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**United Nations
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**Intergovernmental negotiating committee
to prepare a global legally binding instrument
on mercury
Sixth session**

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Item 3 (b) of the provisional agenda*

**Work to prepare for the entry into force of the Minamata Convention
on Mercury and for the first meeting of the Conference of the Parties:
matters required by the Convention to be decided upon by the
Conference of the Parties at its first meeting**

**Examples of memorandums of understanding between the
Council of the Global Environment Facility and the governing
bodies of multilateral environmental agreements**

Note by the secretariat

1. Paragraph 10 of article 13 of the Minamata Convention on Mercury provides that, at the first meeting of the Conference of the Parties, the Conference of the Parties and the entities comprising the mechanism “shall agree upon arrangements to give effect to” the operation of the mechanism.
2. In paragraph 2 of its resolution financial arrangements (UNEP(DTIE)/Hg/CONF/4, annex I), the Conference of Plenipotentiaries decided that the intergovernmental negotiating committee should develop, for consideration by the Conference of the Parties at its first meeting, a draft memorandum of understanding to be agreed between the Council of the Global Environment Facility and the Conference of the Parties on arrangements to give effect to the relevant provisions of paragraphs 5–8 of article 13.
3. A note by the secretariat (UNEP(DTIE)/Hg/INC.6/23) describes the steps taken by the interim secretariat and the secretariat of the Global Environment Facility to develop a draft memorandum of understanding. For the information of the committee, examples of similar memorandums of understanding between the GEF Council and the governing bodies of other multilateral environmental agreements are reproduced in the annexes to the present note. The memorandum of understanding with the Conference of the Parties to the Stockholm Convention on Persistent Organic Pollutants is reproduced in annex I, that with the Conference of the Parties to the Convention on Biological Diversity, in annex II, and that with the Conference of the Parties to the United Nations Framework Convention on Climate Change, in annex III.

* UNEP(DTIE)/Hg/INC.6/1.

Annex I

Memorandum of understanding between the Conference of the Parties to the Stockholm Convention on Persistent Organic Pollutants and the Council of the Global Environment Facility

The Conference of the Parties to the Stockholm Convention on Persistent Organic Pollutants and the Council of the Global Environment Facility,

Recalling Article 13, paragraph 2 of the Convention which states that “the developed country Parties shall provide new and additional financial resources to enable developing country Parties and Parties with economies in transition to meet the agreed full incremental costs of implementing measures which fulfil their obligations under this Convention as agreed between a recipient Party and an entity participating in the mechanism described in paragraph 6”;

Further recalling Article 13 of the Convention and recognizing that the financial mechanism established pursuant to it is to provide “adequate and sustainable financial resources to developing country Parties and Parties with economies in transition on a grant or concessional basis to assist in their implementation of the Convention” and is to “function under the authority, as appropriate, and guidance of, and be accountable to the Conference of the Parties for the purposes of this Convention”;

Recalling Article 13, paragraph 7, of the Convention which stipulates that, “pursuant to the objectives of the Convention and paragraph 6 of Article 13, the Conference of the Parties shall at its first meeting adopt appropriate guidance to be provided to the mechanism and shall agree with the entity or entities participating in the financial mechanism upon arrangements to give effect thereto”;

Recalling Article 14 of the Convention which stipulates that “the institutional structure of the Global Environment Facility, operated in accordance with the Instrument for the Establishment of the Restructured Global Environment Facility, shall on an interim basis, be the principal entity entrusted with the operations of the financial mechanism referred to in Article 13, for the period between the date of entry into force of this Convention and the first meeting of the Conference of the Parties, or until such time as the Conference of the Parties decides which institutional structure will be designated in accordance with Article 13;

Recalling paragraph 6 of the *Instrument for the Establishment of the Restructured Global Environment Facility*, as amended at the second Global Environment Facility Assembly in October 2002, which provides that “GEF shall also be available to serve as an entity entrusted with the operation of the financial mechanism of the Stockholm Convention on Persistent Organic Pollutants”;

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

Have reached the following understanding:

