

**Convention on
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OPEN-ENDED AD HOC INTERGOVERNMENTAL
COMMITTEE FOR THE NAGOYA PROTOCOL ON
ACCESS TO GENETIC RESOURCES AND THE
FAIR AND EQUITABLE SHARING OF BENEFITS
ARISING FROM THEIR UTILIZATION

First meeting

Montreal, 5-10 June 2011

THE NAGOYA PROTOCOL IMPLEMENTATION FUND*Note by Executive Secretary*

1. The Executive Secretary is pleased to circulate herewith, for the information of participants in the first meeting of the Open-ended Ad Hoc Intergovernmental Committee for the Nagoya Protocol on Access and Benefit-sharing, a document entitled "Outstanding issues related to the Nagoya Protocol Implementation Fund" GEF/C.40/11/Rev.1, dated 26 May 2011, considered and adopted by the GEF Council at its meeting held from 24-26 May 2011, in Washington D.C.

2. The document is being circulated in the original form and language in which it was made available to the Secretariat.

In order to minimize the environmental impacts of the Secretariat's processes, and to contribute to the Secretary-General's initiative for a C-Neutral UN, this document is printed in limited numbers. Delegates are kindly requested to bring their copies to meetings and not to request additional copies.



GEF/C.40/11/Rev.1
May 26, 2011

GEF Council Meeting
May 24-26, 2011
Washington D.C.

Agenda Item 16

OUTSTANDING ISSUES RELATED TO THE NAGOYA PROTOCOL IMPLEMENTATION FUND

Recommended Council Decision

The Council, having reviewed GEF/C.40/11/Rev.1, *Outstanding Issues Related to the Nagoya Protocol Implementation Fund*, approves the arrangements proposed for the operation of this new multi-donor trust fund, subject to the comments made at the GEF Council meeting and taking into account the provisions of the Council decision by mail on the creation of this multi-donor trust fund, approved on February 18, 2011.

EXECUTIVE SUMMARY

1. The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (the Protocol) was adopted at the Tenth meeting of the Conference of the Parties (CoP) to the Convention on Biological Diversity (CBD).
2. As the President of CoP 10, Japan proposed to establish a new multi-donor trust fund managed by the Global Environment Facility (GEF) aiming to support early entry into force and effective implementation of the Protocol. The creation of the Nagoya Protocol Implementation Fund (NPIF) was approved by the GEF Council in a decision by mail on February 18, 2011.
3. The GEF Secretariat was requested to submit to the Council at its spring 2011 meeting a document covering any outstanding issues related to the implementation of the NPIF.
4. This working document provides the information regarding key issues of the architecture and functions of this new trust fund. The main points are:
 - a. History of access and benefit-sharing through Nagoya;
 - b. The Nagoya Protocol Implementation Fund;
 - c. Objective and activities of the Nagoya Protocol Implementation Fund:
 - i) Enabling activities
 - ii) National and regional projects for promoting the fair and equitable sharing of benefits arising from conservation and sustainable use of genetic resources,
 - iii) Capacity building,
 - iv) Activities to increase public awareness, and
 - v) Knowledge management.
 - d. Governance and project management;
 - e. Workplan;
 - f. Financial management.

INTRODUCTION

1. At the Tenth meeting of the Conference of the Parties (CoP) to the Convention on Biological Diversity (CBD), the Parties adopted the Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization (herein after referred to as “the Nagoya Protocol” or “the Protocol”).
2. As the President of CoP 10, Japan has taken a lead role in promoting adoption and implementation of the Protocol. Japan, aiming to support early entry into force and effective implementation of the Protocol, proposed to establish a new multi-donor trust fund managed by the Global Environment Facility (GEF) (referred to as “the Nagoya Protocol Implementation Fund” or “NPIF” hereinafter).
3. The creation of the NPIF was approved by the GEF Council in a decision by mail on February 18, 2011. This new trust fund will promote early entry into force of the Nagoya Protocol. The activities of the fund may also serve to inform future discussions in the Intergovernmental Committee on the Nagoya Protocol, but are not meant to prejudice or influence in any way the discussions and negotiations taking place at the Intergovernmental Committee for the Nagoya Protocol (ICNP).

HISTORY OF ACCESS AND BENEFIT-SHARING THROUGH NAGOYA

4. The “fair and equitable sharing of the benefits arising out of the utilization of genetic resources, including by appropriate access to genetic resources and by appropriate transfer of relevant technologies taking into account all rights over those resources and to technologies, and by appropriate funding” is one of the three fundamental objectives of the Convention of Biodiversity (CBD).
5. The Ad Hoc Open-Ended Working Group on Access and Benefit-sharing (a subsidiary body of the CoP) was established at the Fifth meeting of the Parties in 2000. The mandate of the Group is to develop guidelines and other approaches to assist Parties with the implementation of the access and benefit-sharing provisions of the Convention.
6. The “Bonn guidelines on access to genetic resources and the fair and equitable sharing of the benefits arising from their utilization” were adopted at the Sixth meeting of the CoP in 2002. The Bonn Guidelines were recognized as a useful first step of an evolutionary process in the implementation of relevant provisions of the Convention related to access to genetic resources and benefit-sharing (ABS). Although these guidelines are voluntary, many countries have made use of them for national implementation of the ABS provisions in the CBD.
7. An international regime on access to genetic resources and benefit-sharing with the aim of adopting an instrument/instruments to effectively implement the provisions in Article 15 and Article 8 (j) of the Convention and the three objectives of the Convention was mandated by the CoP at its Seventh meeting in 2004. An Ad Hoc Open-ended Working Group on ABS was requested to support the development of a Protocol on ABS. This legally binding Protocol was

adopted at the Tenth Meeting of the CoP in Nagoya, Japan, October 2010 (the Nagoya Protocol). The Protocol has been open for signature by the Parties to the Convention since 2 February 2011

8. In order to promote the early entry into force and effective implementation of the Nagoya Protocol on ABS, it was deemed necessary to establish a new trust fund that could finance activities to catalyze the process of ratification and incentivize the Parties to fully engage in the implementation of the Protocol. These include enabling activities, national and regional projects for promoting access and the fair and equitable sharing of benefits arising from conservation and sustainable use of genetic resources, capacity building, activities to increase public awareness, and knowledge management.

