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**INTERNATIONAL TREATY ON PLANT GENETIC RESOURCES  
FOR FOOD AND AGRICULTURE**

**SIXTH MEETING OF THE *AD HOC* ADVISORY COMMITTEE ON THE  
FUNDING STRATEGY**

**Rome, Italy, 13-15 October 2010**

**OPERATION OF THE BENEFIT-SHARING FUND:  
INSTITUTIONAL ARRANGEMENTS AND PROCEDURES**

**1. INTRODUCTION**

1. At its Second Session, the Governing Body of the International Treaty adopted the priorities, eligibility criteria and principles, project cycle and selection criteria for the use of resources under the Benefit-sharing Fund. These are contained in the Operational Procedures for the use of resources under the direct control of the Governing Body (Annex 3 to the Funding Strategy).<sup>1</sup>
2. The Operational Procedures for the Benefit-sharing Fund indicate that the disbursement, reporting and monitoring should be carried out according to additional procedures to be approved by the Governing Body and annexed to the Operational Procedures. They also indicate that the independent evaluation of projects should use standard evaluation procedures based on norms and standards of the United Nations Evaluation Group.
3. At its Third Session, the Governing Body approved the first pilot projects for funding under the first project cycle of the Benefit-sharing Fund. For those projects, the Governing Body requested the Secretary to consult within FAO, in order to find interim arrangements for the disbursement of funds, and project reporting and monitoring.<sup>2</sup>
4. At the same time, the Governing Body requested the Secretary to “develop disbursement, reporting and monitoring procedures for the operation of future project cycles, for consideration and approval by the Governing Body at its Fourth Session.”<sup>3</sup>

<sup>1</sup> IT/GB-2/07/Report, Appendix D.

<sup>2</sup> IT/GB-3/09/Report/Resolution 3/2009, para. 10

<sup>3</sup> *ibid.*

5. The Governing Body also requested the Secretary to continue collaborating with international organizations, including in particular the Global Crop Diversity Trust, in the further development and implementation of operational procedures of the Benefit-sharing Fund.<sup>4,5</sup>
6. According to its terms of reference, the *Ad Hoc* Advisory Committee on the Funding Strategy is requested to advise the Bureau and the Secretary on the operation of the Benefit-sharing Fund, including on disbursement and reporting procedures.<sup>6</sup>
7. At its first meeting in February 2011, the Bureau of the Fourth Session of the Governing Body requested the Committee to provide the Secretary with advice on the development of disbursement, reporting and monitoring procedures for the operation of future project cycles.<sup>7</sup>
8. In that context, the Bureau requested the Committee to examine all possible options for institutional arrangements to be put in place for the oversight and implementation of Benefit-sharing Fund projects. The Bureau further requested the Secretary to survey and prepare those options for the consideration of the Committee.<sup>8</sup>
9. After a summary of previous relevant work of the Committee at its fifth session is given, this document contains information on FAO processes on autonomy of statutory bodies as they relate to the functional needs of the Benefit-sharing Fund. Based on such information, the Committee is invited to advise on the establishment of institutional arrangements and operational procedures for the oversight and implementation of future project cycles of the Benefit-sharing Fund
10. Based on a comparative analysis of relevant multilateral financial mechanisms, this document contains a number of suggestions on the further operationalization of the Benefit-sharing Fund, in particular on the establishment of institutional arrangements, which take into account the functional needs of the Benefit-sharing Fund. Finally, draft interim procedures for reporting, monitoring and evaluation are provided for the consideration of the Committee. The finalization of procedures and institutional arrangements will require discussion with the relevant Departments of FAO before presentation to the Governing Body.

## **2. PREVIOUS CONSIDERATION OF INSTITUTIONAL ARRANGEMENTS AND PROCEDURES BY THE COMMITTEE**

11. At its fifth meeting, the Committee highlighted the importance of developing disbursement, reporting and operational procedures for the complete operation of the project cycle, as well as the establishment of institutional arrangements and partnerships.<sup>9</sup>

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<sup>4</sup> *ibid.*

<sup>5</sup> By Articles 19 and 20 of the International Treaty, the Secretary assists the Governing Body to establish and maintain cooperation with other relevant international organizations on matters covered by the Treaty, including “their participation in the Funding Strategy.”

