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INTERGOVERNMENTAL NEGOTIATING COMMITTEE FOR AN  
INTERNATIONAL LEGALLY BINDING INSTRUMENT  
FOR IMPLEMENTING INTERNATIONAL ACTION ON  
CERTAIN PERSISTENT ORGANIC POLLUTANTS

Seventh session

Geneva, 14-18 July 2003

Item 5 of the provisional agenda\*

**Preparations for the Conference of the Parties**

**REVIEW OF MEMORANDUMS OF UNDERSTANDING BETWEEN THE GLOBAL  
ENVIRONMENT FACILITY AND THE BODIES OF OTHER MULTILATERAL  
ENVIRONMENTAL AGREEMENTS\*\***

Note by the secretariat

1. The sixth session of the Intergovernmental Negotiating Committee, in its decision 6/12 initiating a process for developing a draft memorandum of understanding between the Conference of the Parties to the Stockholm Convention and the Global Environment Facility (GEF), requested the secretariat to submit to the Intergovernmental Negotiating Committee at its seventh session a review of similar agreements between GEF and the governing bodies of other multilateral environmental agreements, including the relevant experience gained from the use of these agreements between GEF and the governing bodies of other multilateral environmental agreements.

2. In response to the above, the secretariat reviewed the two existing memorandums of understanding between GEF and the governing bodies of other multilateral environmental agreements, which are:

(a) Memorandum of Understanding between the Conference of the Parties to the Convention on Biological Diversity and the Council of the Global Environment Facility; and

(b) Memorandum of Understanding between the Conference of the Parties to the United Nations Framework Convention on Climate Change and the Council of the Global Environment Facility.

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\* UNEP/POPS/INC.7/1

\*\* Stockholm Convention, articles 13 and 14; Conference of Plenipotentiaries of the Stockholm Convention, resolution 1, paragraph 4; report of the Intergovernmental Negotiating Committee on its sixth session (UNEP/POPS/INC.6/22), annex I, decision INC-6/12.

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3. A side-by-side comparison of these memorandums is included in annex I to the present note. The annex has not been formally edited.
4. The secretariat invited the secretariats of the Convention on Biological Diversity, the United Nations Framework Convention on Climate Change and GEF to share relevant experience gained from the use of the above-mentioned memorandums of understanding. Comments were received from the secretariat of the Convention on Biological Diversity, which are provided in annex II to the present note.
5. The above comparison and comments were taken into account in the development of the draft memorandum of understanding between Conference of the Parties of the Stockholm Convention and the Council of GEF that is contained in document UNEP/POPS/INC.7/16.

Annex I

REVIEW OF THE MEMORANDUMS OF UNDERSTANDING  
BETWEEN THE COUNCIL OF THE GLOBAL ENVIRONMENT FACILITY AND  
THE CONFERENCES OF THE PARTIES TO THE  
CONVENTION ON BIOLOGICAL DIVERSITY AND THE  
UNITED NATIONS FRAMEWORK CONVENTION ON CLIMATE CHANGE

CONVENTION ON BIOLOGICAL DIVERSITY	CONVENTION ON CLIMATE CHANGE
Adopted at the third meeting of the Conference of the Parties by Decision III/8	Adopted at the second session of the Conference of the Parties by Decision 12/CP.2
	This Memorandum of Understanding is concluded between the Conference of the Parties (hereinafter referred to as "the COP") to the United Nations Framework Convention on Climate Change (hereinafter referred to as "the Convention") and the Council of the Global Environment Facility (hereinafter referred to as the "Council of the GEF"), the international entity entrusted on an interim basis with the operation of the financial mechanism referred to in Article 11 of the Convention.
<p>Preamble</p> <p>The Conference of the Parties to the Convention on Biological Diversity (hereinafter the Conference of the Parties) and the Council of the Global Environment Facility (hereinafter the Council),</p> <p>Recognizing the characteristics of the financial mechanism for the provision of financial resources for the purposes of the Convention on Biological Diversity (hereinafter the Convention) outlined in Article 21, paragraph 1, of the Convention, and the provisions of Article 21, paragraph 2, of the Convention, which call upon the Conference of the Parties to decide on the arrangements to give effect to Article 21, paragraph 1, after consultation with the institutional structure entrusted with the operation of the financial mechanism,</p> <p>Recognizing further the willingness of the Global Environment Facility (hereinafter GEF) to serve for the purposes of the financial mechanism for the implementation of the Convention,</p> <p>Recognizing that the financial mechanism shall function under the authority and guidance of and be accountable to the Conference of the Parties for the purposes of the Convention and that GEF as decided by the Conference of the Parties will operate the financial mechanism of the Convention on an interim basis in accordance with Article 39 of the Convention,</p> <p>Having consulted with each other and taking into account the relevant aspects of their governance structures as reflected in their constituent instruments,</p> <p>Have reached the following understanding:</p>	<p><i>The Parties to this Memorandum of Understanding,</i></p> <p><i>Recalling</i> Article 11 of the Convention and recognizing that the financial mechanism is to provide financial resources on a grant and concessional basis, including for the transfer of technology, and is to function under the guidance of and be accountable to the COP, which shall decide on its policies, programme priorities and eligibility criteria related to the Convention,</p> <p><i>Recalling</i> Article 11.1 which states that the operation of the financial mechanism shall be entrusted to one or more existing international entities,</p> <p><i>Recalling</i> also the decision of the first session of the COP on the maintenance of the interim arrangements referred to in Article 21.3 that the restructured GEF shall continue, on an interim basis, to be the international entity entrusted with the operation of the financial mechanism, referred to in Article 11,</p> <p><i>Recalling further</i> the willingness of the GEF to serve for the purposes of the financial mechanism of the Convention as provided in paragraph 6 of the Instrument for the Establishment of the Restructured Global Environment Facility (hereinafter referred to as "the Instrument"),</p> <p><i>Recalling</i> that, in accordance with Article 11.3, the COP and the entity or entities entrusted with the operation of the financial mechanism shall agree upon arrangements to give effect to Article 11.1 and 11.2,</p> <p><i>Recalling further</i> that, in accordance with paragraph 27 of the Instrument, the Council of the GEF is to consider and approve cooperative arrangements with the COP,</p> <p>Have agreed as follows:</p>