Definitions

1. For the purpose of the present memorandum of understanding:
 - (a) “Assembly” means the Assembly of GEF as defined in the *Instrument for the Establishment of the Restructured Global Environment Facility*;
 - (b) “Conference of the Parties” means Conference of the Parties to the Stockholm Convention on Persistent Organic Pollutants;
 - (c) “Convention” means the Stockholm Convention on Persistent Organic Pollutants;
 - (d) “Council” means the Council of GEF as defined in the *Instrument for the Establishment of the Restructured Global Environment Facility*;
 - (e) “GEF” means the mechanism established by the *Instrument for the Establishment of the Restructured Global Environment Facility*;
 - (f) “GEF Instrument” means the *Instrument for the Establishment of the Restructured Global Environment Facility*; and
 - (g) “Party” means Party to the Stockholm Convention on Persistent Organic Pollutants; and,
 - (h) “POPs” means the chemicals covered under the Stockholm Convention on Persistent Organic Pollutants.

Purpose

2. 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 13, paragraphs 6, 7 and 8, and Article 14 of the Convention and paragraphs 6, 26 and 27 of the GEF Instrument.

Guidance from the Conference of the Parties

3. The Conference of the Parties will provide GEF, as the principal entity entrusted on an interim basis according to Article 14 of the Convention with the operation of the financial mechanism established under Article 13 of the Convention, with appropriate guidance that the Conference of the Parties may adopt, review, update or revise in pursuance of paragraphs 7 and 8 of Article 13 and will subsequently agree with GEF upon any additional arrangements beyond the present memorandum of understanding that may be necessary. The guidance will address, among other things:

- (a) Determination of the policy, strategy and programme priorities, as well as clear and detailed criteria and guidelines regarding eligibility for access to and utilization of financial resources including monitoring and evaluation on a regular basis of such utilization;
- (b) Provision by the Council of regular reports to the Conference of the Parties on adequacy and sustainability of funding for activities relevant to the implementation of the Convention;
- (c) Promotion of multiple-source funding approaches, mechanism and arrangements;
- (d) Modalities for the determination in a predictable and identifiable manner of the amount of funding necessary and available for the implementation of the Convention, keeping in mind that the phasing out of persistent organic pollutants might require sustained funding, and the conditions under which that amount will be periodically reviewed; and
- (e) Modalities for the provision to interested Parties of assistance with needs assessment, information on available sources of funds and on funding patterns in order to facilitate coordination among them;

Conformity with guidance from the Conference of the Parties

4. The Council will ensure the effective operation of GEF, as an entity entrusted on an interim basis with the operations of the financial mechanism under the Convention, as a source of funding activities for the purposes of the Convention in conformity with the guidance provided to it by the Conference of the Parties.

5. The Council may raise with the Conference of the Parties any matter arising from the guidance adopted by the Conference of the Parties. In particular, if the Conference of the Parties provides guidance to GEF subsequent to its first meeting, the Council may consult with the Conference of the Parties to update and clarify existing guidance in light of any new or additional guidance that it receives.

6. The funding decisions for specific projects and activities should be agreed between the developing country Party or the Party with economy in transition concerned and GEF in accordance with policy, strategy, programme priorities and eligibility criteria established by the Conference of the Parties. The GEF Council is responsible for approving the GEF work programmes. If a Party considers that a decision of the Council regarding a specific project was not consistent with the policies, programme priorities and/or eligibility criteria established by the Conference of the Parties in the context of the Convention and if after consideration the Conference of the Parties decides the concern of the relevant Party has merit, it will seek clarification from GEF and analyse the observations presented to it by the concerned Party and the response by GEF. In the event that the Conference of the Parties considers that this specific project decision does not comply with the policy, strategy, programme priorities and/or eligibility criteria established by the Conference of the Parties, it may decide to request GEF to propose and implement a course of action to address the concern regarding the project in question.

Reporting

7. In order to meet the requirements of accountability to the Conference of the Parties, the Council will prepare and submit regular reports to the Conference of the Parties at each ordinary meeting of the Conference of the Parties. The report of the Council will be an official document of the meeting of the Conference of the Parties.

