



Third
GEF
Assembly
2006

Cape Town, South Africa

GEF/A.3/5
June 14, 2006

Third GEF Assembly
Cape Town, South Africa
August 29-30, 2006

Agenda Item 8

PROPOSED AMENDMENTS TO THE INSTRUMENT

INTRODUCTION

1. The *Instrument for the Establishment of the Restructured Global Environment Facility* provides the following procedures for the amendment of the Instrument:

Amendment or termination of the present Instrument may be approved by consensus by the Assembly upon the recommendations of the Council, after taking into account the views of the Implementing Agencies and the Trustee, and shall become effective after adoption by the Implementing Agencies and the Trustee in accordance with their respective rules and procedural requirements.¹

2. In the ten years since the Instrument was adopted, experience has shown that with regard to the logistical planning of the Assembly and Council meetings, it is not always practical nor feasible to adhere to provisions in the Instrument providing for the scheduling or location of these meetings. Therefore, the Council has proposed the following two amendments to the Instrument to provide greater flexibility to the Council with respect to the planning of the Assembly and Council meetings.

ASSEMBLY MEETINGS

3. The GEF has convened two Assemblies. The first was in New Delhi in April 1998, and the second was in Beijing in October 2002. The third Assembly will be held in Cape Town in August 2006.

4. Although it recognized that paragraph 13 of the Instrument provides “the Assembly shall meet once every three years,” the Council agreed that the second Assembly should be held four years after the first, and the third Assembly is being organized four years after the second Assembly.

5. When the Instrument was negotiated, there was an expectation that the GEF Trust Fund would be replenished every three years. The period for replenishments is not defined in the Instrument, however, and the replenishment period is determined during the replenishment negotiations. Under GEF-1, the Trustee was authorized to accept contributions to the GEF Trust Fund for the period from July 1, 1994 to June 30, 1997 (a three year period). GEF-2, however, provided for additional resources to be made available to the GEF Trust Fund over a four year period from July 1, 1998 to June 30, 2002; GEF-3 provides for contributions to be made over a similar four year period from July 1, 2002 to June 30, 2006; and GEF-4 provides that the Trustee is authorized to accept contributions from July 1, 2006 to June 30, 2010.

6. Recognizing the importance of convening the Assembly after the conclusion of the replenishment negotiations so the Assembly can take fully into account the policy recommendations of the replenishment in its review of the GEF, the Council recommends that it

¹ *Instrument for the Establishment of the Restructured Global Environment Facility*, paragraph 34.

be given the authority to determine the scheduling of the Assembly. Specifically, Council recommends that paragraph 13 of the Instrument be amended² to read:

*The Assembly shall consist of Representatives of all Participants. Each Participant may appoint one Representative and one Alternate to the Assembly in such manner as it may determine. Each Representative and each Alternate shall serve until replaced. **The Assembly shall be convened after the conclusion of negotiations on each replenishment of the GEF Trust Fund, or at such other frequency as the Council may decide, at a location agreed by the Council. The Assembly shall elect its Chairperson from among the Representatives.***

7. Such an amendment would reflect the practice that the Council has followed with regard to the first three Assembly meetings.

COUNCIL MEETINGS

8. Paragraph 17 of the Instrument provides that the Council “shall meet at the seat of the Secretariat.” The Council has met at the seat of the Secretariat in Washington, D. C., on all but two occasions. For purposes of the Council meetings associated with the two GEF Assemblies, the Council agreed that the two meetings should be held in the same location as the Assembly: the first in New Delhi and the second in Beijing. A special Council meeting will be held in Cape Town in association with the third GEF Assembly.

9. Experience has shown that there have been other occasions on which the Council would have liked to hold their meetings in a place other than the seat of the Secretariat, but it felt constrained by the provisions of the Instrument from doing so.

10. The location of periodic meetings of an organization’s governing body is the type of logistical arrangement that is frequently left to the discretion of the governing body itself. For example, Rule 2 of the Rules of Procedure for the Executive Board of UNDP provides:

Unless the Executive Board decides to meet elsewhere, annual sessions shall be held alternately at United Nations Headquarters and at the Geneva Office of the United Nations.

11. Rule 4 of the Rules of Procedure of the Governing Council of UNEP also provides:

Regular sessions shall be held at the headquarters of the United Nations Environment Program, unless otherwise decided by the Governing Council at a previous session.

12. The Council recommends that paragraph 17 of the Instrument should be amended³ to read as follows:

² Proposed new text is shown in bold.

*The Council shall meet semi-annually or as frequently as necessary to enable it to discharge its responsibilities. **The Council shall meet at the seat of the Secretariat unless the Council decides otherwise.** Two-thirds of the Members of the Council shall constitute a quorum.*

13. Such an amendment would maintain the presumption that Council meetings will be held at the seat of the Secretariat. The Council would, however, have the flexibility to decide to hold a meeting elsewhere if circumstances justify such a decision, such has been the case on the occasion of the GEF Assemblies.

PROPOSED AMENDMENTS TO THE INSTRUMENT

The Council, therefore, recommends to the third GEF Assembly that it approve by consensus the following amendments and that it call upon the GEF CEO/Chairperson of the Facility to submit the approved amendments to the Implementing Agencies and Trustee for adoption in accordance with their respective rules and procedural requirements.

Paragraph 13 of the Instrument should be amended to read:

“The Assembly shall consist of Representatives of all Participants. Each Participant may appoint one Representative and one Alternate to the Assembly in such manner as it may determine. Each Representative and each Alternate shall serve until replaced. The Assembly shall be convened after the conclusion of negotiations on each replenishment of the GEF Trust Fund, or at such other frequency as the Council may decide, at a location agreed by the Council. The Assembly shall elect its Chairperson from among the Representatives.”

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