CONVENTION ON BIOLOGICAL DIVERSITY	CONVENTION ON CLIMATE CHANGE
<p>1. Purpose</p> <p>1.1 The purpose of the present Memorandum of Understanding is to make provision for the relationship between the Conference of the Parties and the Council in order to give effect to the provisions of Article 21, paragraph 1, of the Convention and paragraph 26 of the GEF Instrument and, on an interim basis, in accordance with Article 39 of the Convention.</p>	<p><u>Purpose of arrangements</u></p> <p>1. The purpose of this Memorandum is to give effect to the respective roles and responsibilities of the COP, the supreme body of the Convention, and the GEF, the international entity entrusted with the operation of the financial mechanism and to provide for the required interaction between them under Article 11 of the Convention and paragraphs 26 and 27 of the Instrument.</p>
<p>2. Guidance from the Conference of the Parties</p> <p>2.1 In accordance with Article 21 of the Convention the Conference of the Parties will determine the policy, strategy, programme priorities and eligibility criteria for access to and utilization of financial resources available through the financial mechanism, including monitoring and evaluation on a regular basis of such utilization. GEF, in operating the financial mechanism under the Convention, will finance activities that are in full conformity with the guidance provided to it by the Conference of the Parties. For this purpose, the Conference of the Parties will communicate its guidance, and any revisions to such guidance as it may adopt, on the following matters:</p> <ul style="list-style-type: none"> <li>(a) Policy and strategy;</li> <li>(b) Programme priorities;</li> <li>(c) Eligibility criteria;</li> <li>(d) An indicative list of incremental costs;</li> <li>(e) A list of developed country Parties and other Parties which voluntarily assume the obligations of developed country Parties;</li> <li>(f) Any other matter relating to Article 21, including periodic determination of the amount of resources needed as detailed in paragraph 5 of this Memorandum.</li> </ul> <p>2.2 The Council will communicate to the Conference of the Parties all relevant information, including information on the projects in the area of biological diversity funded by GEF outside the framework of the financial mechanism of the Convention.</p>	<p><u>Determination and communication of guidance from the COP</u></p> <p>2. The COP will, pursuant to Article 11.1, decide on policies, programme priorities and eligibility criteria related to the Convention for the financial mechanism which shall function under the guidance of and be accountable to the COP.</p> <p>3. The COP will, after each of its sessions, communicate to the Council of the GEF any policy guidance approved by the COP concerning the financial mechanism.</p> <p><u>Conformity with COP guidance</u></p> <p>4. The Council will ensure the effective operation of the GEF as a source of funding activities for the purposes of the Convention in conformity with the guidance of the COP. It will report regularly to the COP on its activities related to the Convention and on the conformity of those activities with the guidance received from the COP.</p>
<p><i>See paragraph 4 on Monitoring and Evaluation (below)</i></p>	<p><u>Reconsideration of funding decisions</u></p> <p>5. The funding decisions for specific projects should be agreed between the developing country Party concerned and the GEF in conformity with policy guidance from the COP. The Council of the GEF is responsible for approving the GEF work programmes. If any Party considers that a decision of the Council regarding a specific project in a proposed work programme does not comply with the policies, programme priorities and eligibility criteria established by the COP in the context of the Convention, the COP should analyse the observations presented to it by the Party and take decisions on the basis of compliance with such policies, programme priorities and eligibility criteria. In the event that the COP considers that this specific project decision does not comply with the policies, programme priorities and eligibility criteria established by the COP, it may ask the Council of the GEF for further clarification on the specific project decision and in due time may ask for a reconsideration of that decision.</p>