8. The reports will include specific information on how GEF has applied the guidance determined by the Conference of the Parties, as well as any other decision of the Conference of the Parties communicated to GEF, under Article 13 of the Convention.
9. In particular, the reports will provide the following information:
 - (a) Information on how GEF has responded to the guidance provided by the Conference of the Parties including, where appropriate, through its incorporation in the strategies and operational policies of GEF;
 - (b) A synthesis of projects approved by the Council during the reporting period in the persistent organic pollutants focal area with an indication of GEF and other resources allocated to such projects and the approval status of each project;
 - (c) A listing of projects approved by the Council in the persistent organic pollutants focal area, with an indication of the total financial resources allocated to these projects; and
 - (d) In case of any project proposal included in a work programme that is not approved by the Council, the reasons for not being approved.
10. The Council will also report on GEF monitoring and evaluation activities concerning projects in the persistent organic pollutants focal area.
11. The Council will also provide information on other matters concerning the discharge of functions under Article 13, paragraph 6, 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.
12. The Council will include in its report to the Conference of the Parties any views it may have on the guidance decided by the Conference of the Parties.
13. The Conference of the Parties may raise with the Council any matter arising from the reports received.

Monitoring and evaluation

14. As provided for in Article 13, paragraph 8, of the Convention, the Conference of the Parties will review, on a regular basis, the effectiveness of the financial mechanism established under the Convention, its ability to address the changing needs of developing country Parties and Parties with economies in transition, the criteria and guidance referred to in Article 13, paragraph 7 of the Convention, the level of funding as well as the effectiveness of the performance of GEF as an institutional entity entrusted on an interim basis with the operation of the financial mechanism.
15. In preparing its review on the effectiveness of the financial mechanism, the Conference of the Parties will, as appropriate, take into account the reports of the GEF independent monitoring and evaluation unit and the views of GEF. The GEF independent monitoring and evaluation unit will consult, as appropriate, with the Secretariat of the Convention when preparing evaluations of the activities of GEF related to persistent organic pollutants.
16. The Conference of the Parties, based on the above-mentioned reviews, will communicate to the Council relevant decisions taken by the Conference of the Parties as a result of such reviews, to improve the performance and effectiveness of the financial mechanism in assisting developing country Parties and Parties with economies in transition to implement the Convention.

Cooperation between Secretariats

17. The Secretariat of the Convention and the Secretariat of 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 and Parties with economies in transition to implement the Convention.
18. In particular, in accordance with the GEF project cycle the Secretariat of the Convention will be invited to comment on the project proposals related to persistent organic pollutants under consideration for inclusion in a proposed work programme, especially with regard to the consistency of the project proposals with the guidance provided by the Conference of the Parties.
19. The Secretariats of the Convention and of GEF will reciprocally consult with each other on draft texts of documents relevant to the Convention and GEF prior to issuing the final texts of such documents.

20. Official documentation of GEF, including information on project activities, will be made available on its web site. Official documentation of the Convention will be made available on its web site.

Reciprocal representation

21. On a reciprocal basis, representatives of 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 Council and Assembly.

Amendments

22. The present memorandum of understanding may be amended at any time by written agreement between the Conference of the Parties and the Council.

Interpretation

23. If differences arise in the interpretation of the present memorandum of understanding, the Conference of the Parties and the Council will make every effort to reach a mutually acceptable solution. If necessary the issue may be referred, as appropriate, to the Conference of the Parties and /or the Council of GEF for consideration.

Entry into effect

24. The present memorandum of understanding will come into effect upon approval by the Conference of the Parties and by the Council and will remain in force until such time as the Conference of the Parties decides which institutional structure will be designated in accordance with Article 13 of the Convention.

Withdrawal

25. Either the Conference of the Parties or the Council may terminate the present memorandum of understanding at any time upon written notification to the other. The withdrawal will take effect six months after its notification and shall not affect the validity or duration of activities initiated before such termination.