<sup>6</sup> IT/GB-3/09/Report/ Resolution 3/2009, Annex 2.

<sup>7</sup> IT/GB-4 Bureau 1/10/Report, para. 21

<sup>8</sup> *ibid.*

<sup>9</sup> IT/ACFS-5/10/Report, para. 52-61.

12. Based on an earlier Bureau's request for a survey and examination of all possible options, the Committee asked the Secretariat to prepare, with experts' advice, working documents for its sixth meeting, including on:

- draft procedures for disbursement, reporting and monitoring, in accordance with the Operational Procedures of the Fund, as adopted by the Governing Body;
- a comparative analysis of the disbursement, reporting and monitoring procedures as well as institutional arrangements developed and implemented by other multilateral financial mechanisms, taking into account established international standards and lessons to be learned for the implementation of the Benefit-sharing Fund;
- relevant information and analysis for customizing the disbursement, reporting and monitoring procedures to the functional needs of the Treaty's Benefit-sharing Fund, given the status of the International Treaty as a legal instrument adopted under Article XIV of the FAO basic texts;
- information on the deliberations of the Programme Committee and other processes of FAO related to Article XIV bodies as well as their background documentation relevant to the operation of the Benefit-sharing Fund.

13. At its fifth meeting, the Committee noted the importance of the Immediate Plan of Action (IPA) of the FAO Independent External Evaluation (IEE) regarding the level of self-administration and self-financing of Article XIV bodies and the need to customize the procedures of their functional mechanisms in order to efficiently fulfil their functional needs.

14. The Committee also stressed that moving forward with the establishment of multiple partnerships for the implementation of the Benefit-sharing Fund represents a positive step towards implementation of the Fund, especially when those partnerships include investments in the calls and capitalization of the Fund. In this context, the Committee requested to formalize as soon as possible the partnership with the United Nations Development Programme (UNDP).

### **3. FUNCTIONAL NEEDS OF THE BENEFIT-SHARING FUND IN THE CONTEXT OF FAO'S PROCESSES ON AUTONOMY OF STATUTORY BODIES**

15. An area of relevance in the context of the Benefit-sharing Fund is the autonomy of FAO statutory bodies. The Governing Body of the International Treaty belongs to such a category, given the status of the International Treaty as a legal instrument adopted under Article XIV of the FAO Constitution.

16. If the future success of the strategic plan for implementation of the Benefit-sharing Fund depends on the Governing Body further exercising its authority with regard to the administration of the Fund, including the mobilization of additional funding from its members and other sources, the actual capacity of the Governing Body to make decisions in that regard, from the point of view of its legal status of Article XIV body within FAO, becomes central.

17. Furthermore, the Governing Body is to consider, at this Fourth Session, specific disbursement, reporting and monitoring procedures as well as institutional arrangements for the operation of future project cycles under the Benefit-sharing Fund. The Governing Body is also to review the support costs associated with the administration of the Fund. Assessing the extent of functional autonomy that the Governing Body enjoys, as an FAO Article XIV body, is essential to devising feasible disbursement, reporting and monitoring procedures as well as institutional arrangements for future project cycles.

18. This section of the document presents information on current FAO processes relevant to Article XIV bodies, which may be relevant to the operation of the Benefit-sharing Fund.

19. At different times, the Governing Body, its Bureau and various Subsidiary Committees have extensively discussed the status of the International Treaty as an Article XIV body.<sup>10</sup> At the Second Session of the Governing Body, the Chairperson provided a list of practical issues that could be addressed to meet the needs of the Governing Body as an Article XIV body.<sup>11</sup> Subsequently, relevant Treaty processes initiated evaluations of those needs. At its Third Session, the Governing Body noted “the relevance of the implications of the ongoing process of the FAO reform to the financial and administrative aspects of the International Treaty’s implementation and the activities of the International Treaty Secretariat, as well as the Governing Body’s ability to bring issues to the attention of the FAO Council and Conference through the relevant technical committees.”<sup>12</sup>

20. However, relevant FAO processes are evolving rapidly and elements for an updated assessment by the Governing Body have emerged after the Third Session of the Governing Body.