CONVENTION ON BIOLOGICAL DIVERSITY	CONVENTION ON CLIMATE CHANGE
<p><u>3. Reporting</u></p> <p>3.1 The Council will prepare and submit a report for each ordinary meeting of the Conference of the Parties.</p> <p>3.2 The reports will include specific information on how the GEF Council, its Secretariat and its Implementing and Executing Agencies have applied the guidance and implemented the policy, strategies, programme priorities and eligibility criteria determined by the Conference of the Parties, as well as any other decision of the Conference of the Parties communicated to GEF, under Article 21 of the Convention. The Council should also report on its monitoring and evaluation activities concerning projects in the biodiversity focal area.</p> <p>3.3. In particular, the reports will provide detailed information on the GEF biodiversity focal area, including:</p> <ul style="list-style-type: none"> <li>(a) Information on how GEF has responded to the guidance provided by the Conference of the Parties as described by paragraph 2, including, where appropriate, through its incorporation in the GEF operational strategy and operational programmes;</li> <li>(b) The conformity of the approved work programmes with guidance of the Conference of the Parties;</li> <li>(c) A synthesis of the different projects under implementation and a listing of the projects approved by the Council in the biodiversity focal area, as well as a financial report with an indication of the financial resources allocated to these projects;</li> <li>(d) A list of project proposals submitted for approval to the Council, through the GEF Implementing Agencies, by eligible Parties, including reporting on their approval status and, in cases of projects not approved, the reasons therefore;</li> <li>(e) A review of the project activities approved by GEF and their outcomes, including information on funding and progress in implementation; and</li> <li>(f) Additional financial resources leveraged by GEF for the implementation of the Convention.</li> </ul> <p>3.4 In order to meet the requirements of accountability to the Conference of the Parties, reports submitted by the Council will cover all GEF financed activities carried out for the purpose of the Convention, whether decisions on such activities are made by the Council or by the GEF Implementing and/or Executing Agencies. To this end, the Council will make arrangements as might be necessary with the Implementing Agencies regarding disclosure of information.</p> <p>3.5 The Council will also provide information on other matters concerning the discharge of its functions under Article 21, paragraph 1, as may be requested by the Conference of the Parties. If the Council has difficulties in responding to any such request, it will explain its concerns to the Conference of the Parties and the Conference of the Parties and the Council will find a mutually agreed solution.</p>	<p><u>Reports from the GEF to the COP</u></p> <p>6. Annual reports of the GEF will be made available to the COP through its secretariat. Other official public documentation of the GEF will also be made available to the COP through its secretariat. In order to meet the requirement of its accountability to the COP, the Annual Report of the GEF will cover all GEF-financed activities carried out in implementing the Convention, whether such activities are carried out by the GEF Implementing Agencies, the GEF Secretariat or by executing agencies implementing GEF-financed projects. To this end, the Council of the GEF will require all such bodies, with respect to GEF-financed activities, to comply with GEF policy on disclosure of information.</p> <p>7. In its reporting on GEF-financed activities under the financial mechanism, the GEF should include specific information on how it has applied the guidance and decisions of the COP in its work related to the Convention. This report should be of a substantive nature and incorporate the programme of GEF activities in the areas covered by the Convention and an analysis of how the GEF, in its operations related to the Convention, has implemented the policies, programme priorities and eligibility criteria established by the COP. In particular, a synthesis of the different projects under implementation and a listing of the projects approved by the Council in the climate change focal area as well as a financial report with an indication of the financial resources required for those projects should be included. The Council should also report on its monitoring and evaluation activities concerning projects in the climate change focal area.</p> <p>8. The Council of the GEF may seek guidance from the COP on any matter it considers relevant to the operation of the financial mechanism of the Convention.</p>
<p><u>4. Monitoring and evaluation</u></p> <p>4.1 The Conference of the Parties may raise with the Council any matter arising from the reports received.</p>	<p><i>See paragraph 12 below</i></p>

