United Nations Development Programme

Global Environment Facility: Amendments to the GEF Instrument

Note by the Administrator

Summary:

Upon the recommendation of the Global Environment Facility (GEF) Council, the Seventh GEF Assembly, held in Vancouver, Canada on 22-26 August 2023, approved amendments to the Instrument for the Establishment of the Restructured Global Environment Facility (GEF Instrument). The amendments to the GEF Instrument address the following key matters:

1. Amendment of the mandate of the GEF to serve as the financial mechanism for 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 (BBNJ Agreement).

2. Modifications to the frequency of the GEF Assembly meeting from every three to every four years.

3. Modifications to the process for Council Proceedings, to be chaired by two co-chairs, namely the Chief Executive Officer (CEO) and one co-chair elected from among the members on a one-year rotational basis.

4. Amended references to distinguish between 'Implementing Agencies' (UNDP), United Nations Environment Programme (UNEP) and World Bank) and other 'Council Accredited Entities'.

5. Amended provisions in relation to the GEF Independent Evaluation Office.

6. Amendments to reflect updated reporting obligations.

In accordance with paragraph 34 of the GEF Instrument, the amendments may become effective only after adoption by the GEF Implementing Agencies in accordance with their respective rules and procedural requirements.

The present document describes the amendments to the GEF Instrument proposed for adoption and outlines their rationale and key implications for UNDP. It is recommended that the Executive Board adopt the amendments.

Elements of a decision

The Executive Board may wish to consider the adoption of a decision along the lines suggested below:

The Executive Board:

1. *Takes note* of the Note of the Administrator concerning proposed amendments to the Instrument for the Establishment of the Restructured Global Environment Facility;
2. *Decides* to adopt the amendments to the Instrument for the Establishment of the Restructured Global Environment Facility as approved by the Seventh Assembly of the Global Environment Facility held in Vancouver, Canada on 22-26 August 2023;
3. *Requests* the Administrator to transmit the present decision to the Chief Executive Officer and Chairperson of the Global Environment Facility.

I. BACKGROUND

The Global Environment Facility (GEF) was established in the International Bank for Reconstruction and Development (IBRD or World Bank) as a pilot programme in order to assist in the protection of the global environment and promote thereby environmentally sound and sustainable economic development, by resolution of the Executive Directors of the World Bank and related interagency arrangements between the UNDP, the United Nations Environment Programme (UNEP), and the World Bank.

Negotiations to restructure the GEF concluded at a GEF Participants meeting in Geneva, Switzerland, in March 1994, with the acceptance by representatives of 73 States of the Instrument for the Establishment of the Restructured Global Environment Facility (GEF Instrument). The Instrument was formally adopted by the three Implementing Agencies of the GEF: UNDP, United Nations Environment Programme (UNEP) and the World Bank. The Instrument became effective on July 7, 1994. Since its adoption, the GEF Instrument has been amended in October 2002, August 2006, May 2010, May 2014 and September 2019, in each case with the approval of the Implementing Agencies.

During the Seventh GEF Assembly in August 2023 in Vancouver, the GEF Assembly, having considered the recommendations of the GEF Council, approved by consensus various amendments to the GEF Instrument and invited the GEF Chief Executive Officer (CEO)/Chairperson to submit the amendments to the Implementing Agencies for their adoption in accordance with their respective rules and procedural requirements.

Paragraph 34 of the GEF Instrument states:

"Amendment or termination of the present Instrument may be approved by consensus by the Assembly upon the recommendation 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."

On 19 October 2023, the GEF CEO/Chairperson wrote to the Administrator to communicate the decision of the Seventh GEF Assembly to approve by consensus various amendments to the GEF Instrument and to invite the GEF CEO/Chairperson to request the implementing agencies and the Trustee to adopt the amendments in accordance with their respective rules and procedural requirements. A copy of the letter is contained in annex I.

The present document describes the amendments to the GEF Instrument proposed for adoption and outlines their rationale and key implications for UNDP.

II. PROPOSED AMENDMENTS TO THE INSTRUMENT FOR THE ESTABLISHMENT OF THE RESTRUCTURED GLOBAL ENVIRONMENT FACILITY

Upon the recommendation of the GEF Council, the Seventh GEF Assembly has adopted the following amendments to the GEF Instrument. A copy of the decision of the GEF Assembly (agenda item 8) is contained in Annex II.

Amendment 1: Amendment of the mandate of the GEF to serve as the financial mechanism for 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

At its resumed session from 19 to 20 June 2023, the fifth session of 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 (BBNJ Agreement).