21. The Committee on Constitutional and Legal Matters (CCLM), at its 88<sup>th</sup> session in September 2009, examined a preliminary review of statutory bodies with a view to allowing them to exercise greater financial and administrative authority while remaining within the framework of FAO and maintaining a reporting relationship with the Organization.<sup>13</sup> This review was conducted in response to recommendation 2.69 of the Immediate Plan of Action for FAO Renewal (2009-11), approved by the Conference at its 35<sup>th</sup> (Special) Session.<sup>14</sup> Some elements of the CCLM preliminary review appear of relevance to the Benefit-sharing Fund.

22. The CCLM noted that the extent of functional autonomy of Article XIV bodies depends on a range of combined factors such as, inter alia, the provisions of their constituent instruments and operating requirements in light of their objectives and funding modalities, in particular the extent to which they are financed by contributions of members. The CCLM also highlighted the importance of taking into account the views of the members and the nature of the activities exercised.

23. The CCLM also agreed on the desirability that some recommendations for greater functional autonomy should be referred to other FAO Governing Bodies, and the fact that they could ultimately require a review of relevant parts of the FAO Basic Texts. The CCLM agreed that some areas where statutory bodies could exercise greater administrative and financial authority are of a complex nature or could require a decision by relevant FAO Governing Bodies, while other actions could be considered further by the relevant statutory bodies. As to for budgetary and financial issues, the CCLM recommended that they be addressed through the Finance Division and the Finance Committee as required.

24. As regards issues pertaining to relations with donors, the CCLM recommended that the matter be further examined by the concerned units of FAO, as well as the relevant FAO Governing Bodies and the concerned statutory bodies, as appropriate.

25. Regarding the reporting relationship between statutory bodies and the FAO Governing Bodies, the CCLM recommended that the matter be referred to the main concerned

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<sup>10</sup> For example, the Governing Body, its Bureau, the *Ad Hoc* Advisory Committee on the Funding Strategy, and the *Ad Hoc* Third Party Beneficiary Committee.

<sup>11</sup> IT/GB-2/07/Report, para 30.

<sup>12</sup> IT/GB-3/10/Report, para 57.

<sup>13</sup> CL 137/5, paras. 7-22.

<sup>14</sup> C 2008/REP.

statutory bodies which could be invited to clarify which action they expected from the main Governing Bodies of the Organization. On the basis of the views of the statutory bodies and the Governing Bodies, a new policy on the matter could be defined and reflected, as appropriate, in the relevant parts of the FAO Basic Texts.

26. The FAO Council, at its 137<sup>th</sup> session in October 2009, examined the review carried out by the CCLM.<sup>15</sup> The FAO Council stressed that implementation of greater financial and administrative authority should be seen as an on-going process to be carried out in the course of the next few years. The Council invited further internal consultations within the FAO relevant Governing Bodies with regard to matters which would need to be considered by the membership, and invited the membership of relevant statutory bodies, with particular reference to bodies enjoying substantial functional autonomy, to consider the preliminary review and offer their views on the issues addressed therein.

27. More recently, the FAO Programme Committee recommended initiating consultations with the membership of the relevant statutory bodies by submitting the CCLM preliminary review to the attention of such bodies so that they could offer their views on the issues addressed therein.<sup>16</sup>

28. In sum, it is foreseen that the development of procedures and the institutional arrangements for further operation of the Benefit-sharing Fund is a key area where changes may be required to enable the Governing Body of the International Treaty exercise its financial and administrative authority. In devising those procedures and arrangements, the Governing Body of the International Treaty may wish to consider the implications of its current status of FAO statutory body, as evolving based on current FAO processes, and express its views on issues related to the functional needs of the Benefit-sharing Fund. These views can form part of a submission to the relevant FAO Governing Bodies.

#### **4. COMPARATIVE ANALYSIS OF RELEVANT MULTILATERAL FINANCIAL MECHANISMS AND SUGGESTIONS FOR THE FURTHER OPERATIONALIZATION OF THE BENEFIT-SHARING FUND**

##### **4.1 Institutional architecture of relevant multilateral financial mechanisms**

29. Following the advice of the Committee, the Secretariat has conducted a brief comparative analysis of relevant multilateral financial mechanisms within the United Nations system.