CONVENTION ON BIOLOGICAL DIVERSITY	CONVENTION ON CLIMATE CHANGE
<p>4.2 The funding decisions for specific projects should be agreed between the developing country Party concerned and GEF in accordance with policy, strategy, programme priorities and eligibility criteria established by the Conference of the Parties. The GEF Council is responsible for approving the GEF work programmes. If a Party considers that a decision of the Council regarding a specific project was not made in compliance with the policies, programme priorities and eligibility criteria established by the Conference of the Parties in the context of the Convention, the Conference of the Parties should analyse the observations presented to it by the Party and take decisions on the basis of compliance with such policy, strategy, programme priorities and eligibility criteria. In the event that the Conference of the Parties considers that this specific project decision does not comply with the policy, strategy, programme priorities and eligibility criteria established by the Conference of the Parties, it may ask the GEF Council for further clarification on the specific project decision.</p> <p>4.3 As provided for in Article 21, paragraph 3, of the Convention, the Conference of the Parties will periodically review the effectiveness of the financial mechanism in implementing the Convention and communicate to the Council relevant decisions taken by the Conference of the Parties as the result of such review, to improve the effectiveness of the financial mechanism in assisting developing country Parties to implement the Convention.</p>	
<p><u>5. Determination of funding requirements</u></p> <p>5.1 In anticipation of the replenishment of GEF, the Conference of the Parties will make an assessment of the amount of funds that are necessary to assist developing countries, in accordance with the guidance provided by the Conference of the Parties, in fulfilling their commitments under the Convention over the next GEF replenishment cycle, taking into account:</p> <ul style="list-style-type: none"> <li>(a) Article 20, paragraph 2, and Article 21, paragraph 1, of the Convention;</li> <li>(b) Guidance to the financial mechanism from the Conference of the Parties which calls for future financial resources;</li> <li>(c) The information communicated to the Conference of the Parties in the national reports submitted in accordance with Article 26 of the Convention;</li> <li>(d) National strategies, plans or programs developed in accordance with Article 6 of the Convention;</li> <li>(e) Information communicated to the Conference of the Parties from GEF on the number of eligible programmes and projects that were submitted to GEF, the number that were approved for funding, and the number that were turned down owing to lack of resources;</li> <li>(f) Experience gained by those concerned in the implementation of projects.</li> </ul> <p>5.2 On the occasion of each replenishment, GEF will, in its regular report to the Conference of the Parties as provided for in paragraph 3 of this Memorandum of Understanding, indicate how it has responded during the replenishment cycle to the previous assessment by the Conference of the Parties provided in accordance with paragraph 5.1 and</p>	<p><u>Determination of funding necessary and available</u></p> <p>9. In accordance with Article 11.3(d) of the Convention, which calls for arrangements to determine in a predictable and identifiable manner the amount of funding necessary and available for the implementation of the Convention and the conditions under which that amount shall be periodically reviewed, the COP and the Council shall jointly determine the aggregate GEF funding requirements for the purpose of the Convention. Procedures to facilitate such a joint determination will be developed by the COP and the Council and annexed to this Memorandum.</p>

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<p>inform the Conference of the Parties of the conclusion of replenishment negotiations.</p> <p>5.3 On the basis of the report referred to in paragraph 5.2 of this Memorandum of Understanding the Conference of the Parties will review the amount of funding necessary for the implementation of the Convention, on the occasion of each replenishment of the financial mechanism.</p>	
<p><u>7. Inter-secretariat cooperation</u></p> <p>The Secretariat of the Convention and the Secretariat of GEF will communicate and cooperate with each other and consult on a regular basis to facilitate the effectiveness of the financial mechanism in assisting developing country Parties to implement the Convention. In particular, the two secretariats will consult on the project proposals under consideration for inclusion in a proposed work programme, especially with regard to the consistency of the project proposals with the guidance of the Conference of the Parties. Official documentation of GEF will be made available to the Secretariat of the Convention</p>	<p><u>Cooperation between secretariats</u></p> <p>10. The secretariats of the Convention and of the GEF shall cooperate and exchange on a regular basis views and experiences necessary to facilitate the effectiveness of the financial mechanism in assisting Parties to implement the Convention.</p>
<p><u>6. Reciprocal representation</u></p> <p>On a reciprocal basis, representatives of GEF will be invited to attend meetings of the Conference of the Parties and representatives of the Convention will be invited to attend meetings of GEF.</p>	<p><u>Representation in meetings of governing bodies</u></p> <p>11. The participation of representatives of the Council of the GEF in meetings of the COP and of its subsidiary bodies will be governed by the rules of procedure of the COP. Likewise, the participation of representatives of the Convention in meetings of the Council of the GEF will be determined in accordance with the rules of procedure of the Council of the GEF. In formulating and applying its rules, each organization will make every effort to accord the other organization reciprocal representation privileges.</p>
<p>(See paragraph 4.3 above)</p>	<p><u>Review and evaluation of the financial mechanism</u></p> <p>12. The COP will periodically review and evaluate the effectiveness of all modalities established in accordance with Article 11.3. Such evaluations will be taken into account by the COP in its decision, pursuant to Article 11.4, on arrangements for the financial mechanism.</p>
<p><u>8. Amendments</u></p> <p>Any amendments to the present Memorandum of Understanding will be decided upon by the Conference of the Parties and the Council in writing.</p>	<p><u>Modification of the Memorandum of Understanding</u></p> <p>13. This Memorandum of Understanding may only be modified in writing by agreement between the COP and the Council of the GEF.</p>
<p><u>9. Interpretation</u></p> <p>If differences arise in the interpretation of the present Memorandum of Understanding, the Conference of the Parties and the Council will reach a mutually acceptable solution.</p>	
<p><u>10. Entry into effect</u></p> <p>10.1 The present Memorandum of Understanding will come into effect upon approval by the Conference of the Parties and by the Council. Either participant may withdraw this Memorandum of Understanding at any time by written notification addressed to the other. The withdrawal will take effect six months after its notification.</p>	<p><u>Entry into effect</u></p> <p>14. This Memorandum of Understanding shall come into force upon its approval by the COP of the Convention and the Council of the GEF.</p>

