



**CONVENTION ON
BIOLOGICAL DIVERSITY**

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CONFERENCE OF THE PARTIES TO THE
CONVENTION ON BIOLOGICAL DIVERSITY
Second meeting
Jakarta, 6-17 November 1995
Item 5.6 of the provisional agenda

**MEMORANDUM OF UNDERSTANDING BETWEEN THE CONFERENCE OF
THE PARTIES AND THE GLOBAL ENVIRONMENT FACILITY**

Note by the Secretariat

1. The Conference of the Parties authorized the Secretariat, on behalf of the Conference of the Parties and taking account of the views of participants in the first meeting of the Conference of the Parties, which should be provided in writing by 1 February 1995, to consult with the restructured Global Environment Facility (GEF) on the content of a memorandum of understanding which should be formally considered at the second meeting of the Conference of the Parties.
2. The Secretariat received 12 comments from countries on the content of the memorandum of understanding. They are the following: Australia, Canada, Denmark, France, Germany, the Group of 77 and China, Japan, Norway, Sweden, Switzerland, the United Kingdom and the United States. Two comments were received from NGOs: Greenpeace International and World Wide Fund for Nature.
3. The Secretariat has consulted with the GEF on the content of the memorandum of understanding. The consultation has been very productive and as a result, a draft memorandum has been prepared. The text of a draft Memorandum of Understanding between the Conference of the Parties to the Convention on Biological Diversity and the Council of the Global Environment Facility regarding the Institutional Structure Operating the Financial Mechanism of the Convention is presented in the annex.
4. The Conference of the Parties may wish to note that paragraph 4 in the preamble of the draft Memorandum may need to be updated in accordance with a possible decision that the Conference of the Parties may take under the agenda item: Designation of the institutional structure.
5. The Conference of the Parties should note that paragraph 11 of the draft Memorandum of Understanding provides that the Memorandum of Understanding will come into effect upon approval by the Conference of the Parties and by the GEF Council. The Conference of the Parties may wish to approve the Memorandum of Understanding at the present meeting, should it agree on the text. Thereafter, the Conference of the Parties may wish to forward the Memorandum of Understanding to the GEF Council for its approval.

DRAFT

**MEMORANDUM OF UNDERSTANDING BETWEEN THE CONFERENCE OF THE PARTIES
TO THE CONVENTION ON BIOLOGICAL DIVERSITY AND THE COUNCIL OF THE
GLOBAL ENVIRONMENT FACILITY REGARDING THE INSTITUTIONAL STRUCTURE
OPERATING THE FINANCIAL MECHANISM OF THE CONVENTION**

1. Preamble

The Conference of the Parties to the Convention on Biological Diversity (hereinafter the Conference of the Parties) and the Council of the Global Environment Facility (hereinafter the Council),

Recognizing the characteristics of the financial mechanism for the provision of financial resources for the purposes of the Convention on Biological Diversity (hereinafter the Convention) outlined in article 21, paragraph 1, of the Convention, and the provisions of article 21, paragraph 2, of the Convention, which call upon the COP to decide on the arrangements to give effect to article 21, paragraph 1, after consultation with the institutional structure entrusted with the operation of the financial mechanism,

Recognizing further the willingness of the Global Environment Facility (hereinafter the GEF) to serve for the purposes of the financial mechanism for the implementation of the Convention as provided in paragraph 6 of the Instrument for the Establishment of the Restructured Global Environment Facility (hereinafter the Instrument),

Recognizing that the GEF, as decided by the Conference of the Parties, is to operate the financial mechanism of the Convention, [*NOTE: This paragraph is subject to a possible decision of the Conference of the Parties II in November 1995*]

Having consulted with each other and taking into account the relevant aspects of their governance structures as reflected in their constituent instruments,

The Conference of the Parties and the Council have reached the following understanding.

2. Purpose

The purpose of the present Memorandum of Understanding is to make provision for the relationship between the Conference of the Parties and the Council in order to give effect to the provisions of article 21, paragraph 1, of the Convention and paragraph 26 of the Instrument.

