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**Governing Council
of the United Nations
Environment Programme**

**Twenty-sixth session of the Governing Council/
Global Ministerial Environment Forum**
Nairobi, 21–24 February 2011
Items 4 (d) and 5 of the provisional agenda*

**Policy issues: coordination and cooperation
within the United Nations system on environmental matters**

**Follow-up to and implementation of the outcomes
of United Nations summits and major intergovernmental
meetings, including the decisions of the Governing Council**

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

Report of the Executive Director

Summary

Upon the recommendation of the Global Environment Facility (GEF) Council, the Fourth GEF Assembly, in May 2010, approved two amendments to the Instrument for the Establishment of the Restructured Global Environment Facility regarding:

- (a) Revision of the process for the appointment of the Chief Executive Officer/Chairperson of GEF and lengthening the term of the Chief Executive Officer/Chairperson to four years;
- (b) Confirmation of the availability of GEF to serve as a financial mechanism for the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa;

The amendments approved by the GEF Assembly become effective after final adoption by the governing bodies of the GEF Implementing Agencies.¹ The Governing Council may therefore wish to adopt the two amendments after considering the present report.

* UNEP/GC.26/1.

¹ The term “Implementing Agencies” is used herein to denote the United Nations Development Programme, the United Nations Environment Programme and the World Bank, in accordance with paragraph 22 of the GEF Instrument.

I. Suggested action by the Governing Council

1. The Governing Council may wish to consider the adoption of a decision along the lines suggested below:

The Governing Council,

Recalling its decision SS.IV/1 of 18 June 1994 on the adoption of the Instrument for the Establishment of the Restructured Global Environment Facility,

Recalling also its decision 22/19 of 7 February 2003 on amendments to the Instrument for the Establishment of the Restructured Global Environment Facility that included land degradation, primarily desertification and deforestation, and persistent organic pollutants as new focal areas of the Global Environment Facility,

Recalling further its decision 24/13 of 9 February 2007 on an amendment to the Instrument for the Establishment of the Restructured Global Environment Facility relating to the location of meetings of the Council of the Global Environment Facility,

Recalling the approval in May 2010 by the Fourth Global Environment Facility Assembly of amendments to the Instrument for the Establishment of the Restructured Global Environment Facility relating to the availability of the Global Environment Facility to serve as a financial mechanism for the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa, and to the appointment and term of the Chief Executive Officer/Chairperson of the Global Environment Facility under paragraph 21 of the Instrument,

Having taken note of the report of the Executive Director² and the supporting material,³

1. *Decides* to adopt the amendment to the Instrument for the Establishment of the Restructured Global Environment Facility by which the Global Environment Facility will be made available to serve as a financial mechanism for the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa;

2. *Also decides* to adopt the amendment to paragraph 21 of the Instrument relating to the appointment and term of the Chief Executive Officer/Chairperson of the Global Environment Facility, by which the text

“The CEO shall be appointed to serve for three years on a full time basis by the Council on the joint recommendation of the Implementing Agencies. The CEO may be reappointed by the Council. The CEO may be removed by the Council only for cause.”

will be replaced with:

“The CEO shall be appointed to serve for four years on a full time basis by the Council. The CEO may be reappointed by the Council for one additional four year term”.

3. *Requests* the Executive Director 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 an implementing agency of the Global Environment Facility;

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

II. Background

2. The Global Environment Facility (GEF) Assembly consists of representatives of all GEF member countries, which are known as “Participants”. In accordance with paragraph 14 (d) of the Instrument for the Establishment of the Restructured Global Environment Facility, the GEF Assembly shall consider, for approval by consensus, amendments to the Instrument on the basis of recommendations by the GEF Council.

3. Pursuant to paragraph 34 of the GEF Instrument, an amendment to or termination of the Instrument may be approved by consensus by the GEF Assembly upon recommendation of the Council, after taking into account the views of the Implementing Agencies and the Trustee, and

2 UNEP/GC.26/12.

3 UNEP/GC.26/INF/15.

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

4. Document UNEP/GC.26/INF/15 contains background information to support the Governing Council's consideration of the amendments to the Instrument, including a letter from Ms. Monique Barbut, Chief Executive Officer/Chairperson of GEF, dated 11 June 2010 and addressed to the Executive Director of UNEP, explaining that the GEF Assembly in May 2010 approved by consensus two amendments to the Instrument and invited the GEF Chief Executive Officer/Chairperson to request the Implementing Agencies and Trustee to adopt the amendments in accordance with their respective rules and procedures. It also contains a background document submitted to the Fourth GEF Assembly, held in Punta del Este, Uruguay, on 25 and 26 May 2010.

