



UNITED
NATIONS

ADVANCE UNEDITED VERSION

UNEP/EA.6/12



United Nations
Environment
Programme

Distr.: [Distribution]
[Date]

Original: English

United Nations Environment Assembly
of the United Nations Environment Programme
Sixth session
Nairobi, 26 February–1 March 2024
Items 5 and 6 of the provisional agenda**
**International environmental policy and governance
issues**
**Programme of work and budget and other
administrative and budgetary issues.**

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

Report of the Executive Director

Summary

Upon the recommendation of the Council of the Global Environment Facility (GEF) at its sixty-third and sixty-fourth meetings, the Seventh GEF Assembly, in August 2023, approved amendments to the Instrument for the Establishment of the Restructured Global Environment Facility such that:

(a) The Council's co-chairing arrangements be changed, so that each Co-Chair is elected for a full year and therefore co-chairs two successive Council meetings.

(b) The Instrument includes some additional technical updates in line with international developments and Council decisions in the past years.

(c) The GEF will serve as part of the financial mechanism of the internationally 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 (BBNJ).

The amendments approved by the Seventh GEF Assembly will become effective after their final adoption by the governing bodies of the GEF implementing agencies (the United Nations Development Programme, the United Nations Environment Programme, and the World Bank) and the Trustee. The United Nations Environment Assembly may therefore wish to consider the information contained in the present report and adopt the amendments to the Instrument.

** UNEP/EA.6/1.

I. Suggested action by the United Nations Environment Assembly of the United Nations Environment Programme

1. The United Nations Environment Assembly may wish to consider the adoption of a decision along the lines suggested below:

The United Nations Environment Assembly,

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 (hereinafter “the Instrument”),

Recalling the approval in May 2014 by the Fifth Assembly of the Global Environment Facility of a number of amendments to the Instrument relating to the GEF being available to operate as one of the financial mechanisms of the Minamata Convention on Mercury; to replace the “ozone layer depletion” and the “persistent organic pollutants” focal areas with a “chemicals and waste” focal area; to update the eligibility criteria for accessing GEF funding; and reflect the change of the name from GEF Evaluation Office to GEF Independent Evaluation Office,

Recalling also the approval in August 2023 by the Seventh Assembly of the Global Environment Facility of a number of amendments to the Instrument relating to the Council’s co-chairing arrangements, technical updates in line with international developments and Council decisions as well as to the GEF being available to serve as part of the financial mechanism of the internationally 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 (BBNJ);

Having taken note of the report of the Executive Director¹,

1. *Decides*, pursuant to the decision of the GEF Assembly in August 2023 (agenda Item 8), to adopt the updated text of the Instrument as contained in annex VIII of the information document entitled “Information supplementary to the report of the Executive Director on amendments to the Instrument for the Establishment of the Restructured Global Environment Facility”² which includes:

(a) An amendment to Article 20 of the Instrument according to which the Council’s Co-Chairs shall be elected for a full year and therefore act as co-chairs two successive Council meetings.

(b) Amendments to Articles 3, 6, 8, 9, 11, 13, 18, 20, 21, 22, 29, 30 and 32 of the Instrument including some technical updates in line with international developments and Council decisions in the past years.

(c) The addition of a new sub-paragraph (f) to paragraph 6 of the Instrument, allowing for the GEF to serve as part of the financial mechanism of the internationally 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 (BBNJ).

2. *Requests* the Executive Director to continue 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 implementing agency of the Global Environment Facility.

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

II. Background

1. The Global Environment Facility (GEF) Assembly consists of representatives of all GEF member countries (also referred to as “participants”). Pursuant to paragraph 34 of the Instrument (in its current version), amendments to the Instrument may be approved by consensus by the GEF Assembly upon recommendation of the Council, after taking into account the views of the GEF implementing agencies (the United Nations Environment Programme (UNEP), the United Nations Development Programme

¹ UNEP/EA.6/13

² UNEP/EA.6/INF/12

(UNDP) and the World Bank) and the Trustee, and become effective after their adoption by the implementing agencies and the Trustee in accordance with their respective rules and procedural requirements.

2. Annexes II to VIII of the information document entitled “Information supplementary to the report of the Executive Director on amendments to the Instrument for the Establishment of the Restructured Global Environment Facility”² contains the background documents submitted to the GEF Council at its sixty-third and sixty-fourth meetings and the Seventh GEF Assembly, held in Vancouver, Canada from 22-26 August 2023, to support consideration of the above-mentioned amendments to the Instrument. The documents include the official record of the Assembly decision adopting the amendments and a letter from Mr Carlos Manuel Rodriguez, Chief Executive Officer and Chairperson of GEF, dated 19 October 2023 and addressed to the Executive Director of UNEP, explaining that the Seventh GEF Assembly in August 2023 approved amendments to the Instrument and invited the GEF Chief Executive Officer and Chairperson to request the implementing agencies and Trustee to adopt the amendments in accordance with their respective rules and procedures.

