



# United Nations Environment Programme

Distr.  
GENERAL

UNEP/CBD/COP/1/6  
6 October 1994

ORIGINAL: ENGLISH



CONFERENCE OF THE PARTIES  
TO THE CONVENTION ON  
BIOLOGICAL DIVERSITY  
First meeting  
Nassau, 28 November - 9 December 1994  
Item 6.2 of the provisional agenda

## INSTITUTIONAL STRUCTURE TO OPERATE THE FINANCIAL MECHANISM UNDER THE CONVENTION

### Note by the Interim Secretariat

#### 1. INTRODUCTION

1. Article 21, paragraph 1, of the Convention on Biological Diversity, provides that the operations of the financial mechanism under the Convention shall be carried out by such institutional structure as may be decided upon by the Conference of the Parties at its first meeting.

2. It should be recalled that the Conference for the Adoption of the Agreed Text of the Convention invited, through resolution 1, the Global Environment Facility to undertake the operation of the financial mechanism in accordance with article 21, on an interim basis for the period between the opening of the Convention for signature and its entry into force and, for the purposes of article 39, until the first meeting of the Conference of the Parties.

3. Article 39 states that provided that it has been fully restructured in accordance with the requirements of article 21, the Global Environment Facility shall be the institutional structure referred to in article 21 on an interim basis, for the period between the entry into force of the Convention and the first meeting of the Conference of the Parties or until the Conference of Parties decides which institutional structure will be designated in accordance with article 21.

4. A note on the institutional structure to operate the financial mechanism under the Convention (UNEP/CBD/IC/2/9) was prepared by the Interim Secretariat for the second session of the Intergovernmental Committee on the Convention on Biological Diversity. That note presented some considerations for the determination of the institutional structure that would carry out the operation of the financial mechanism under the Convention. It also discussed the potential for involvement of other financial institutions in support of the Convention in the context of article 21, paragraph 4, as well as the arrangements that may be required between the Conference of the Parties and the institutional structure entrusted with the operation of the financial mechanism. The Instrument for the Establishment of the Restructured Global Environment Facility was also available to the second session of the Committee.

5. The Intergovernmental Committee considered the issue of the selection of the institutional structure, and adopted some recommendations. The Committee requested the Interim Secretariat to prepare a draft outlining elements of possible arrangements between the Conference of the Parties and the institutional structure, for consideration at this first meeting.

6. The present note has been prepared to facilitate the discussion of the Conference of the Parties on this item. It reflects the outcome of the discussions by the Intergovernmental Committee and presents information on recent developments in the Global Environment Facility since the completion of its process of restructuring.

7. The Conference of the Parties is requested to consider:

(a) The options identified by the Committee with regard to the selection of the institutional structure to operate the financial mechanism;

(b) The proposal for involvement of financial institutions, other than the one(s) selected in (a) above, in support of the Convention;

(c) Arrangements with the institutional structure, for which a preliminary draft is outlined in a memorandum of understanding attached as an annex to the present note.

## 2. SELECTION OF THE INSTITUTIONAL STRUCTURE

8. Having considered the selection of the institutional structure for the operation of the financial mechanism, the Intergovernmental Committee was not in a position to make a specific recommendation to the Conference of the Parties. The Committee however identified the following options (UNEP/CBD/COP/1/4, para. 190):

(a) The Global Environment Facility could be selected as the institutional structure to operate the financial mechanism;

(b) The services of the Global Environment Facility could be terminated;

(c) The Global Environment Facility could be the interim institutional structure, through either of the following:

(i) By a decision of the Conference of the Parties;

(ii) Pending any decision of the Conference of the Parties, it could continue to be the institutional structure on an interim basis, in accordance with the provisions of article 39.