30. The analysis starts from an examination of current international financial mechanisms that have been established to promote sustainable development and poverty reduction in their broadest meaning. In undertaking such a comparative analysis, the Secretariat has reviewed the insitutional architecture and operation of multilateral financial mechanisms, such as the World Heritage Fund and the Fund<sup>17</sup> of the Global Alliance for Vaccines and Immunisation.<sup>18</sup> The Secretariat has also benefited from the on-going cooperation with the Global Crop Diversity Trust to support the further development and implementation of the operations of the Benefit-sharing Fund.<sup>19</sup>

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<sup>15</sup> CL 137/REP, para. 53.

<sup>16</sup> PC 104/9.

<sup>17</sup> <http://whc.unesco.org/>

<sup>18</sup> <http://www.gavialliance.org/>

<sup>19</sup> <http://www.croptrust.org>

31. The following multilateral financial mechanisms have been surveyed:

- The Adaptation Fund;<sup>20</sup>
- The Global Environmental Facility;<sup>21</sup>
- The Trust Fund of the Global Agriculture and Food Security Program (GAFSP);<sup>22</sup>
- The Multilateral Fund for the implementation of the Montreal Protocol;<sup>23</sup>
- The Global Fund to fight AIDS, Tuberculosis and Malaria.<sup>24</sup>

32. All those mechanisms are supported by a multilateral framework for generating and disbursing funds that pay for development activities in a given field of international cooperation. They operate in different fields, have different objectives, institutional structures, legal foundation, and manage different volumes of funds.

33. In the opinion of several experts, those mechanisms are the most successful and innovative in their respective fields.<sup>25</sup> Some of them focus on areas of interest to the Governing Body, such as food security, biodiversity and climate change adaptation.

34. The analysis that follows is not meant to be exhaustive, as it focuses on aspects of direct relevance to the Committee's task, in particular with regard to the development of procedures and institutional arrangements.

35. The institutional architecture of relevant multilateral financial mechanisms is a first aspect to examine, as institutional arrangements strictly derive from such architecture.

36. In *Appendix E* of this document the institutional charts of different mechanisms, as publicly available on websites or publications, are compiled.

37. In general, the institutional architectures appear to be operational and flexible, to adjust to evolving needs. Furthermore, a comparative analysis of the charts shows that most of the multilateral financial mechanisms have a number of common features. Although each mechanism uses its own terminology and has its own specific characteristics, most mechanisms have the following structures:

- Governing bodies;
- A fund administrator;
- Implementing entities;
- A Secretariat;
- Scientific and technical advisory bodies;
- A monitoring and evaluation unit;

38. The following paragraphs provide a comparative analysis of the roles and responsibilities of those structures.

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<sup>20</sup> <http://www.adaptation-fund.org>

<sup>21</sup> <http://www.thegef.org/gef/>

<sup>22</sup> <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTARD/0,,contentMDK:22585385~pagePK:148956~piPK:216618~theSitePK:336682,00.html>

<sup>23</sup> <http://www.multilateralfund.org/>

<sup>24</sup> <http://www.theglobalfund.org/en/>

<sup>25</sup> For an overview and assessment of existing financial mechanisms see: Kummer, 2006. *International Financial Mechanisms: promoting sustainable development and poverty reduction – what makes them successful?* Environmental Policy and Law, 36/5 (2006).

## 4.2 Governing bodies

### *Comparative analysis:*

39. As mentioned before, the international financial mechanisms surveyed have been established to promote sustainable development and poverty reduction in their broadest sense. Some of these mechanisms, such as GEF and the Montreal Fund, serve as the financial mechanism of international conventions. The governing bodies of such conventions provide the guidance under which the financial mechanism operates.