CONVENTION ON BIOLOGICAL DIVERSITY	CONVENTION ON CLIMATE CHANGE
<p>10.2 The withdrawal of this Memorandum of Understanding by either Party to this Memorandum of Understanding shall not affect any projects considered and/or approved in accordance with the Memorandum of Understanding prior to the withdrawal.</p>	<p><u>Termination</u></p> <p>15. This Memorandum of Understanding may be terminated by either Party giving six months' notice in writing to the other.</p>



Annex IICOMMENTS RECEIVED FROM THE SECRETARIAT OF  
THE CONVENTION ON BIOLOGICAL DIVERSITY

14 March 2003

Dear Mr. Willis,

I refer to your letter of 7 February 2003 requesting “the lessons learned and experience gained from the use of a Memorandum of Understanding between the Global Environment Facility and the Convention on Biological Diversity as well as from the provision of guidance given to the Global Environment Facility (GEF) by the Conference of the Parties to the Convention on Biological Diversity”.

In response, I have the pleasure to convey to you some general considerations further below, and attach two annexes:

- a. Lessons learned and experience gained from the use of a Memorandum of Understanding between the Conference of the Parties to the Convention on Biological Diversity and the Council of the Global Environment Facility: this document, presented as a table, singles out specific provisions in the Memorandum of Understanding and comments them in detail;
- b. A Draft Handbook on the Financial Mechanism under the Convention on Biological Diversity: this document compiles all relevant provisions of the Convention and its Protocol, relevant decisions from the Conference of the Parties and the instrument and decisions from the Global Environment Facility concerning the relations with the Convention on Biological Diversity.

*General considerations*

The Memorandum of Understanding between the Conference of the Parties to the Convention on Biological Diversity and the Council of the Global Environment Facility was adopted at the third meeting of the Conference of the Parties. It contains preamble, purpose, guidance from the Conference of the Parties, reporting, monitoring and evaluation, determination of funding requirements, reciprocal representation, inter-secretariat cooperation, amendments, interpretation, entry into effect. Lessons learned and experience gained from the use of this Memorandum of Understanding is provided paragraph by paragraph in the annex to the present letter.

With respect to the lesson learned and experience gained from the provision of guidance given to the Global Environment Facility by the Conference of the Parties to the Convention on Biological Diversity, diverse perspectives have come out of the various review processes of the Convention. The general conclusions are reflected in the following decisions from the Conference of the Parties:

Firstly, “Decides that, while the Subsidiary Body on Scientific, Technical and Technological Advice should consider the financial implications of its proposals, its recommendations will only include advice to the Conference of the Parties regarding financial matters, including guidance to the financial mechanism, when the Conference of the Parties has so requested” [decision IV/16, paragraph 13]

Secondly, “Requests the Executive Secretary to advise the Parties on matters relating to recommendations for further guidance to the financial mechanism with respect to:

- (a) The relationship of any draft guidance to previous guidance; and
- (b) Any possible effects of that draft guidance on the implementation of previous guidance from the Conference of the Parties” [decision IV/11, paragraph 4]

Thirdly, “Decides that guidance to the financial mechanism should be incorporated into a single decision, including the identification of priority issues which will provide support for cross-cutting issues and capacity-building, especially for developing countries, in a manner that: (a) Is transparent; (b) Allows participation; and (c) Allows full consideration of its other decisions” [decision V/20, paragraph 8]

Fourthly, “Requests the Global Environment Facility, in consultation with the Executive Secretary of the Convention, to initiate a dialogue to more effectively implement the guidance to the financial mechanism, drawing from the experiences and lessons learned from projects and programmes funded by the Global Environment Facility, and explore opportunities for streamlining the guidance” [decision VI/17, paragraph 7].

