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International environmental policy and governance issues

**Programme of work and budget and other administrative and
budgetary issues**

Amendments to the Instrument for the Establishment of the Restructured Global Environment Facility

Report of the Executive Director

I. Introduction

1. Upon the recommendation of the Global Environment Facility (GEF) Council at its sixty-third and sixty-fourth meetings, the Seventh GEF Assembly, in August 2023, approved amendments to the Instrument for the Establishment of the Restructured Global Environment Facility, such that:

(a) The Council's co-chairing arrangements are changed, so that each Co-Chair is elected for a full year and therefore co-chairs two successive Council meetings;

(b) The Instrument includes some additional technical updates in line with international developments and Council decisions in the past years;

(c) GEF will serve as part of the financial mechanism of the Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction.

2. The amendments approved by the Seventh Assembly will become effective once they have been adopted by the governing bodies of GEF implementing agencies (the United Nations Development Programme, the United Nations Environment Programme (UNEP) and the World Bank) and the Trustee of the GEF trust fund. The United Nations Environment Assembly may therefore wish to consider the information contained in the present report and adopt the approved amendments to the Instrument.

II. Background

3. The GEF Assembly consists of representatives of all GEF member countries (also referred to as "participants"). Pursuant to paragraph 35 of the Instrument (in its current version), amendments to the Instrument may be approved by consensus by the GEF Assembly upon recommendation of the GEF Council, after taking into account the views of the GEF implementing agencies (UNEP, the United Nations Development Programme and the World Bank) and the Trustee of the GEF trust fund,

* UNEP/EA.6/1.

and become effective after adoption by the implementing agencies and the Trustee in accordance with their respective rules and procedural requirements.

4. Annexes VII and VIII to the information document entitled “Information supplementary to the report of the Executive Director on amendments to the Instrument for the Establishment of the Restructured Global Environment Facility”² contain the background document submitted to the Seventh GEF Assembly, held in Vancouver, Canada, from 22 to 26 August 2023, to support consideration of the above-mentioned amendments to the Instrument, as well as the official record of the Assembly decision adopting the amendments. Annex I contains a letter from Carlos Manuel Rodriguez, Chief Executive Officer and Chairperson of GEF, dated 19 October 2023 and addressed to the Executive Director of UNEP, explaining that the Seventh GEF Assembly, in August 2023, approved amendments to the Instrument and invited the GEF Chief Executive Officer and Chairperson to request the implementing agencies and Trustee to adopt the amendments in accordance with their respective rules and procedures.

5. The amendments were discussed in GEF Council meetings prior to their approval by the Seventh GEF Assembly. Annexes II to VI to the aforementioned information document contain the background documents and Council decisions pertaining to those discussions.

III. Amendments

Amendment 1

The Global Environment Facility Council’s Co-Chairs shall be elected for a full year and therefore act as co-chairs for two successive Council meetings

6. In its decision 22/2020, the GEF Council, upon the recommendation of the ad hoc Working Group on Governance to follow up on the findings of the sixth comprehensive evaluation of GEF, decided to pilot for one year an adjusted co-chairing arrangement and to appoint the elected Chairperson from among its members for the duration of one year instead of just one meeting. By decision 37/2021, the Council decided to continue the pilot for 2022. The Council recommended to the Assembly the updated text of the Instrument, including an amendment of paragraph 18 to change the co-chairing arrangements so that each Co-Chair is elected for a full year and therefore co-chairs two successive Council meetings. The Seventh GEF Assembly, having considered the recommendations of the GEF Council for proposed amendments to the Instrument in its decision 37/2022, approved by consensus the amended text of the Instrument.

7. This amendment to the Instrument responds to the declared aims, notably the facilitation of stronger involvement of the elected Chairperson in providing input into meeting agendas, chairing and reports.

8. The Executive Director welcomes the decision by the Assembly and the resulting amendment to the Instrument, which consists of an entirely revised paragraph 18 of the Instrument.

Amendment 2

Additional technical updates in line with international developments and Global Environment Facility Council decisions in the past years

9. As part of its work, the Working Group on Governance also screened the current version of the GEF Council rules of procedure and the Instrument and suggested some technical updates to the Instrument, in line with international developments and past GEF Council decisions. In addition, the Group recommended revising additional terms and practices described in the rules of procedures to bring them in line with current Council decisions and practice. Thus, the amended text of the instrument approved by the Seventh GEF Assembly includes certain technical updates.

10. Amendment 2 essentially concerns the following:

(a) Paragraph 3 of the Instrument accounts for the fact that Agenda 21 has been superseded by the 2030 Agenda for Sustainable Development. The amended text deletes references to the former and includes the latter.

(b) In paragraph 13, the frequency of meetings of the GEF Assembly has been updated to reflect the fact that the Assembly meets every four years.

(c) Paragraph 20 (j) expands the GEF Council responsibilities to include the duty of appointing the Director of the Independent Evaluation Office, overseeing the work of the Independent Evaluation Office and assigning specific tasks to the Independent Evaluation Office.

