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TO: Official Documents Desk, MSN MC 6-340

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FROM: Ximena Talero, Senior Counsel, LEGCF *XT*

EXTENSION: 82030

SUBJECT: **Memorandum of Understanding between the United Nations Industrial Development Organization and the Secretariat of the Global Environment Facility (GEF) 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 20, 2004 between the United Nations Industrial Development Organization and the Secretariat of the Global Environment Facility (GEF) on Direct Access to GEF Resources. | |
| No. of Pages: 11 | |

MEMORANDUM OF UNDERSTANDING

between

**UNITED NATIONS INDUSTRIAL DEVELOPMENT
ORGANIZATION**

and

**THE SECRETARIAT OF
THE GLOBAL ENVIRONMENT FACILITY**

on

DIRECT ACCESS TO GEF RESOURCES

July 20, 2004

MEMORANDUM OF UNDERSTANDING

MEMORANDUM OF UNDERSTANDING, dated July 20, 2004, between the SECRETARIAT OF THE GLOBAL ENVIRONMENT FACILITY (respectively, "the Secretariat" and "GEF") and the UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION ("UNIDO").

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 international organizations;

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 regional development banks in the preparation of GEF projects and for their direct access from the Chief Executive Officer/Chairperson of the GEF (the "CEO") to certain Project Preparation and Development Facility ("PDF") resources, namely PDF-B resources (the "Expanded Opportunities Decision");

WHEREAS, effective May 11, 2000, on the basis of document GEF/C.15/4, *Review of Progress in Expanded Opportunities for Executing Agencies*, the Council also approved the participation of UNIDO in the preparation of GEF projects and for its direct access to PDF-B resources pursuant to the Expanded Opportunities Decision;

WHEREAS, effective May 11, 2001, on the basis of document GEF/C.17/4, *Initial Guidelines for Enabling Activities for the Stockholm Convention on Persistent Organic Pollutants*, the Council approved the direct access of UNIDO to GEF resources for expedited enabling activities on persistent organic pollutants;

WHEREAS, following the above-mentioned Council decisions, the Secretariat and UNIDO entered into a Letter Agreement and Memorandum of Understanding dated July 12, 2001, concerning the manner in which UNIDO would request such GEF resources from the Secretariat and the respective duties and responsibilities of the Secretariat and UNIDO with respect to allocations of such resources made to UNIDO;

WHEREAS, effective November 21, 2003, and pursuant to the powers granted to it under paragraph 20(f) of the Instrument, and on the basis of document GEF/C.22/12 *Review of Experiences of Executing Agencies under Expanded Opportunities*, the Council approved a proposal to expand direct access of all executing agencies, acting within their agreed scope for GEF operations, to GEF resources to include, (i) direct access to allocations of GEF resources from the Council and the CEO for the implementation of GEF projects (medium and full size projects); and (ii), on a case-by-case basis, allocations from the CEO of certain PDF resources, namely "PDF-A" grants (the "Executing Agencies Direct Access Decision"); and

WHEREAS, the Secretariat and UNIDO now desire to replace the Letter of Agreement and Memorandum of Understanding of July 12, 2001 with a new Memorandum of Understanding which will govern the manner in which UNIDO 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 UNIDO with respect to allocations of such resources made to UNIDO (the "MOU").

NOW, THEREFORE, the Secretariat and UNIDO 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) "Allocation" means the GEF resources approved by the Council or the CEO, as appropriate, as allocable to UNIDO on the basis of a Project Document;
- (b) "Executing Agencies" means the executing agencies who implement GEF Projects under the Expanded Opportunities Decision and/or the Executing Agencies Direct Access Decision;
- (c) "Financial Procedures Agreement" means the Financial Procedures Agreement between UNIDO and the International Bank for Reconstruction and Development as Trustee of the Global Environment Facility Trust Fund, dated as of the date hereof;
- (d) "GEF Project" means a project, project component(s) or project preparation activities for which GEF funding has been approved;
- (e) "GEF Trust Fund" means the Global Environment Facility Trust Fund established in accordance with the Instrument;
- (f) "Major Changes" has the meaning assigned to the term in Annex D of Document, GEF/C.22/Inf.9, *GEF Project Cycle: An Update*;
- (g) "Project Document" means a document submitted by UNIDO to the Secretariat seeking approval of an allocation of GEF resources to UNIDO 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;

- (h) “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; and
- (i) “UNIDO/GEF Fund” means the fund established and maintained by UNIDO in accordance with the terms of the Financial Procedures Agreement, for purposes of receiving, holding and administering GEF funds.