3. The amendments were discussed in GEF Council meetings prior to their approval by the Seventh GEF Assembly. Annexes II to VIII to the aforementioned information document contain the background documents and Council decisions pertaining to those discussions.

III. Amendments

Amendment 1

The GEF Council’s Co-Chairs shall be elected for a full year and therefore act as co-chairs two successive Council meetings.

4. In its Decision 22/2020, the GEF Council, upon recommendation of the Ad-hoc Working Group to follow-up on the findings of the Sixth Comprehensive Evaluation of the GEF (OPS6), decided to pilot for one year an adjusted co-chairing arrangement and to appoint the elected Chairperson from among its Members for the duration of one year instead of just one meeting. By Decision 37/2021, the Council decided to continue the pilot for the Calendar Year 2022. The Council, recommended to the Assembly the updated text of the Instrument for the Establishment of the Restructured Global Environment Facility including an amendment of Article 18 to change the Co-chairing arrangements so that each Co-Chair is elected for a full year and therefore co-chairs two successive Council meetings. The Seventh GEF Assembly, having considered the recommendations of the GEF Council for proposed amendments to the Instrument in its Decision 37/2022, approved by consensus the amended text of the Instrument.

5. This amendment to the Instrument responds to the declared aims, notably facilitation of a stronger involvement of the elected Chairperson in providing input into agenda, the chairing of the meeting and the meeting report.

6. The Executive Director welcomes the decision by the Assembly and the resulting amendment to the GEF Instrument which consists of an entirely revised Article 18 of the Instrument.

Amendment 2

Additional technical updates in line with international developments and GEF Council decisions in the past years

7. As part of its work, the Working Group also screened the current version of the Rules of Procedure of the GEF Council and the Instrument and suggested some technical updates to the Instrument, in line with international developments and past GEF Council decisions. In addition, the Group recommended to revise some additional terms and practices described in the Rules of Procedures to bring them in line with current Council decisions and practice. The GEF Council, having considered document decided to recommend to the Assembly the updated text of the Instrument. The Seventh GEF Assembly, having considered those recommendations for proposed amendments of the Instrument in its Decision 37/2022, approved by consensus the amended text of the Instrument.

8. Essentially, amendment 2 concerns the following:

(a) Paragraph 3 of the Instrument accounts for the fact that Agenda 21 has been superseded by the 2030 Agenda for Sustainable Development. The amended text deletes references to the former and includes the latter.

(b) In paragraph 13, the frequency of the GEF Assembly has been updated to reflect the fact that an Assembly takes place every four years.

(c) Paragraph 20 (j) expands the GEF Council responsibilities to include the duty of appointing the Director of the Independent Evaluation Office (IEO), overseeing the IEO work and assign specific tasks to the IEO.

(d) Paragraph 20 (c), (d) and (k) incorporate the concept that the GEF Council exercises the responsibilities described therein, in respect of the 15 Council accredited agencies that have been given operational duties equivalent to those of the three Implementing Agencies.

(e) Paragraph 20 (l) deletes reference to the UN Commission on Sustainable Development that no longer exists. It also mentions that the GEF Council approves reports, in general, to cover all the reports that require Council approval.

(f) Paragraph 21 (c), (d) and (e) incorporate the concept of GEF Council accredited agencies to reflect the fact that these agencies have been given operational duties equivalent to the three Implementing Agencies.

(g) Paragraph 21 (i) has been deleted as the concept of the Independent Evaluation Office is now reflected in paragraph 22.

(h) Paragraph 29 includes the concept of GEF Council accredited agencies to reflect the fact that these agencies have been given operational duties equivalent to the three Implementing Agencies.

(i) Paragraph 32 has been amended to reflect the reports currently prepared by the GEF and approved by the Council.

(j) In general, the incorporation of the concept of “Council accredited agencies” in no way alters or affects the special institutional responsibilities assigned by the Instrument to the three Implementing Agencies.

9. The Executive Director welcomes the decision of the GEF Assembly and the resulting amendment to the Instrument. She considers that the amendments will render the Instrument more agile, relevant, and up to the GEF’s needs.

Amendment 3

The GEF shall serve as part of the financial mechanism of the internationally 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 (BBNJ)

10. At its resumed session of June 19 and 20, 2023, the fifth session of the Intergovernmental Conference (IGC-5) 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”).

11. The agreement identifies the GEF as part of its Financial Mechanism, which also includes a special fund and a voluntary trust fund.

12. The GEF Assembly therefore, upon the recommendation of the GEF Council, approved an addition to paragraph 6 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 (BBNJ).

13. The Executive Director considers that this addition to the Instrument responds to the invitation from the Intergovernmental Conference on BBNJ to the GEF to be part of the Financial Mechanism of the BBNJ agreement as reflected in part VII “Financial Resources and Mechanism” of the agreement adopted at the resumed fifth session of the Intergovernmental Conference on June 19, 2023.

14. The Executive Director welcomes the decision of the GEF Assembly and the resulting amendment to the Instrument.