The agreement identifies the GEF as part of its Financial Mechanism. The GEF Assembly therefore, upon the recommendation of the GEF Council, approved an addition to paragraph 6(f) of the instrument for it to also serve the new agreement on the conservation and sustainable use of marine biodiversity of areas beyond national jurisdiction.

The Administrator welcomes the decision of the GEF Assembly and the resulting amendment to the GEF Instrument.

Amendment 2: Modifications to the frequency of the GEF Assembly meeting from every three to every four years

Through an amendment of paragraph 13 of the GEF Instrument, it is proposed for the GEF Assembly to meet every four years, instead of every three years.

The Administrator welcomes the decision of the GEF Assembly and the resulting amendment to the GEF Instrument.

Amendment 3: Modifications to the process for Council Proceedings, to be chaired by two co-chairs, namely the CEO and one co-chair elected from among the members on a one-year rotational basis

Through an amendment of paragraph 18 of the GEF Instrument, it is proposed to amend the co-chairing arrangements such that the GEF Council Meetings shall be co-chaired by an elected Council Member and the GEF CEO. The amendments further propose that the position of co-chair shall be elected from the Council Members for a period of one year, instead of for one meeting.

It is noted that this co-chairing approach was piloted by decision of the GEF Council in 2020 (Decision 22/2020) and further extended for 2022 (Decision 37/2021). The Council recommended to the GEF Assembly to update the GEF Instrument going forward. It is further noted that the GEF Council typically meets twice a year and that the proposed amendment would therefore allow co-chairs to be elected in principle for two consecutive GEF Council meetings.

Deliberations on matters pertaining to the work programme and the utilization of GEF Funds would be conducted by the GEF CEO. Deliberations pertaining to monitoring and evaluation of GEF policies, programmes and operational strategies, the appointment of the GEF CEO and the director of the Independent Evaluation Office, and the approval of the administrative budget of the GEF would be conducted by the co-chair.

The amendment will facilitate greater involvement and continuity for the elected co-chairs and the Administrator welcomes the decision of the GEF Assembly and the resulting amendment to the GEF Instrument.

Amendment 4: Amended references to distinguish between 'Implementing Agencies' and other 'Council Accredited Entities'.

The GEF Instrument has been amended to distinguish between 'Implementing Agencies' and 'Council Accredited Entities', where the former refers to the three founding implementing agencies (UNDP, UNEP and World Bank), while the latter refers to the 15 other agencies that have been given operational duties equivalent to those of the three Implementing Agencies since the establishment of the GEF.

Amendments to that effect have been made to renumbered paragraph 20(c), (d) and (k), renumbered paragraph 21(c), (d) and (e), and renumbered paragraph 29.

The introduction of the concept of 'Council accredited entities' does not affect the roles and responsibilities of the GEF Implementing Agencies and the Administrator therefore recommends accepting the proposed amendments.

Amendment 5: Amended provisions in relation to the GEF Independent Evaluation Office

Under the existing GEF Instrument, the GEF Independent Evaluation Office was referenced in paragraph 21(i) as a function exercised by the GEF Secretariat, on behalf of the GEF Council. Paragraph 21(i) has been deleted and a separate paragraph 22 has been introduced, which stipulates the following:

"There shall be an Independent Evaluation Office co-located with the Secretariat, headed by a director, appointed by and reporting to the Council, whose responsibility it is to carry out independent evaluations consistent with decisions of the Council."

The amendment will further strengthen the independence of the GEF Independent Evaluation Office vis-à-vis the GEF Secretariat and the Administrator welcomes the decision of the GEF Assembly and the amendment of the GEF Instrument.

Amendment 6: Amendments to reflect updated reporting obligations

The GEF Instrument proposes a number of revisions to renumbered paragraph 32 regarding reports prepared by the GEF Secretariat and that will have to be approved by GEF Council. The reference to 'annual reports' has been amended to 'periodic reports' and the amendment further specifies that this will include reports from the GEF to the Conference of Parties to the Conventions mentioned above in Amendment 1.

The amendment further proposes to replace '*It [the report] shall contain information on the activities carried out under the GEF, including a list of project ideas submitted for consideration and a review of the project activities funded by the Facility and their outcomes*' with '*These reports shall contain all information on the activities carried out under the GEF, including the GEF's response to the respective Conference of Parties guidance, the status of portfolio implementation, achievements in the programming of resources, portfolio monitoring and evaluations*.'

References to the United Nations Commission on Sustainable Development have been removed as this Commission no longer exists.