5. The two amendments were discussed over the period 2006–2010 in GEF Council meetings before their approval by the GEF Assembly.

III. Amendments

A. Amendment 1: revision of the process for the appointment of the GEF Chief Executive Officer/Chairperson and lengthening the term of the Chief Executive Officer/Chairperson to four years

6. In November 2008, the GEF Council, having unanimously reappointed the incumbent GEF Chief Executive Officer/Chairperson for a further three-year term beginning on 14 July 2009, requested the GEF Secretariat to present to the Council at its June 2009 meeting a paper exploring the option of making the Chief Executive Officer/Chairperson's term and the replenishment cycle coterminous.⁴ In June 2009, the Council reviewed the paper so presented⁵ and approved the recommendations set out therein, in particular:

(a) To recommend to the Fourth GEF Assembly an amendment to paragraph 21 of the Instrument for the Establishment of the Restructured Global Environment Facility. This paragraph originally stated:

“The GEF Secretariat shall service and report to the Assembly and the Council. The Secretariat, which shall be headed by the CEO/Chairperson of the Facility, shall be supported administratively by the World Bank and shall operate in a functionally independent and effective manner. The CEO shall be appointed to serve for three years on a full time basis by the Council on the joint recommendation of the Implementing Agencies. ... The CEO may be reappointed by the Council. The CEO may be removed by the Council only for cause” (emphasis added).

The proposed amendment would replace the third, fourth and fifth sentences (as underlined above) with the following text: “The CEO shall be appointed to serve for four years on a full time basis by the Council. The CEO may be reappointed by the Council for one additional four year term.”;

(b) To create a Council selection and review committee to oversee the processes for appointing and reappointing the GEF Chief Executive Officer/Chairperson and the Director of the GEF Evaluation Office and for conducting GEF Chief Executive Officer/Chairperson and the Director of the GEF Evaluation Office performance objective reviews. In the process for selecting the Chief Executive Officer/Chairperson, the Committee will consult various stakeholders, in particular the Implementing and Executing Agencies.⁶

7. The justification for the change described in recommendation (a) above is given as follows: “at times staff from one or more of the Agencies is nominated for the CEO/Chairperson position, raising conflict of interest questions if their own Agency is on the nominating Committee”.⁷

8. The Executive Director notes that, with this amendment, a joint recommendation from the Implementing Agencies will no longer be required for the GEF Council to appoint an individual to the position of Chief Executive Officer/Chairperson of the GEF Secretariat, even though the track record in making such recommendations has been transparent and efficient. This amendment, along with

4 GEF/C.34/0, para. 31.

5 GEF/C.35/9/Rev.2.

6 GEF/C.35/JointSummary.

7 GEF/C.35/9/Rev.2, para. 9 and GEF/A.4/9, para. 3.

other policy reforms approved by the GEF Assembly, may imply a reduced role for the Implementing Agencies. The Executive Director notes that such an outcome would mark a departure from the basic provisions of the GEF Instrument, which state that GEF shall operate on the basis of collaboration and partnership among the Implementing Agencies.⁸

9. Considering that under the Instrument the Implementing Agencies are to “cooperate with the Participants to promote the purposes of the Facility”⁹ the Executive Director welcomes the decision by the GEF Council to appoint a Council selection and review committee, which in the process of selecting the Chief Executive Officer/Chairperson will consult various stakeholders, in particular the Implementing and Executing Agencies.¹⁰ The Executive Director affirms the commitment of UNEP to be available for consultations with the Council.

B. Amendment 2: confirmation of the availability of the Global Environment Facility to serve as a financial mechanism for the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa

10. In December 2006, the GEF Council took a decision to recommend to the Assembly an amendment to the Instrument to make GEF available to serve as a financial mechanism for the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa. The proposed amendment closely tracks decisions of the Conference of the Parties to the Convention to designate GEF as a financial mechanism for the Convention pursuant to articles 20 and 21 of the Convention.

11. The Executive Director welcomes this decision and the resulting amendment to the Instrument in view of the linkages between environment and development in efforts to combat desertification and drought.

8 Instrument for the Establishment of the Restructured Global Environment Facility, para. 2.

9 Ibid., para. 22.

10 GEF/C.35/JointSummary, para. 27.