9. In considering the above options, the Conference of the Parties may wish to note the following developments within the Global Environment Facility since the invitation extended in resolution 1 to operate the financial mechanism on an interim basis:

(a) On 16 March 1994 the process of restructuring the Global Environment Facility was concluded with agreement of the text of the Instrument for the Establishment of the Restructured Global Environment Facility;

(b) The governing bodies of the three Implementing Agencies of the Global Environment Facility have respectively approved the Instrument;

(c) The first meeting of the Council of the restructured Global Environment Facility was held in Washington, D.C., 12-13 July 1994. During the meeting, the Council reviewed, among others things, the draft rules of procedure and the proposed schedule of work for the Council during the next 12 months, which could lead to the adoption of a long-term operational strategy for the Global Environment Facility. This strategy would include a component on biodiversity. Revised draft rules of procedure and a draft operational strategy will be further considered at the second meeting of the Council scheduled for 2-4 November 1994. (The outcome of this meeting of the Council will be made available in due course to the first meeting of the Conference of the Parties.)

10. The Conference of the Parties may wish to review the proposed rules of procedure and operational strategy for the Global Environment Facility in considering its selection of an institutional structure to operate the financial mechanism, and in the context of its discussion and conclusion on policy, strategy, and programme priorities for access to the financial mechanism under the Convention, as well as on the arrangements the Conference of the Parties would wish to have with the institutional structure.

### 3. OTHER FINANCIAL INSTITUTIONS

11. Article 21, paragraph 4, states that the Contracting Parties shall consider strengthening existing financial institutions to provide financial resources for the conservation and sustainable use of biological diversity. In this context, and upon the request of the Intergovernmental Committee at its first session, financial institutions other than the one operating the financial mechanism on an interim basis were invited to meet with the Committee at its second session.

12. The Intergovernmental Committee felt that there should be possibilities for multiple sources of funding for activities to be undertaken under the Convention and, for this purpose, recommended that a survey be undertaken of other financial institutions relevant to the Convention in order to advise the Conference of the Parties about their strategies and policies. The Committee suggested that the survey could include the role and nature of the activities of the institutions relevant to the conservation of biological diversity and sustainable use of its components; the extent to which their current policies, programmes and projects are consistent with the aims and objectives of the Convention; as well as what they might add to the process of implementing the Convention (UNEP/CBD/COP/1/4, para. 194). The results of this survey would provide a basis upon which the Conference of the Parties could consider how it would address the requirement of article 21, paragraph 4.

### 4. ARRANGEMENTS BETWEEN THE CONFERENCE OF THE PARTIES AND THE INSTITUTIONAL STRUCTURE

13. Article 21, paragraph 1, describes the characteristics of the financial mechanism for the purposes of the Convention. Article 21, paragraph 2, states that the Conference of the Parties shall decide on the arrangements to give effect to the provisions of article 21, paragraph 1, after consultation with the institutional structure entrusted with the operation of the financial mechanism.

14. Having considered the possible nature, scope and content of such arrangements, at its second session, the Intergovernmental Committee requested the Interim Secretariat to prepare draft elements which could be considered by the first meeting of the Conference of the Parties, in outlining possible arrangements, and which could serve as the basis for its consultation with the institutional structure (UNEP/CBD/COP/1/4, para. 198).

/...

15. Such elements have been prepared in the form of a preliminary draft memorandum of understanding between the Conference of the Parties and the institutional structure and is attached as an annex to the present note.

16. In considering such possible arrangements, the Conference of the Parties should bear in mind that any institutional structure entrusted with the operation of the financial mechanism is likely to have its own constituent instrument and organs of governance, and that the arrangements contemplated will need to be developed taking into account the specificities of the institutional structure selected.

17. The Conference of the Parties should also advise on the procedure for consultation about these arrangements with the institutional structure selected.

Annex

Preliminary draft for consideration by the Conference  
of the Parties at its first meeting

MEMORANDUM OF UNDERSTANDING BETWEEN THE CONFERENCE OF THE PARTIES TO THE  
CONVENTION ON BIOLOGICAL DIVERSITY AND THE INSTITUTIONAL STRUCTURE  
OPERATING THE FINANCIAL MECHANISM UNDER THE CONVENTION

1. Preamble

The Conference of the Parties,

Recognizing the characteristics of the financial mechanism for the provision of financial resources for the purposes of this Convention outlined in article 21, paragraph 1, of the Convention on Biological Diversity, and the need for it to conclude arrangements with the institutional structure entrusted with its operation, in order to give effect to the provisions of article 21, paragraph 1,

Having decided at its first meeting that the operation of the financial mechanism [on whatever basis] will be entrusted to [name of institutional structure],

Having consulted with [name of institutional structure] and taken into account the relevant aspects of its governance as reflected in its constituent instrument,

The Conference of the Parties to the Convention on Biological Diversity and [name of institutional structure] agree to conclude the present Memorandum of Understanding.