(d) Paragraphs 20 (c), (d) and (k) incorporate the concept that the GEF Council exercises the responsibilities described therein, in respect of the 15 Council accredited agencies that have been given operational duties equivalent to those of the three implementing agencies.

(e) Paragraph 20 (l) deletes reference to the United Nations Commission on Sustainable Development, which no longer exists. It also mentions that the GEF Council approves reports, in general, to cover all the reports that require Council approval.

(f) Paragraphs 21 (c), (d) and (e) incorporate the concept of “GEF Council accredited agencies”, to reflect the fact that those agencies have been given operational duties equivalent to those of the three implementing agencies.

(g) Paragraph 21 (i) has been deleted, as the concept of the Independent Evaluation Office is now reflected in paragraph 22.

(h) Paragraph 29 includes the concept of GEF Council accredited agencies to reflect the fact that these agencies have been given operational duties equivalent to those of the three Implementing Agencies.

(i) Paragraph 32 has been amended to reflect the reports currently prepared by GEF and approved by the Council.

(j) In general, the incorporation of the concept of “GEF Council accredited agencies” in no way alters or affects the special institutional responsibilities assigned by the Instrument to the three implementing agencies.

11. The Executive Director welcomes the decision of the GEF Assembly and the resulting amendments to the Instrument, which in her view will render the Instrument more agile and relevant and better suited to the needs of GEF.

Amendment 3

The Global Environment Facility shall serve as part of the financial mechanism of the Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction

12. At its further resumed fifth session, held on 19 and 20 June 2023, the intergovernmental conference on an international legally binding instrument under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction adopted, by consensus, the Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction. The agreement identifies GEF as part of its financial mechanism, which also includes a special fund and a voluntary trust fund.

13. Therefore, upon the recommendation of the GEF Council, the Seventh GEF Assembly approved an addition to paragraph 6 of the Instrument allowing GEF to also serve the new agreement on the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction.

14. The Executive Director considers that this addition to the Instrument responds to the invitation from the intergovernmental conference to GEF to be part of the financial mechanism of the Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction, as reflected in part VII of the agreement, on financial resources and mechanism.

15. The Executive Director welcomes the decision of the GEF Assembly and the resulting amendment to the Instrument.

IV. Suggested action by the United Nations Environment Assembly

16. The Environment Assembly may wish to consider adopting a decision along the following lines:

The United Nations Environment Assembly,

Recalling decision SS.IV/1 of 18 June 1994 on the adoption of the Instrument for the Establishment of the Restructured Global Environment Facility (hereinafter “the Instrument”),

Recalling the approval in May 2014 by the Fifth Assembly of the Global Environment Facility of a number of amendments to the Instrument to enable the Global Environment Facility to operate as one of the financial mechanisms of the Minamata Convention on Mercury, replace the “ozone layer depletion” and “persistent organic pollutants” focal areas with a “chemicals and waste” focal area, update the eligibility criteria for access to Global Environment Facility funding, and reflect the change of the name from Global Environment Facility Evaluation Office to Global Environment Facility Independent Evaluation Office,

Recalling also the approval in August 2023 by the Seventh Assembly of the Global Environment Facility of a number of amendments to the Instrument relating to the co-chairing arrangements of the Council of the Global Environment Facility, technical updates in line with international developments and Council decisions, and the Global Environment Facility being available to serve as part of the financial mechanism of the Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction,

Having taken note of the report of the Executive Director on the matter,¹

1. *Decides*, pursuant to the decision of the Seventh Assembly of the Global Environment Facility in August 2023 (agenda item 8), to adopt the updated text of the Instrument, as contained in annex VIII to the information document entitled “Information supplementary to the report of the Executive Director on amendments to the Instrument for the Establishment of the Restructured Global Environment Facility”,² which includes:

(a) An amendment to paragraph 18 of the Instrument, according to which the Council’s Co-Chairs shall be elected for a full year and therefore act as co-chairs at two successive Council meetings;

(b) Amendments to paragraphs 3, 6, 8, 9, 11, 13, 18, 20, 21, 22, 29, 30 and 32 of the Instrument, including technical updates, in line with international developments and Council decisions in past years;

(c) The addition of a new subparagraph (f) of paragraph 6 of the Instrument, allowing the Global Environment Facility to serve as part of the financial mechanism of the Agreement under the United Nations Convention on the Law of the Sea on the conservation and sustainable use of marine biological diversity of areas beyond national jurisdiction;

2. *Requests* the Executive Director to continue to consider ways of enhancing the capacity of the United Nations Environment Programme, as the principal United Nations body in the field of the environment, to strengthen its role as a Global Environment Facility implementing agency;

3. *Also requests* the Executive Director to transmit the present decision to the Chief Executive Officer and Chairperson of the Global Environment Facility.

¹ UNEP/EA.6/12.

² UNEP/EA.6/INF/12.