Annex II

Memorandum of understanding between the Conference of the Parties to the Convention on Biological Diversity and the Council of the Global Environment Facility

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 Conference of the Parties 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 GEF) to serve for the purposes of the financial mechanism for the implementation of the Convention,

Recognizing that the financial mechanism shall function under the authority and guidance of and be accountable to the Conference of the Parties for the purposes of the Convention and that GEF as decided by the Conference of the Parties will operate the financial mechanism of the Convention on an interim basis in accordance with Article 39 of the Convention,

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

Have reached the following understanding:

1. Purpose

1.1 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 GEF Instrument and, on an interim basis, in accordance with Article 39 of the Convention.

2. Guidance from the Conference of the Parties

2.1 In accordance with Article 21 of the Convention the Conference of the Parties will 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. GEF, in operating the financial mechanism under the Convention, will finance activities that are in full conformity with the guidance provided to it by the Conference of the Parties. For this purpose, the Conference of the Parties will communicate its guidance, and any revisions to such guidance 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, including periodic determination of the amount of resources needed as detailed in paragraph 5 of this Memorandum.

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

3. Reporting

3.1 The Council will prepare and submit a report for each ordinary meeting of the Conference of the Parties.

3.2 The reports will include specific information on how the GEF Council, its Secretariat and its Implementing and Executing Agencies have applied the guidance and implemented the policy, strategies, 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 GEF, under Article 21 of the Convention. The Council should also report on its monitoring and evaluation activities concerning projects in the biodiversity focal area.

3.3. In particular, the reports will provide detailed information on the GEF biodiversity focal area, including:

- (a) Information on how GEF has responded to the guidance provided by the Conference of the Parties as described by paragraph 2, including, where appropriate, through its incorporation in the GEF operational strategy and operational programmes;
- (b) The conformity of the approved work programmes with guidance of the Conference of the Parties;
- (c) A synthesis of the different projects under implementation and a listing of the projects approved by the Council in the biodiversity focal area, as well as a financial report with an indication of the financial resources allocated to these projects;
- (d) 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 and, in cases of projects not approved, the reasons therefore;
- (e) A review of the project activities approved by GEF and their outcomes, including information on funding and progress in implementation; and
- (f) Additional financial resources leveraged by GEF for the implementation of the Convention.

3.4 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 Implementing and/or Executing Agencies. To this end, the Council will make arrangements as might be necessary with the Implementing Agencies regarding disclosure of information.

3.5 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.

4. Monitoring and evaluation

4.1 The Conference of the Parties may raise with the Council any matter arising from the reports received.

4.2 The funding decisions for specific projects should be agreed between the developing country Party concerned and GEF in accordance with policy, strategy, programme priorities and eligibility criteria established by the Conference of the Parties. The GEF Council is responsible for approving the GEF work programmes. If a Party considers that a decision of the Council regarding a specific project was not made in compliance 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 analyse the observations presented to it by the Party and take decisions on the basis of compliance with such policy, strategy, 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 policy, strategy, 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.

4.3 As provided for in Article 21, paragraph 3, of the Convention, the Conference of the Parties will periodically review the effectiveness of the financial mechanism in implementing the Convention and communicate to the Council relevant decisions 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.

5. Determination of funding requirements

5.1 In anticipation of the replenishment of GEF, the Conference of the Parties will make an assessment of the amount of funds that are necessary to assist developing countries, in accordance with the guidance provided by the Conference of the Parties, in fulfilling their commitments under the Convention over the next GEF replenishment cycle, taking into account:

- (a) Article 20, paragraph 2, and Article 21, paragraph 1, of the Convention;
- (b) Guidance to the financial mechanism from the Conference of the Parties which calls for future financial resources;
- (c) The information communicated to the Conference of the Parties in the national reports submitted in accordance with Article 26 of the Convention;
- (d) National strategies, plans or programs developed in accordance with Article 6 of the Convention;
- (e) Information communicated to the Conference of the Parties from GEF on the number of eligible programmes and projects that were submitted to GEF, the number that were approved for funding, and the number that were turned down owing to lack of resources;
- (f) Experience gained by those concerned in the implementation of projects.

5.2 On the occasion of each replenishment, GEF will, in its regular report to the Conference of the Parties as provided for in paragraph 3 of this Memorandum of Understanding, indicate how it has responded during the replenishment cycle to the previous assessment by the Conference of the Parties prepared in accordance with paragraph 5.1 and inform the Conference of the Parties of the conclusion of replenishment negotiations.