I hope you will find the foregoing information useful. For further and more detailed considerations, please refer to the annexes mentioned at the beginning of this letter.

Yours sincerely,

[signed]

Arthur Nogueira  
Principal Officer  
Implementation and Outreach

Enclosure

**Annex: Lessons Learned and Experience Gained from the Use of a Memorandum of Understanding  
Between the Conference of the Parties to the Convention on Biological Diversity  
and the Council of the Global Environment Facility**

Provisions	Experience and lessons learned
<p>Preamble</p> <p>The Conference of the Parties to the Convention on Biological Diversity (hereinafter the Conference of the Parties) and the Council of the Global Environment Facility (hereinafter the Council),</p> <p>Recognizing the characteristics of the financial mechanism for the provision of financial resources for the purposes of the Convention on Biological Diversity (hereinafter the Convention) outlined in Article 21, paragraph 1, of the Convention, and the provisions of Article 21, paragraph 2, of the Convention, which call upon the Conference of the Parties to decide on the arrangements to give effect to Article 21, paragraph 1, after consultation with the institutional structure entrusted with the operation of the financial mechanism,</p> <p>Recognizing further the willingness of the Global Environment Facility (hereinafter GEF) to serve for the purposes of the financial mechanism for the implementation of the Convention,</p> <p>Recognizing that the financial mechanism shall function under the authority and guidance of and be accountable to the Conference of the Parties for the purposes of the Convention and that GEF as decided by the Conference of the Parties will operate the financial mechanism of the Convention on an interim basis in accordance with Article 39 of the Convention,</p> <p>Having consulted with each other and taking into account the relevant aspects of their governance structures as reflected in their constituent instruments,</p> <p>Have reached the following understanding:</p> <p>1. Purpose</p> <p>1.1 The purpose of the present Memorandum of Understanding is to make provision for the relationship between the Conference of the Parties and the Council in order to give effect to the provisions of Article 21, paragraph 1, of the Convention and paragraph 26 of the GEF Instrument and, on an interim basis, in accordance with Article 39 of the Convention.</p>	<p>Parties have expressed different views on the phrase “on an interim basis, in accordance with Article 39 of the Convention”, and have not reached an agreement on its removal. This does not, however, seem to have resulted significant operational inconveniences.</p>
<p>“2. Guidance from the Conference of the Parties</p> <p>2.1 In accordance with Article 21 of the Convention the Conference of the Parties will determine the policy, strategy, programme priorities and eligibility criteria for access to and utilization of financial resources available through the financial mechanism, including monitoring and evaluation on a regular basis of such utilization. GEF, in operating the financial mechanism under the Convention, will finance activities that are in full conformity with the guidance provided to it by the Conference of the Parties. For this purpose, the Conference of the Parties will communicate its guidance, and any revisions to such guidance as it may adopt, on the following matters:</p> <p>(a) Policy and strategy;</p> <p>(b) Programme priorities;</p> <p>(c) Eligibility criteria;</p> <p>(d) An indicative list of incremental costs;</p> <p>(e) A list of developed country Parties and other Parties which voluntarily assume the obligations of developed country Parties;</p> <p>(f) Any other matter relating to Article 21, including periodic determination of the amount of resources needed as detailed in paragraph 5 of this Memorandum.</p> <p>2.2 The Council will communicate to the Conference of the Parties all relevant information, including information on the projects in the area of biological diversity funded by GEF outside the framework of the financial mechanism of the Convention.”</p>	<p>In this connection, the Conference of the Parties at its first meeting adopted the policy, strategy, programme priorities and eligibility criteria for access to and utilization of financial resources as well as a list of developed country Parties and other Parties which voluntarily assume the obligations of developed country Parties, which are contained in decision I/2. The Conference of the Parties further adopted additional guidance to the financial mechanism at its subsequent meetings, including decisions II/6, III/5, IV/13, V/13 and VI/17. Nevertheless, the Conference of the Parties has not developed an indicative list of incremental costs, nor to consider periodic determination of the amount of resources needed. In accordance with the eligibility criteria, only the developing countries Parties are eligible for funding from the financial mechanism. It seems to be operationally desirable that a list of developing country Parties can be established.</p>
<p>“3. Reporting</p> <p>3.1 The Council will prepare and submit a report for each ordinary meeting of the Conference of the Parties.</p> <p>3.2 The reports will include specific information on how the GEF Council, its Secretariat and its Implementing and Executing Agencies have applied the guidance and implemented the policy, strategies, programme priorities and eligibility criteria determined by the Conference of the Parties, as well as any other decision of the Conference of the Parties communicated to GEF, under</p>	<p>In response to the provisions of this paragraph, the Council of the Global Environment Facility has submitted a report to each ordinary meeting of the Conference of the Parties. Its reporting format has differed from meetings to meetings. The GEF project information is now widely available on the website of the GEF Secretariat. It seems to be</p>