2. Purpose

The purpose of the present Memorandum of Understanding is to govern the operational relations between the Conference of the Parties and [name of institutional structure] in order to give effect to the provisions of article 21, paragraph 1, of the Convention.

3. Communication

3.1 The Conference of the Parties shall determine the policy, strategy, programme priorities and eligibility criteria relating to the access to and utilization of financial resources. The decisions of the Conference of the Parties on these issues shall guide the institutional structure in the operation of the financial mechanism under the Convention. For this purpose, the Conference of the Parties shall, after its first meeting and its subsequent meetings where necessary, communicate its decisions on the following matters:

- (a) Policy and strategy;
- (b) Programme priorities;
- (c) Eligibility criteria, including an updated list of Parties to the Convention, a list of least developed countries and a list of small island developing countries;
- (d) An indicative list of incremental costs;

(e) A list of developed country Parties and other Parties which voluntarily assume the obligations of developed country Parties;

(f) The amount of resources needed;

(g) Any other matter relating to the financial mechanism of the Convention.

3.2 [Name of institutional structure] shall also communicate to the Conference of the Parties all relevant information, including detailed indications on the projects in the area of biological diversity funded outside of the framework of the financial mechanism of the Convention.

#### 4. Reporting

4.1 The Conference of the Parties shall receive and review at each of its meetings a report from [name of institutional structure].

4.2 The report should include specific information to indicate how the policy, strategy, programme priorities and eligibility criteria determined by the Conference of the Parties, as well as any other decision communicated, have been reflected in its operational strategy for, and funded activities under, the financial mechanism of the Convention.

4.3 The report should provide information on the following:

(a) A list of projects submitted for funding by eligible Parties;

(b) A list of projects funded for any reporting period;

(c) The status of projects under consideration;

(d) The funds committed and disbursed.

4.4 The report should also indicate:

(a) The programme of future activities in the area of biological diversity;

(b) The amount of financial resources available to support these activities.

4.5 [Name of institutional structure] shall also provide information on other matters as may be required by the Conference of the Parties in the discharge of its functions under article 21, paragraphs 1 and 2, [and under article 39].

#### 5. Monitoring and evaluation

5.1 The Conference of the Parties may raise any matter arising from the report received with the governing body of the [name of institutional structure].

5.2 The Conference of the Parties may require reconsideration by the [name of institutional structure], if moved to do so by any Contracting Party, of any funding decision taken. The [name of institutional structure] shall reconsider any funding decision if requested to do so by the Conference of the Parties.

5.3 As provided for in article 21, paragraph 3, the Conference of the Parties shall periodically review the effectiveness of the financial mechanism.

6. Joint determination of the aggregate funding requirements

In order to facilitate the need for predictability, adequacy and timely flow of funding, the Conference of the Parties and the [name of institutional structure] shall jointly determine the aggregate funding requirements for the purpose of the Convention in the following manner:

[procedures as identified by the Conference of the Parties at its first meeting]

7. Reciprocal representation

Representatives of the [name of institutional structure] shall be invited to attend meetings of the Conference of the Parties. Representatives of the Convention shall be invited to attend meetings of the [name of institutional structure].

8. Cooperation

The Secretariat of the Convention and [the appropriate organ of the institutional structure] shall communicate and cooperate with each other and meet on a regular basis to facilitate the effective operation of the financial mechanism.

9. Amendments

Any amendments to the present Memorandum of Understanding shall be mutually agreed upon by the Conference of the Parties and the [name of institutional structure].

10. Interpretation

If differences arise in the interpretation of the present Memorandum of Understanding, the Conference of the Parties and the [name of institutional structure] shall reach a mutually agreed solution.

11. Entry into force

The present Memorandum of Understanding shall enter into force [according to the procedure agreed between the two entities].

.....  
[on behalf of the Conference  
of the Parties]

.....  
[on behalf of the institutional  
structure]

-----