The Administrator notes these updated reporting obligations of the GEF Secretariat, which have limited direct impact on the role of UNDP as an Implementing Agency and recommends the approval of this amendment.

III. RECOMMENDATION AND IMPLICATIONS FOR UNDP

It is recommended that the Executive Board adopt the amendments as adopted by consensus of the Seventh GEF Assembly. The Administrator welcomes the invitation of the Seventh GEF Assembly to adopt the amendments, and there are no known materially adverse implications for UNDP regarding any of the proposed amendments.

Annex I. Letter dated 19 October 2023 from the GEF Chief Executive Officer/Chairperson to the UNDP Administrator to communicate the decision of the Seventh GEF Assembly to approve various amendments to the GEF Instrument

October 19, 2023

Mr. Achim Steiner
Administrator
United nations Development Programme

Dear Mr. Steiner,

I am pleased to inform you that the Seventh GEF Assembly, held in Vancouver, Canada, on August 24-25, 2023, approved a series of amendments to the *Instrument for the Establishment of the Restructured Global Environment Facility*.

The amendments cover several paragraphs and bring the GEF Instrument in line with current practice.

The text of the amendments, both in track changes and as clean text, is attached to this letter.

As requested in the Assembly's decision, I am submitting these amendments to you in your capacity as head of a GEF Implementing Agency and request that you undertake the necessary steps to facilitate the adoption of these amendments in accordance with your respective rules and procedural requirements.

I would appreciate it if you would keep us informed of the progress made in the adoption of these amendments so that we can confirm that they have come into force and inform the Council and Participants accordingly.

I would like to express my highest appreciation to you and your colleagues for the significant contribution that you made to the successful conclusion of the Seventh GEF Assembly.

Sincerely,

Carlos Manuel Rodriguez
GEF CEO and Chairman

Annex II. A copy of the decision of the Seventh GEF Assembly, held in Vancouver, Canada from 22-25 August 2023, to adopt amendments to the GEF Instrument (Agenda Item 8)

Chair's Summary of the Seventh GEF Assembly

Vancouver, Canada

August 22-25, 2023

Agenda Item 1. Election of the Chair

1. The Assembly elected H.E. Mr. Ahmed Hussen, Minister of International Development of Canada as its Chair.

Agenda Item 2. Election of the Vice-Chairs

2. The Assembly elected Mr. Prakash Mahat, Minister of Finance of Nepal and Mr Takao Matsuzawa, Vice-Minister of Global Environmental of Japan, as its Vice-Chairs.

Agenda Item 3. Adoption of the Agenda and Organization of Work

3. The Assembly approved the provisional agenda circulated as document GEF/A.7/01/Rev.01. The organization of work was approved as described by the Chair.

Agenda Item 5. First High-Level Plenary Session: Solutions for a Healthy Planet: Integrated Responses to Global Environmental Degradation.

4. The Chair of STAP, Dr. Rosina Bierbaum, moderated a panel of distinguished guest speakers.

5. The ecosystems, biomes, and processes that regulate the stability and resilience of the Earth system are being stretched to a breaking point. Our future depends on how well we understand and reverse the degradation of the global environment. We must 3 maintain and restore the health of the planet as a necessary condition and basis for sustainable resilient societies. Doing this requires developing integrated responses to address the multiple and inter-linked environmental and development challenges.

6. Panelists reflected on their experiences implementing these kinds of responses, identifying successes, failures and trade-offs, and highlighting future directions and approaches the GEF might take and support as it continues to evolve its own programming and investment strategies.

Agenda item 6. Second High-Level Plenary Session: Solutions for a Healthy Planet: Partnerships for Financing.

7. Ms. Chizuru Aoki of the GEF Secretariat, moderated a panel of distinguished guest speakers.

8. New and inclusive strategies that combine conservation action with engagement of development organizations, the private sector, and civil society will be needed if we are to transform the major economic systems that are driving environmental degradation. The development of a new trust fund under the GEF, the GBF Fund, provides one example of how the public and private sectors can come together to leverage funding towards positive environmental outcomes.

9. Panelists presented their experiences implementing strategies to unlock financing beyond simply more ODA to implement global agreements, including examples of successful re-purposing of subsidies and harmful incentives, structuring of green bonds, PES, and blended finance, highlighting innovations for GEF engagement and future investment.