5.3 On the basis of the report referred to in paragraph 5.2 of this Memorandum of Understanding the Conference of the Parties will review the amount of funding necessary for the implementation of the Convention, on the occasion of each replenishment of the financial mechanism.

6. Reciprocal representation

On a reciprocal basis, representatives of 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 GEF.

7. Inter-secretariat cooperation

The Secretariat of the Convention and the Secretariat of 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. In particular, the two secretariats will consult on the project proposals under consideration for inclusion in a proposed work programme, especially with regard to the consistency of the project proposals with the guidance of the Conference of the Parties. Official documentation of GEF will be made available to the Secretariat of the Convention on Biological Diversity.

8. Amendments

Any amendments to the present Memorandum of Understanding will be decided upon by the Conference of the Parties and the Council in writing.

9. 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 acceptable solution.

10. Entry into effect

10.1 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 written notification addressed to the other. The withdrawal will take effect six months after its notification.

10.2 The withdrawal of this Memorandum of Understanding by either Party to this Memorandum of Understanding shall not affect any projects considered and/or approved in accordance with the Memorandum of Understanding prior to the withdrawal.

Annex III

Memorandum of understanding between the Conference of the Parties to the United Nations Framework Convention on Climate Change and the Council of the Global Environment Facility

This Memorandum of Understanding is concluded between the Conference of the Parties (hereinafter referred to as "the COP") to the United Nations Framework Convention on Climate Change (hereinafter referred to as "the Convention") and the Council of the Global Environment Facility (hereinafter referred to as the "Council of the GEF"), the international entity entrusted on an interim basis with the operation of the financial mechanism referred to in Article 11 of the Convention.

INTRODUCTION

The Parties to this Memorandum of Understanding,

Recalling Article 11 of the Convention and recognizing that the financial mechanism is to provide financial resources on a grant and concessional basis, including for the transfer of technology, and is to function under the guidance of and be accountable to the COP, which shall decide on its policies, programme priorities and eligibility criteria related to the Convention,

Recalling Article 11.1 which states that the operation of the financial mechanism shall be entrusted to one or more existing international entities,

Recalling also the decision of the first session of the COP on the maintenance of the interim arrangements referred to in Article 21.3 that the restructured GEF shall continue, on an interim basis, to be the international entity entrusted with the operation of the financial mechanism, referred to in Article 11,

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

Recalling that, in accordance with Article 11.3, the COP and the entity or entities entrusted with the operation of the financial mechanism shall agree upon arrangements to give effect to Article 11.1 and 11.2,

Recalling further that, in accordance with paragraph 27 of the Instrument, the Council of the GEF is to consider and approve cooperative arrangements with the COP,

Have agreed as follows:

Purpose of arrangements

1. The purpose of this Memorandum is to give effect to the respective roles and responsibilities of the COP, the supreme body of the Convention, and the GEF, the international entity entrusted with the operation of the financial mechanism and to provide for the required interaction between them under Article 11 of the Convention and paragraphs 26 and 27 of the Instrument.

Determination and communication of guidance from the COP

2. The COP will, pursuant to Article 11.1, decide on policies, programme priorities and eligibility criteria related to the Convention for the financial mechanism which shall function under the guidance of and be accountable to the COP.

3. The COP will, after each of its sessions, communicate to the Council of the GEF any policy guidance approved by the COP concerning the financial mechanism.

Conformity with COP guidance

4. The Council will ensure the effective operation of the GEF as a source of funding activities for the purposes of the Convention in conformity with the guidance of the COP. It will report regularly to the COP on its activities related to the Convention and on the conformity of those activities with the guidance received from the COP.

Reconsideration of funding decisions

5. 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 COP. The Council of the GEF 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 COP in the context of the Convention, the COP should analyse 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 COP considers that this specific project decision does not comply with the policies, programme priorities and eligibility criteria established by the COP, it may ask the Council of the GEF for further clarification on the specific project decision and in due time may ask for a reconsideration of that decision.