40. The executive oversight of the financial mechanism is assigned to a board, committee or council, which meet on a regular basis to structure Call for Proposals, approve project or programme proposals, assess the status of disbursement of funds for approved projects, and review other matters instrumental to an efficient and effective operation of the fund.<sup>26</sup> A number of decisions may be taken without formal meetings, for instance by correspondence, to ensure responsiveness to project cycle timelines and strategic developments.<sup>27</sup>

41. These dedicated executive bodies operate under the authority and guidance of the respective governing bodies. They tend to be a selected and regionally-balanced group of developing and developed country representatives, or of donor and recipient representatives. Their membership is limited in number, representing constituency groups in balanced and equitable manners.<sup>28</sup>

42. The executive bodies normally include, as observers, representatives of those implementing entities that undertake oversight of project formulation and implementation.<sup>29</sup> They also may include, as observers, representatives of qualified private sector or civil society organizations. However, observers' participation in any portion of meetings involving sensitive matters may be restricted.<sup>30</sup>

43. The Global Fund<sup>31</sup> and the GASFP<sup>32</sup> receive direct funding from the private sector and foundations. As a result, their boards and steering committees include representatives from the private sector and foundations.

### *The Benefit-sharing Fund*

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<sup>26</sup> The Board of the Adaptation Fund has met 11 times since its establishment in 2008. While its first meetings concentrated in the development of the policies, procedures and arrangements to ensure the operationalization of the Fund, the Board is starting to focus, as funds become available, in result-based programming, project review and approval. Reviews of project implementation will also soon be undertaken. Source: <http://www.adaptation-fund.org/documents.html>

<sup>27</sup> See for example GEF Council decisions by mail: [http://www.thegef.org/gef/decisions\\_by\\_mail](http://www.thegef.org/gef/decisions_by_mail)

<sup>28</sup> The Adaptation Fund Board comprises 16 members; the Executive Committee of the Montreal Fund has 14 members; the GEF Council has 32 members.

<sup>29</sup> See for example the composition of the Executive Committee of the Montreal Fund and the participation to its meetings of the implementing agencies: [http://www.multilateralfund.org/executive\\_committee.htm](http://www.multilateralfund.org/executive_committee.htm) [http://www.multilateralfund.org/implementing\\_agencies.htm](http://www.multilateralfund.org/implementing_agencies.htm) .See also the Rules of Procedure of the GEF Council. <http://www.thegef.org/gef/node/2512>

<sup>30</sup> The Multilateral Fund Secretariat. *Policies, procedures, guidelines and criteria of the Multilateral Fund for the Implementation of the Montreal Protocol (as at April 2010)*. Annex II. 2 *Rules of Procedures for meetings of the Executive Committee*. <http://www.multilateralfund.org/files/Policy60.pdf>

<sup>31</sup> See the members of the Global Fund Board: <http://www.theglobalfund.org/en/board/members/?lang=en>

<sup>32</sup> See the members of the GAFSP Steering Committee: <http://siteresources.worldbank.org/INTARD/Resources/WithoutAddressesListGAFSPSteeringCommitteeasofApril21.pdf>

44. The Benefit-sharing Fund comprises the resources under direct control of the Governing Body. The Benefit-sharing Fund therefore operates under the authority and guidance of Governing Body, which sets its priorities, approves its operational procedures and oversees implementation.

45. Section IV of the Funding Strategy for the Treaty deals with the resources under direct control of the Governing Body. For those resources, the Governing Body decides on allocation on the basis of preparatory work by the Secretariat, and, where appropriate, with the assistance of the *Ad Hoc* Advisory Committee.

46. Section IV of the Funding Strategy also establishes that:

*The Governing Body will decide, if appropriate, in due time, on procedures which allow for the allocation of funds by subsidiary bodies to project activities, including the inter-sessional allocation of funds, taking into account the budgetary implications of such decisions.*<sup>33</sup>

47. The Operational Procedures of the Benefit-sharing Fund also indicate, in a footnote, that:

*The Governing Body may wish to delegate the possibility to approve projects between sessions, within an agreed ceiling and up to a limited percentage of the total budget available in the project cycle, and under which circumstances.*

48. At its third session, the Governing Body decided to delegate authority for the project cycle during the present biennium 2010/2011 to the Bureau.<sup>34</sup> Accordingly, the Bureau of the Governing Body requested the *Ad Hoc* Advisory Committee to advise on the structure and design of the Call for Proposals 2010. It also agreed that the *Ad Hoc* Advisory Committee would review the preparatory screening of pre-proposals performed by the Secretariat and subsequently advise the Bureau. The Bureau also requested the *Ad Hoc* Advisory Committee to examine options for establishment of institutional arrangements for project implementation.

