

The Adaptation Fund

AFB/B.2/6
May 19, 2008

Adaptation Fund Board
Second Meeting
Bonn, June 16-19, 2008

Agenda Item 6(d)

DRAFT LEGAL ARRANGEMENTS FOR THE ADAPTATION FUND SECRETARIAT

Introduction

1. Article 12, of the Kyoto Protocol to the United Nations Framework Convention of Climate Change, in defining a Clean Development Mechanism, makes a provision to, “ensure that a share of the proceeds from certified project activities is used to cover administrative expenses as well as to assist developing country Parties that are particularly vulnerable to the adverse effects of climate change to meet the costs of adaptation.” Further, Decision 10/CP.7 of the Conference of the Parties to the UNFCCC established the Adaptation Fund to “finance concrete adaptation projects and programmes in developing country Parties that are Parties to the Protocol...”
2. Decision 1/CMP.3 of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol established the Adaptation Fund Board as the operating entity of the Adaptation Fund. Paragraph 19 of Decision 1/CMP.3, “invites the Global Environment Facility to provide secretariat services to the Adaptation Fund Board on an interim basis.”
3. The text of a draft Memorandum of Understanding (MOU) between the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol and the Council of the Global Environment Facility regarding secretariat services to the Adaptation Fund Board is presented in Annex 1. The Adaptation Fund Board is invited to review the draft memorandum, comment upon the text, and decide to recommend it for approval by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol.
4. The Board should note that the form adopted is that of a memorandum of understanding. A memorandum of understanding is a form of arrangement that is often used to denote a firm, but not legally binding, commitment between two or more organizations. It provides that the arrangements described therein will become effective upon approval by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol and the GEF Council.
5. This draft Memorandum will also be presented to the GEF Council at its upcoming meeting in November 2008 for comments and guidance.
6. The Memorandum will be finalized upon mutual agreement by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol and the GEF Council.

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**MEMORANDUM OF UNDERSTANDING BETWEEN THE
CONFERENCE OF THE PARTIES SERVING AS THE
MEETING OF THE PARTIES TO THE KYOTO PROTOCOL
AND THE COUNCIL OF THE GLOBAL ENVIRONMENT
FACILITY REGARDING SECRETARIAT SERVICES TO THE
BOARD OF THE ADAPTATION FUND**

1. *Preamble*

The Conference of the Parties to the United Nations Framework Convention on Climate Change (hereinafter the Conference of the Parties) serving as the meeting of the Parties to the Kyoto Protocol (hereinafter the meeting of the Parties) having decided (Decision 5/CMP.2) the establishment of the Adaptation Fund of the Kyoto Protocol (hereinafter the Fund) and having further decided (Decision 1/CMP.3) that the operating entity of the Fund shall be the Adaptation Fund Board (hereinafter the Board) established to supervise and manage the Fund, and having invited the Global Environment Facility (hereinafter the GEF) to provide secretariat services to the Board, on an interim basis,

Recognizing the willingness of the GEF to provide secretariat services to fulfill the function of the Secretariat for the Adaptation Fund (hereinafter the Secretariat) on an interim basis;

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

The meeting of the Parties and the GEF Council (hereinafter the Council) have reached the following understanding:-

2. *Purpose*

The purpose of the present Memorandum of Understanding is to make provisions for the relationship between the meeting of the Parties and the Council and to fulfill Article 12 of the Kyoto Protocol and Decision 1/CMP.3 in connection with the provision of secretariat services as the Secretariat.

3. *Secretariat Services*

The provision of secretariat services by the GEF shall be directed by the Adaptation Fund Board and supported by an administrative budget made available under the Adaptation Fund, and shall cover, inter-alia:

- (a) Managing the daily operations of the Adaptation Fund;

- (b) Assisting the Board in its development of strategies, policies and guidelines for the Fund and ensuring timely implementation;
- (c) Serving as the liaison between the Board and the Parties and implementing and executing entities;
- (d) Making proper arrangements for meetings of the Board;
- (e) Developing the business plans and annual administrative budget for the Fund;
- (f) Ensuring the implementation of operational policies adopted by the Board through the development of a project cycle, with guidelines addressing eligibility criteria, project identification, development, and implementation;
- (g) Operationalizing the project cycle, including review and clearance of qualified project proposals for inclusion in the work program to be presented for Board approval, and monitoring implementation progress and periodic reporting to the Board on portfolio performance;
- (h) Coordinating the formulation, and overseeing the implementation of program activities, ensuring liaison with other bodies as required;
- (i) Coordinating with the secretariats of other relevant international bodies;
- (j) Reporting to the meeting of the Parties as directed by the Board;
- (k) Providing the Trustee with all relevant information to enable it to carry out its responsibilities; and
- (l) Performing any other functions assigned to it by the Board.

The provision of secretariat services by the GEF shall be consistent with the provisions of the Instrument for the Establishment of the Restructured Global Environment Facility (the Instrument).

4. *Amendments*

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

5. *Interpretation*

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

6. *Entry into Effect*

The present Memorandum of Understanding will come into effect upon adoption by the Conference of the Parties serving as the meeting as the Parties to the Kyoto Protocol and the Council. Either party 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.

7. *Review*

Paragraph 32 of Decision 1/CMP.3 provides for a review of the interim institutional arrangements after three years at the sixth session of the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol. The present Memorandum of Understanding will be reviewed in accordance with that decision. Following that review, this Memorandum of Understanding may be modified to reflect any decisions mutually agreed by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol and by the GEF Council.