3. Communication

- 3.1 The Conference of the Parties shall determine the policy, strategy, programme priorities and eligibility criteria for access to and utilization of financial resources available through the financial mechanism including monitoring and evaluation on a regular basis of such utilization. The decisions of the Conference of the Parties on these issues shall guide the GEF in the operation of the financial mechanism under the Convention. For this purpose, the Conference of the Parties shall communicate its decisions, and any



revisions to them as it may adopt, on the following matters:

- (a) Policy and strategy;
- (b) Programme priorities;
- (c) Eligibility criteria;
- (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) Any other matter relating to article 21, paragraph 1 of the Convention, including periodic determination of the amount of resources needed.

3.2 The Council agrees to communicate to the Conference of the Parties all relevant information, including information on the projects in the area of biological diversity funded by the GEF outside of the framework of the financial mechanism of the Convention.

4. Reporting

4.1 The Council will prepare and submit a report for each ordinary meeting of the Conference of the Parties. The Conference of the Parties will review each such report at its earliest opportunity.

4.2 The report will 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 of the Conference of the Parties communicated to the GEF, have been applied in the operation of the GEF for the purposes of the Convention.

4.3. In particular, the report will provide information on the following:

- (a) The GEF's operational strategy and strategic programmes in the area of biological diversity;
- (b) A synthesis of the different projects under implementation;
- (c) A list of project proposals submitted for approval to the Council, through the GEF Implementing Agencies, by eligible Parties, including reporting on their approval status;
- (d) A review of the project activities approved by the GEF and their outcomes, including information on funding and progress in implementation.

4.4 In order to meet the requirements of accountability to the Conference of the Parties, reports submitted by the Council will cover all GEF-financed activities carried out for

the purpose of the Convention, whether decisions on such activities are made by the Council or by the GEF's Implementing Agencies. To this end, the Council will make arrangements as might be necessary with the Implementing Agencies regarding disclosure of information.

- 4.5 The Council will also provide information on other matters concerning the discharge of its functions under article 21, paragraph 1, as may be requested by the Conference of the Parties. If the Council has difficulties in responding to any such request, it will explain its concerns to the Conference of the Parties and the Conference of the Parties and the Council will find a mutually agreed solution.

5. Monitoring and evaluation

- 5.1 The Conference of the Parties may raise with the Council any matter arising from the report received.
- 5.2 The funding decisions for specific projects should be agreed between the developing country Party concerned and the GEF in conformity with policy guidance from the Conference of the Parties. The GEF Council is responsible for approving the GEF work programmes. If any Party considers that a decision of the Council regarding a specific project in a proposed work programme does not comply with the policies, programme priorities and eligibility criteria established by the Conference of the Parties in the context of the Convention, the Conference of the Parties should analyze the observations presented to it by the Party and take decisions on the basis of compliance with such policies, programme priorities and eligibility criteria. In the event that the Conference of the Parties considers that this specific project decision does not comply with the policies, programme priorities and eligibility criteria established by the Conference of the Parties, it may ask the GEF Council for further clarification on the specific project decision and in due time may ask for a reconsideration of that decision.
- 5.3 As provided for in article 21, paragraph 3, of the Convention, the Conference of the Parties shall periodically review the effectiveness of the financial mechanism in implementing the Convention and communicate to the Council relevant actions taken by the Conference of the Parties as the result of such review to improve the effectiveness of the financial mechanism in assisting developing country Parties to implement the Convention.

6. Joint determination of the aggregate GEF funding requirements

The Conference of the Parties and the Council will jointly determine the aggregate GEF funding requirements for the purpose of the Convention.

7. Reciprocal representation

On a reciprocal basis, representatives of the GEF will be invited to attend meetings of the Conference of the Parties and representatives of the Convention will be invited to attend meetings of the GEF.

8. Intersecretariat Cooperation

The Secretariat of the Convention and the Secretariat of the GEF will communicate and cooperate with each other and consult on a regular basis to facilitate the effectiveness of the financial

mechanism in assisting developing country Parties to implement the Convention.

9. Amendments

Any amendments to the present Memorandum of Understanding will be mutually agreed upon by the Conference of the Parties and the Council.

10. Interpretation

If differences arise in the interpretation of the present Memorandum of Understanding, the Conference of the Parties and the Council will reach a mutually agreed solution.

11. Entry into effect

The present Memorandum of Understanding will come into effect upon approval by the Conference of the Parties and by the Council. Either participant may withdraw this Memorandum of Understanding at any time by notification addressed to the other. The withdrawal will take effect six months after its notification.