49. The Governing Body adopted the priorities, eligibility criteria and Operational Procedures for the Benefit-sharing Fund. It will consider monitoring, reporting and disbursement procedures as well as institutional arrangements for the project oversight and implementation at its fourth session. A first set of small-scale pilot projects was approved for the first project cycle in 2009. With the approval of projects under the present cycle 2010-2011, the Benefit-sharing Fund will start a new phase of its operation.

50. As implementation of the Strategic Plan to capitalize the Benefit-sharing Fund moves forward, it is likely that substantial financial resources will become available in the forthcoming biennia. This will result in several consecutive project cycles that will produce an enlarged portfolio of projects with the predictable consequence that the project approval phase under one cycle will significantly overlap with the project implementation phase of previous cycles. This scenario will require that decisions be made in a swift manner during the intersessional period, with regard to allocation of funds, project review and monitoring, and programming of the Call for Proposals.

51. The division of tasks and responsibilities during the current project cycle of the Benefit-sharing Fund, in which the responsibility has been shared between the Bureau and the

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<sup>33</sup> Funding Strategy for the implementation of the International Treaty; Section IV, Resources not under the direct control of the Governing Body, para. 8.

<sup>34</sup> Resolution 3/2009 of the Governing Body, *Implementation of the Funding Strategy of the Treaty*, paragraph 15.



*Ad Hoc* Committee on the Funding Strategy, comes close to the way other mechanisms organize its work.

52. This Committee may wish to recommend that the Bureau approach the Governing Body to with the request to delegate authority for future project cycles to the Bureau and the *Ad Hoc* Advisory Committee on the Funding Strategy.

53. The Committee would take a lead in designing of Call for Proposals, advising on programmatic approaches of the Fund, reviewing project pre-proposals and proposals as well as progress reports of approved projects. The Bureau would be responsible for issuing the Call for Proposals, approving projects for funding up to an agreed ceiling, and for providing policy guidance on other areas related to the Benefit-sharing Fund, based on the advice of the Committee. The Governing Body would retain responsibility for approving the policies, procedures and priorities of the Benefit-sharing Fund and overseeing the implementation of the Benefit-sharing Fund on a regular basis, as envisaged in Annex 4 of the Funding Strategy.

### 4.3 Fund administration

#### *Comparative analysis:*

54. All the surveyed multilateral financial mechanisms depend on an institution that is responsible for receiving and administering contributions, and disbursing funds to implementing entities and, where necessary, Secretariats that oversee development of the Fund.

55. The World Bank currently acts as *Trustee* of many of the multilateral financial mechanisms analyzed: the Adaptation Fund; the Global Environmental Facility; the Trust Fund of the Global Agriculture and Food Security Program (GAFSP); the Global Fund to fight AIDS, Tuberculosis and Malaria. The World Bank acting as Trustee has no responsibility for the ultimate use of funds. The World Bank's policy is to recover its full costs in the provision of trustee and related administrative services. For most of these funds, the World Bank also acts, in a separate capacity, as an implementing entity of these funds.<sup>35</sup>

56. The Multilateral Fund for the implementation of the Montreal Protocol has UNEP as *Treasurer* to the Fund. UNEP, in fact, acted as *Treasurer* of the Multilateral Fund for the first twelve years at no cost for the Fund. Then, an annual fee was agreed between the Montreal Fund Board and UNEP to cover the services provided by the Treasurer. UNEP also acts, in a separate capacity, as an implementing agency.<sup>36</sup>

57. The institutional relationships between governing or executing bodies of the multilateral financial mechanisms and the Fund *Treasurer* or *Trustee* are generally governed by an adopted set of roles and responsibilities for the Fund *Treasurer* or *Trustee*.<sup>37</sup> This set of roles and responsibilities is adopted in various ways, for instance through a decision by the

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<sup>35</sup> For more information on the role of the World Bank as Trustee of other multilateral financial mechanisms see the submission of the World Bank Group in IT/ACFS-6/10/6 document, *Operation of the Benefit-sharing Fund: submissions from international organizations*.