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 Constitution of the United Nations Industrial Development Organization, and in a manner consistent with the regulations and rules, guidelines, directives and procedures of the Secretariat and UNIDO.

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 UNIDO, the Secretariat and UNIDO shall promptly take all appropriate actions to resolve any such inconsistency.

ARTICLE III

Administration of GEF Funds

Section 3.01. From time to time UNIDO shall submit proposals to the Secretariat seeking the allocation of GEF resources to UNIDO 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 UNIDO, 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 UNIDO 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. Any proposal approved by the Council shall be submitted as a final project proposal by UNIDO to the CEO for endorsement before final project approval by UNIDO. The final Allocation amount to be provided to UNIDO 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 UNIDO pursuant to this MOU may be freely converted by UNIDO into any other currency as may facilitate their disbursement.

Section 3.04. The commitment and transfer of funds to UNIDO 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 UNIDO in respect of each Allocation shall be disbursed by UNIDO in accordance with UNIDO'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, UNIDO 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 UNIDO's standard procedures so long as such reallocation does not effect Major Changes to the GEF Project for which the Allocation is provided. UNIDO 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, UNIDO 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

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, UNIDO shall receive a fee for project cycle management services performed pursuant to this MOU.

ARTICLE V

Standard of Care

Section 5.01. UNIDO 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. UNIDO 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 Documents, 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 UNIDO regulations and rules, policies, guidelines and procedures. The recording and reporting to the Secretariat on such procurement shall be done in a manner agreed between UNIDO and the Secretariat.

ARTICLE VII

Records and Reporting

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

- (a) annual report on status of GEF Projects in UNIDO's portfolio for the UNIDO/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 UNIDO/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. UNIDO 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. UNIDO shall be solely responsible for:

- (a) Ensuring that the documentation (including but not limited to Project Documents) submitted by UNIDO 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 UNIDO'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 UNIDO, the Secretariat shall provide guidance to UNIDO on GEF's operational policies and procedures and forms so as to assist UNIDO in the discharge of its responsibilities under Section 8.01.

ARTICLE IX

Consultation

Section 9.01. UNIDO 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 UNIDO:

United Nations Industrial Development Organization
Vienna International Centre
P.O. Box 300
A-1400 Vienna
Austria

Attention: Managing Director, Programme Development and Technical
Cooperation Division

Telephone: +43 (1) 26026-3510
Fax: +43 (1) 26026-6853
Electronic mail: a.rwendeire@unido.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 UNIDO and the Secretariat.

ARTICLE XII

Termination

Section 12.01. This MOU may be terminated by UNIDO 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, UNIDO 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, UNIDO 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 UNIDO have been satisfied. Following the satisfaction of such commitments and liabilities, UNIDO shall return any unused GEF funds to the Trustee in accordance with the terms of the Financial Procedures Agreement.

Section 12.03. Any dispute arising out of or in connection with this MOU or any Project Document(s), which cannot be settled by agreement of the Secretariat and UNIDO officials shall be referred to the CEO and the Director General of UNIDO for joint clarification and resolution. If the CEO and the Director General of UNIDO cannot arrive at a resolution, 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 UNIDO 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 UNIDO and the Secretariat, dated July 12, 2001.

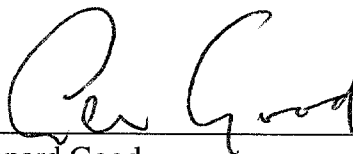
ARTICLE XIV

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.

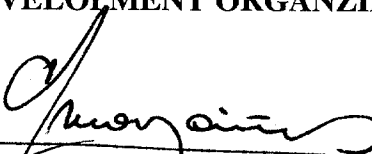
IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this MOU with effect from the date aforementioned on the first page of this MOU.

**SECRETARIAT OF THE GLOBAL
ENVIRONMENT FACILITY**



Leonard Good
CEO/Chairman

**UNITED NATIONS INDUSTRIAL
DEVELOPMENT ORGANIZATION**



Carlos Magariños
Director-General

Attachment 1

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

| Table 1 | | Standard Information | | | | | | Information Provided by Agency | | | | |
|---|-------------|----------------------|--------------|--------------|------------|--------------------------------------|--|---|--|----------------------|---------------------------|---------------------------|
| 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 | | | | | | | | | | | | |
| 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) | CEO 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. | | | | | | | | | | | | |