad@adb.org

(b) For the Secretariat:

Global Environment Facility
1818 H Street, N.W.
Washington, D.C. 20015
USA

Attention: Deputy Chief Executive Officer

Telephone: +1 (202) 473 1075
Fax: +1 (202) 522 3240/3245
Electronic mail: kking@thegef.org

ARTICLE XI

Amendment

Section 11.01. This MOU may be amended at any time by the written agreement of ADB and the Secretariat.

ARTICLE XII

Termination

Section 12.01. This MOU may be terminated by ADB or the Secretariat. This MOU shall cease to be in force sixty (60) days after either party gives to the other written notice of its desire to terminate the MOU.

Section 12.02. Upon the giving of such notice, unless otherwise agreed between them, ADB and the Secretariat shall consult on the most practical and effective means of terminating any uncompleted activities to be implemented under approved Project Documents. In the event the MOU is terminated, ADB shall continue to hold GEF funds provided pursuant to approved Project Documents until all outstanding commitments and liabilities incurred for the activities financed by GEF resources allocated to ADB have been satisfied. Following the satisfaction of such commitments and liabilities, ADB shall return any unused GEF funds to the Trustee in accordance with the terms of the Financial Procedures Agreement.

Section 12.03. If any dispute arising out of or relating to this MOU or any Project Document(s) cannot be settled by agreement of the parties, the CEO, in consultation with the Trustee, when appropriate, shall inform the Council and seek the Council's advice with respect to a resolution. The CEO shall invite ADB to participate in any Council meeting at which the resolution of any such dispute will be discussed.

ARTICLE XIII

Effectiveness

Section 13.01. This MOU shall be effective as of the date aforementioned on the first page of this MOU, and shall supersede and replace the Letter Agreement and the Memorandum of Understanding incorporated thereto between ADB and the Secretariat, dated December 2, 2000.

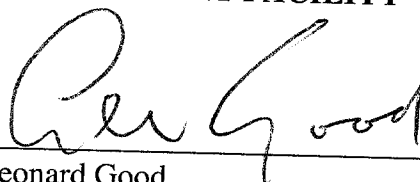
ARTICLE XIV

Execution in Counterparts

Section 14.01. This MOU may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument.

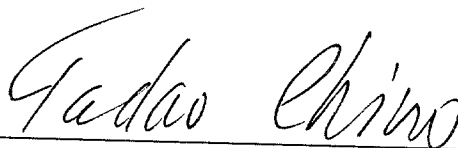
IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this MOU with effect from the date aforementioned on the first page of this MOU.

**SECRETARIAT OF THE GLOBAL
ENVIRONMENT FACILITY**

A handwritten signature in cursive script, appearing to read "Leonard Good", written over a horizontal line.

Leonard Good
CEO/Chairman

ASIAN DEVELOPMENT BANK

A handwritten signature in cursive script, appearing to read "Tadao Chino", written over a horizontal line.

Tadao Chino
President

Annual Report on Status of GEF Projects in ADB's Portfolio for the ADB/GEF Fund

| Standard Information | | | | | | | | | | Information Provided by Agency | | | |
|-----------------------------------------------------------------------------------------|----------------|-------------|---------|--------------|--------------|------------|-------------------------------------|---------------------------------------|---------------------------------------------|----------------------------------------|----------------------|---------------------------|---------------------------|
| Table 1 For ORGP | | | | | | | | | | | | | |
| GEF ID | Agency PMIS ID | Agency Name | Country | Project Name | Project Type | Focal Area | Project Approval Date (Council/CEO) | Project Approval Amount (Council/CEO) | CEO Endorsement Date (FP and Non Expedited) | Endorsed Amount (FP and Non Expedited) | Agency Approval Date | Project Description | Implementation Status |
| Table 2 Disbursements | | | | | | | | | | | | | |
| GEF ID | Agency PMIS ID | Agency Name | Country | Project Name | Project Type | Focal Area | Project Approval Date (Council/CEO) | Project Approval Amount (Council/CEO) | CEO Endorsement Date (FP and Non Expedited) | Endorsed Amount (FP and Non Expedited) | Agency Approval Date | Disbursement (Current FY) | Disbursement (Cumulative) |
| | | | | | | | | | | | | | |
| Note: The following terms have the following meanings: | | | | | | | | | | | | | |
| ORGP: Operational Report for GEF Projects; PMIS: Project Management Information System; | | | | | | | | | | | | | |
| FP: Full-Sized Projects. | | | | | | | | | | | | | |