THE NAGOYA PROTOCOL IMPLEMENTATION FUND

9. The CoP invited the GEF, as the financial mechanism of the CBD and the Nagoya Protocol, to provide financial support to the Parties to assist with the early ratification of the Protocol. For this purpose, the GEF decided to establish, manage and coordinate the new NPIF, as stated in the GEF decision by mail approved on February 18, 2011.

10. Equally important, it is envisioned that voluntary private sector contributions also may support the activities approved under the NPIF.

11. It is expected that the NPIF, the GEF Trust Fund and other related initiatives will closely coordinate to achieve desirable complementarities.

OBJECTIVE AND ACTIVITIES OF THE NAGOYA PROTOCOL IMPLEMENTATION FUND

12. The Nagoya Protocol Implementation Fund has been established to facilitate and support effective and efficient implementation of the decisions made at the 10th CoP of the CBD related to the Protocol. The primary objective of the NPIF is to facilitate the early entry into force and create enabling conditions at national and regional levels for implementation of the Protocol.

13. The Fund will initially focus its support on assisting signatory Parties and those in the process of signing the Nagoya Protocol, and that intend to ratify the Protocol in order to accelerate the ratification and implementation of the Protocol. The proposed activities have been selected to fit in with the timeline of the process of ratification, to incentivize the participation of indigenous peoples, local communities and the private sector, as well as to provide input to the discussions of the Intergovernmental Committee. Activities to be supported by the Nagoya Protocol Implementation Fund include:

- a) Support Parties in reviewing their own capacities and needs on ABS with a focus on the provisions of existing national policies, laws, and regulations and to strengthen the enabling environment at national level through the development of appropriate policy and institutional measures to promote the fair and equitable sharing of benefits arising from the utilization of genetic resources, including by appropriate access to genetic resources

- b) Support Parties to implement national and regional projects to promote technology transfer on mutually agreed terms, private sector engagement, and projects targeting investments in the conservation and sustainable use of genetic resources in-situ to accelerate the ratification and implementation of the Protocol.
- c) Support Parties to build capacity as appropriate with the aim of ensuring that traditional knowledge associated with genetic resources held by indigenous and local communities is accessed with the prior and informed consent, or approval and involvement of these indigenous and local communities, and that mutually agreed terms have been established.
- d) Support Parties to undertake activities to increase public awareness regarding the implications of the Nagoya Protocol.
- e) Support Parties to further the knowledge and scientific-base for the implementation of the Nagoya Protocol.

GOVERNANCE AND PROJECT MANAGEMENT

14. The NPIF will be governed by a Nagoya Protocol Implementation Fund Council, which will utilize the operational policies and procedures and governance structure of the GEF Council. Like the Least Developed Countries Fund (LDCF) and the Special Climate Change Fund (SCCF), this NPIF Council will have the similar membership as the GEF Council and will meet in the margins or back to back with GEF Council meetings. In the future, the NPIF Council will convene to review projects and policy associated with the Fund. The GEF Council, acting as the governing body of the NPIF, may modify the operational policies and procedures of the NPIF, in line with the GEF policies and procedures.

15. The operations, functions and roles of the NPIF will be reviewed by the NPIF Council before the end of GEF-5, taking into account the outcome of the discussions in the Intergovernmental Committee on the Nagoya Protocol and other relevant meetings of the CBD/ the Nagoya Protocol. The Nagoya Protocol Implementation Fund will terminate at the end of GEF-5, unless otherwise decided by the Conference of the Parties to the CBD. The NPIF will not fund new projects beyond GEF-5, but will remain with the monitoring roles over the ones under implementation.

16. Through this pilot initiative, the NPIF will give priority to projects directly related to the countries' ability to ratify the Protocol. Such projects may be implemented by any of the GEF Agencies, including any entities accredited under the proposed modalities of access for qualified national entities, non-governmental organizations and others, if the policy on broadening access to the GEF is approved by the GEF Council.

17. The GEF will keep separate and distinct the program of activities financed by the GEF Trust Fund from those financed by the Nagoya Protocol Implementation Fund. Costs associated with operating, as well as those associated with activities to be financed from, the NPIF will be charged to the NPIF. Separate accounts and reporting will be maintained. Once the new fund

becomes operational, a report on the fund will be submitted to the Council at each of its regular meetings.

WORKPLAN

18. The NPIF will become operational at the May 2011 GEF Council Meeting. The first set of projects should be approved before the Second Meeting of the Intergovernmental Committee to be held in India, April 2012. The size of the project will be determined based on the nature of the project (including national, regional and sub-regional projects) as well as to enable appropriate regional distribution. Medium size projects will be used to expedite the project cycle.

FINANCIAL MANAGEMENT

19. The World Bank will serve as the Trustee of the NPIF, in accordance with the Bank's policies and procedures. The NPIF is being established as a multi-donor trust fund, which can receive voluntary contributions of multiple donors and the private sector.

20. The Government of Japan has taken the lead in providing seed funding of 1 billion Yen to the NPIF as a voluntary contribution. Other governments have expressed interest in making additional resources available to the fund. In addition, it is expected that private companies and other entities that utilize genetic resources may also voluntarily contribute to the Nagoya Protocol Implementation Fund and/or to related projects.