Provisions	Experience and lessons learned
<p>Article 21 of the Convention. The Council should also report on its monitoring and evaluation activities concerning projects in the biodiversity focal area.</p> <p>3.3. In particular, the reports will provide detailed information on the GEF biodiversity focal area, including:</p> <p>(a) Information on how GEF has responded to the guidance provided by the Conference of the Parties as described by paragraph 2, including, where appropriate, through its incorporation in the GEF operational strategy and operational programmes;</p> <p>(b) The conformity of the approved work programmes with guidance of the Conference of the Parties;</p> <p>(c) A synthesis of the different projects under implementation and a listing of the projects approved by the Council in the biodiversity focal area, as well as a financial report with an indication of the financial resources allocated to these projects;</p> <p>(d) A list of project proposals submitted for approval to the Council, through the GEF Implementing Agencies, by eligible Parties, including reporting on their approval status and, in cases of projects not approved, the reasons therefore;</p> <p>(e) A review of the project activities approved by GEF and their outcomes, including information on funding and progress in implementation; and</p> <p>(f) Additional financial resources leveraged by GEF for the implementation of the Convention.</p> <p>3.4 In order to meet the requirements of accountability to the Conference of the Parties, reports submitted by the Council will cover all GEF-financed activities carried out for the purpose of the Convention, whether decisions on such activities are made by the Council or by the GEF Implementing and/or Executing Agencies. To this end, the Council will make arrangements as might be necessary with the Implementing Agencies regarding disclosure of information.</p> <p>3.5 The Council will also provide information on other matters concerning the discharge of its functions under Article 21, paragraph 1, as may be requested by the Conference of the Parties. If the Council has difficulties in responding to any such request, it will explain its concerns to the Conference of the Parties and the Conference of the Parties and the Council will find a mutually agreed solution.”</p>	<p>more useful if the GEF report could be made more focused on issues of key interests to Parties and issues of particular relevance to issues under consideration of the Conference of the Parties. A process to examine these reports would be also very useful for informed decision-making of the Conference of the Parties.</p>
<p>“4. Monitoring and evaluation</p> <p>4.1 The Conference of the Parties may raise with the Council any matter arising from the reports received.</p> <p>4.2 The funding decisions for specific projects should be agreed between the developing country Party concerned and GEF in accordance with policy, strategy, programme priorities and eligibility criteria established by the Conference of the Parties. The GEF Council is responsible for approving the GEF work programmes. If a Party considers that a decision of the Council regarding a specific project was not made in compliance with the policies, programme priorities and eligibility criteria established by the Conference of the Parties in the context of the Convention, the Conference of the Parties should analyse the observations presented to it by the Party and take decisions on the basis of compliance with such policy, strategy, programme priorities and eligibility criteria. In the event that the Conference of the Parties considers that this specific project decision does not comply with the policy, strategy, programme priorities and eligibility criteria established by the Conference of the Parties, it may ask the GEF Council for further clarification on the specific project decision.</p> <p>4.3 As provided for in Article 21, paragraph 3, of the Convention, the Conference of the Parties will periodically review the effectiveness of the financial mechanism in implementing the Convention and communicate to the Council relevant decisions taken by the Conference of the Parties as the result of such review, to improve the effectiveness of the financial mechanism in assisting developing country Parties to implement the Convention.”</p>	<p>As regards the review of the effectiveness of the financial mechanism, the Conference of the Parties by decision II/6 decided to conduct the first review at its fourth meeting and a review every three years. At its fourth meeting, the Conference of the Parties determined to further improve the effectiveness of the financial mechanism, and requested the Council of the Global Environment Facility to take the action identified in the annex to decision IV/11. The Conference of the Parties conducted the second review of the effectiveness of the financial mechanism and adopted several measures to improve the effectiveness of the financial mechanism as contained in decision VI/17. The sixth meeting of the Conference of the Parties also requested the Executive Secretary and the Global Environment Facility to explore possible synergies between the review processes of the Convention and the Global Environment Facility, and make suggestions on the arrangements for the third review of the effectiveness of the financial mechanism.</p>
<p>“5. Determination of funding requirements</p> <p>5.1 In anticipation of the replenishment of GEF, the Conference of the Parties will make an assessment of the amount of funds that are necessary to assist developing countries, in accordance with the guidance provided by the</p>	<p>In this connection, the Conference of the Parties by decision IV/11 welcomed the second replenishment of the Global Environment Facility Trust Fund in the amount of US\$2.75 billion for</p>