Agenda Item 7. Third High-Level Plenary Session: Solutions for a Healthy Planet: Responsible, Inclusive and Transformative Governance

10. Mr. Peter Seligmann, CEO of Nia Tero moderated a panel of distinguished speakers.

11. Reversing the global environmental degradation trend will require a concerted effort to include many of the stakeholders that have been historically neglected and negatively affected by development. Without strong and inclusive governance, sophisticated integrated solutions and robust financing will not result in the outcomes we seek as a community. In advancing development goals and aspirations, governments must increasingly strive to promote coherence and consistency in policy options that underpin environmental sustainability. At the same time, providing a voice and engaging a broad set of actors in the future stewardship of the environment will allow for a different and more sustainable pathway to a healthy planet.

12. Speakers in this plenary, Governments and IPLCs presented examples of successful environmental governance systems and identify how GEF can best support governance reforms in the pursuit of achieving a Healthy Planet and Healthy People.

Agenda Item 8. Amendments to Instrument for the Establishment of a Restructured Global Environment Facility.

13. The Council proposed amendments to the Instrument in its Decisions 37/2022 and 14/2023.

14. The proposed text of the amended Instrument was included in Document GEF/A.7/08.

15. The Assembly adopted the following decision:

The Seventh GEF Assembly, recalling paragraph 34 of the Instrument for the Establishment of the Restructured Global Environment Facility, and having considered the recommendations of

the GEF Council for proposed amendments to the Instrument in its Decisions 37/2022 and 14/2023, approves by consensus the amended text of the Instrument contained in Document GEF/A.7/ 08.

Invites the CEO/Chairperson of the Facility to submit this amended text to the Implementing Agencies and the Trustee and to request that they adopt it in accordance with their respective rules and procedural requirements.

Invites the CEO/Chairperson of the Facility to inform all Participants of the effectiveness of the amended Instrument once the Implementing Agencies and the Trustee have approved it.

Agenda item 9. Assembly Ratification of the Council Decisions of the Global Biodiversity Framework Fund

16. At its 64th meeting, the GEF Council adopted Decision 09/2023 whereby it established the Global Biodiversity Framework Fund.

17. The Assembly adopted the following Decision:

The Assembly, having considered document GEF/A.7/09 endorses Council Decision 09/2023.

Agenda Item 10. Report on the GEF Trust Fund

18. The Assembly took note of the Trustee Report, GEF-7 Funding Retrospective (GEF/A.7/06).

Agenda Item 11. Report on the Eighth Replenishment of the GEF Trust Fund

19. The Assembly took note of the Summary of Negotiations of the Eighth Replenishment of the GEF Trust Fund (GEF/A.7/04).

Agenda Item 12. Statement by the GEF Evaluation Office (IEO)

20. The Assembly welcomed the document Seventh Comprehensive Evaluation of the GEF (OPS7) (GEF/A.7/06) *Working Toward a Greener Global Recovery*.

Agenda Item 13. Statement by the GEF Scientific and Technical Advisory Panel (STAP)

21. The Assembly welcomed the Report of the Scientific and Technical Advisory Panel: *Catalyzing transformational change through GEF investment*, contained in document GEF/A.7/07.

Agenda Item 14. Statement by a Representative of Civil Society Organizations

22. The Assembly received a report on the Partnership Forum that took place on August 23, 2023. The Report was delivered by Akhteruzzaman Sano, Chair, CSO network; Youth representatives: Fabiola Monzon Ahmad Bassam and Manal Bidar; and women's representatives: Ana di Pangracio and Siddika Sultana.

23. The Assembly took note of the report

Agenda item 16: Report on GEF Participants

24. The Assembly took note of the Report on GEF Participants (GEF/A.7/03/Rev.01).

Agenda Item 17. Report on Credentials

25. The Bureau presented its report on credentials to the plenary (GEF/A.7/10). The Assembly took note of the report.

Agenda item 18. Summary of High-Level Round Table Discussions

26. A document about the GEF Assembly Round Tables, Round Table Discussions, was submitted to the Assembly as document GEF/A.7/Inf.02/Rev.01

27. Round table discussions were key features of the GEF Assembly. They debated the sessions will debate how the GEF and countries could better address challenges to the global environment. Round tables were composed of speakers from different sectors including government, international organizations, and private sector.

28. A report on their conclusions was presented by Mr. Richard Bontjer of Australia.

29. The Assembly took note of the report.

Agenda item 19: Summary of Chair

30. In accordance with paragraph 24 of the Rules of Procedure, the Assembly approved the Summary of the Proceedings submitted by the Chair.

Agenda item 20: Closing of the Assembly

31. The CEO and Chairperson of the Facility, Carlos Manuel Rodrigues and the Vice-Chair of the Assembly Mr. Yutaka Matsuzawa made closing remarks.