Reports from the GEF to the COP

6. Annual reports of the GEF will be made available to the COP through its secretariat. Other official public documentation of the GEF will also be made available to the COP through its secretariat. In order to meet the requirement of its accountability to the COP, the Annual Report of the GEF will cover all GEF-financed activities carried out in implementing the Convention, whether such activities are carried out by the GEF Implementing Agencies, the GEF Secretariat or by executing agencies implementing GEF-financed projects. To this end, the Council of the GEF will require all such bodies, with respect to GEF-financed activities, to comply with GEF policy on disclosure of information.

7. In its reporting on GEF-financed activities under the financial mechanism, the GEF should include specific information on how it has applied the guidance and decisions of the COP in its work related to the Convention. This report should be of a substantive nature and incorporate the programme of GEF activities in the areas covered by the Convention and an analysis of how the GEF, in its operations related to the Convention, has implemented the policies, programme priorities and eligibility criteria established by the COP. In particular, a synthesis of the different projects under implementation and a listing of the projects approved by the Council in the climate change focal area as well as a financial report with an indication of the financial resources required for those projects should be included. The Council should also report on its monitoring and evaluation activities concerning projects in the climate change focal area.

8. The Council of the GEF may seek guidance from the COP on any matter it considers relevant to the operation of the financial mechanism of the Convention.

Determination of funding necessary and available

9. In accordance with Article 11.3(d) of the Convention, which calls for arrangements to determine in a predictable and identifiable manner the amount of funding necessary and available for the implementation of the Convention and the conditions under which that amount shall be periodically reviewed, the COP and the Council shall jointly determine the aggregate GEF funding requirements for the purpose of the Convention. Procedures to facilitate such a joint determination will be developed by the COP and the Council and annexed to this Memorandum.

Cooperation between secretariats

10. The secretariats of the Convention and of the GEF shall cooperate and exchange on a regular basis views and experiences necessary to facilitate the effectiveness of the financial mechanism in assisting Parties to implement the Convention.

Representation in meetings of governing bodies

11. The participation of representatives of the Council of the GEF in meetings of the COP and of its subsidiary bodies will be governed by the rules of procedure of the COP. Likewise, the participation of representatives of the Convention in meetings of the Council of the GEF will be determined in accordance with the rules of procedure of the Council of the GEF. In formulating and applying its rules, each organization will make every effort to accord the other organization reciprocal representation privileges.

Review and evaluation of the financial mechanism

12. The COP will periodically review and evaluate the effectiveness of all modalities established in accordance with Article 11.3. Such evaluations will be taken into account by the COP in its decision, pursuant to Article 11.4, on arrangements for the financial mechanism.

Modification of the Memorandum of Understanding

13. This Memorandum of Understanding may only be modified in writing by agreement between the COP and the Council of the GEF.

Entry into effect

14. This Memorandum of Understanding shall come into force upon its approval by the COP of the Convention and the Council of the GEF.

Termination

15. This Memorandum of Understanding may be terminated by either Party giving six months' notice in writing to the other.

Memorandum of Understanding between the Conference of the Parties and the Council of the Global Environment Facility: annex on the determination of funding necessary and available for the implementation of the Convention

The Conference of the Parties,

Recalling Article 11.3 of the United Nations Framework Convention on Climate Change,

Recalling also its decision 9/CP.1 on the maintenance of the interim arrangements referred to in Article 21, paragraph 3, of the Convention and decision 10/1 on arrangements between the Conference of the Parties and the operating entity or entities of the financial mechanism,

Having adopted the Memorandum of Understanding between the Conference of the Parties and the Council of the Global Environment Facility in decision 12/CP.1,

1. *Decides* to refer the text of the annex on the determination of funding necessary and available for the implementation of the Convention adopted by the Council of the Global Environment Facility and the draft annex submitted by the Group of 77 and China (FCCC/SBI/1996/L.4) for consideration by the Subsidiary Body for Implementation at its next session;

2. *Invites* Parties to submit any additional comments on the matter to the Convention secretariat by 30 September 1996;

3. *Requests* the Subsidiary Body for Implementation to report to the Conference of the Parties on the outcome of this matter.