Provisions	Experience and lessons learned
<p>Conference of the Parties, in fulfilling their commitments under the Convention over the next GEF replenishment cycle, taking into account:</p> <p>(a) Article 20, paragraph 2, and Article 21, paragraph 1, of the Convention;</p> <p>(b) Guidance to the financial mechanism from the Conference of the Parties which calls for future financial resources;</p> <p>(c) The information communicated to the Conference of the Parties in the national reports submitted in accordance with Article 26 of the Convention;</p> <p>(d) National strategies, plans or programs developed in accordance with Article 6 of the Convention;</p> <p>(e) Information communicated to the Conference of the Parties from GEF on the number of eligible programmes and projects that were submitted to GEF, the number that were approved for funding, and the number that were turned down owing to lack of resources;</p> <p>(f) Experience gained by those concerned in the implementation of projects.</p> <p>5.2 On the occasion of each replenishment, GEF will, in its regular report to the Conference of the Parties as provided for in paragraph 3 of this Memorandum of Understanding, indicate how it has responded during the replenishment cycle to the previous assessment by the Conference of the Parties prepared in accordance with paragraph 5.1 and inform the Conference of the Parties of the conclusion of replenishment negotiations.</p> <p>5.3 On the basis of the report referred to in paragraph 5.2 of this Memorandum of Understanding the Conference of the Parties will review the amount of funding necessary for the implementation of the Convention, on the occasion of each replenishment of the financial mechanism.”</p>	<p>its four focal areas. At its sixth meeting, the Conference of the Parties urged donor countries to substantially replenish the Global Environment Facility to levels higher than the current for supporting developing countries, in particular the least developed and the small island developing States, and countries with economies in transition, to implement the Convention on Biological Diversity. However, the Conference of the Parties has not undertaken any assessment of the amount of funds that are necessary to assist developing countries in fulfilling their commitments under the Convention over the next GEF replenishment cycle.</p>
<p>“6. <u>Reciprocal representation</u> On a reciprocal basis, representatives of GEF will be invited to attend meetings of the Conference of the Parties and representatives of the Convention will be invited to attend meetings of GEF.”</p>	<p>In accordance with this paragraph, the Executive Secretary of the Convention on Biological Diversity or his representative has attended and made a statement to the meetings of the Council of the GEF. The representatives of GEF have attended most meetings convened by the Secretariat of the Convention, in particular, the sessions of the Conference of the Parties and its subsidiary bodies. The Chief Executive Officer/Chairman of the GEF or his representative has made a statement to each ordinary meeting of the Conference of the Parties.</p>
<p>“7. <u>Inter-secretariat cooperation</u> The Secretariat of the Convention and the Secretariat of GEF will communicate and cooperate with each other and consult on a regular basis to facilitate the effectiveness of the financial mechanism in assisting developing country Parties to implement the Convention. In particular, the two secretariats will consult on the project proposals under consideration for inclusion in a proposed work programme, especially with regard to the consistency of the project proposals with the guidance of the Conference of the Parties. Official documentation of GEF will be made available to the Secretariat of the Convention on Biological Diversity.”</p>	<p>With respect to the provisions of this paragraph, the relevant staff members of the Convention and the GEF secretariats have been working together constantly to exchange information/views on matters of mutual interest. The Secretariat of the Convention has consulted the Secretariat of GEF on all documents that have bearing on the GEF, and provided comments regularly on GEF’s biodiversity project proposals, work programmes, and biodiversity-related draft policy documents as well as other draft documents for the GEF Council.</p>
<p>“8. Amendments Any amendments to the present Memorandum of Understanding will be decided upon by the Conference of the Parties and the Council in writing.”</p>	<p>None</p>
<p>“9. Interpretation If differences arise in the interpretation of the present Memorandum of Understanding, the Conference of the Parties and the Council will reach a mutually acceptable solution.”</p>	<p>None</p>
<p>“10. Entry into effect 10.1 The present Memorandum of Understanding will come into effect upon approval by the Conference of the Parties and by the Council. Either participant may withdraw this Memorandum of Understanding at any time by written notification addressed to the other. The withdrawal will take effect six months after its notification.</p>	<p>None</p>

<b>Provisions</b>	<b>Experience and lessons learned</b>
10.2 The withdrawal of this Memorandum of Understanding by either Party to this Memorandum of Understanding shall not affect any projects considered and/or approved in accordance with the Memorandum of Understanding prior to the withdrawal.”	

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