<sup>36</sup> The Multilateral Fund Secretariat. *Policies, procedures, guidelines and criteria of the Multilateral Fund for the Implementation of the Montreal Protocol (as at April 2010)*. Chapter I: Financial Mechanism – Treasurer of the Fund, page 23-25. <http://www.multilateralfund.org/files/Policy60.pdf>

<sup>37</sup> See for example the *Framework Document for a Global Agriculture and Food Security Program (GAFSP)*, section 6.6 – The Trustee Role of the World Bank, page 36. <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTARD/0,,contentMDK:22549242~pagePK:148956~piPK:216618~theSitePK:336682,00.html>

governing body made in consultation with the Fund *Treasurer* or *Trustee*<sup>38</sup> or through an agreement between both entities.

### *The Benefit-sharing Fund*

58. The financial resources in the Benefit-sharing Fund are under the direct control of the Governing Body. Based on Article 19.3 (h) of the Treaty, the Governing Body established a series of Trust Accounts, for receiving and utilizing financial resources that are under its direct control, including resources for the Benefit-sharing Fund. The Trust Accounts were created contextually with the Financial Rules of the Governing Body, at the first session of the Governing Body in year 2006.

59. At the time of approval of the Financial Rules, all Trust Accounts, including by default the one for the Benefit-sharing Fund, were created and administratively established as FAO's Trust Funds. As a result, the Benefit-sharing Fund is today administered by FAO and its accounts and financial management are exclusively subject to the internal and external auditing procedures of FAO.

60. The role of *Treasurer* or *Trustee* of the Benefit-sharing Fund corresponds to the role that FAO has. The Governing Body has so far not requested FAO to provide a report on the financial status and activities and costs, if any, associated with the administration of the Benefit-sharing Fund.

61. The Committee may wish to recommend that the Governing Body provide guidance on the roles and responsibilities of FAO as fund administrator and explore with FAO the possibility to keep the costs of administration of the Fund as low as possible, especially during the start up phase of the Benefit-sharing Fund, which would allow funds to go directly into project implementation.

## **4.4 Implementing entities**

### *Comparative analysis*

#### *Types of implementing entities*

62. Most of the surveyed multilateral financial mechanisms rely on designated implementing entities that meet certain standards of fiduciary management and oversight, which are functions usually performed by multilateral agencies. These mechanisms often depend on a limited number of multilateral implementing entities for project formulation, supervision and implementation.

63. These implementing entities are responsible for generating project proposals and managing projects, thus taking advantage of their strong presence in the field. More specifically, implementing entities assist eligible beneficiaries in the development, implementation and management of projects. Partnering with these multilateral implementing entities allows the project portfolio to grow and diversify by building on the different comparative advantages of these entities and, at the same time, increases the fund's capacity to leverage capitals from other sources.

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<sup>38</sup> See for example: *Draft Role and Responsibilities of the Adaptation Fund Trustee*. Report of the Fourth Meeting of the Adaptation Fund Board (December 15-17, 2008), Annex III. [http://www.adaptation-fund.org/meeting\\_reports](http://www.adaptation-fund.org/meeting_reports)

64. The following table identifies the current multilateral implementing entities of the mechanisms analyzed.

Multilateral financial mechanisms	Implementing entities
The Adaptation Fund	Asian Development Bank, IFAD, UNDP, UNEP, WFP, World Bank <sup>39</sup>
The Global Environmental Facility	African Development Bank, the Asian Development Bank, the European Bank for Reconstruction and Development, FAO, IFAD, the Inter-american Development Bank, UNDP, UNEP, UNIDO, World Bank <sup>40</sup>
The Trust Fund of the Global Agriculture and Food Security Program (GAFSP)	FAO, IFAD, WFP, World Bank and other Multilateral Development Banks <sup>41</sup>
The Multilateral Fund for the implementation of the Montreal Protocol	UNDP, UNIDO, UNEP, World Bank <sup>42</sup>

65. The Global Fund to fight AIDS, Tuberculosis and Malaria works differently. It enters into a grant agreement with a Principal Recipient that receives financing directly, and then either uses the funds or transfer fun them to other organizations (sub-recipients). The Principal Recipient, which may be a government agency, a non-governmental organization as well as a multilateral agency, makes regular requests for additional disbursements from the Global Fund based on demonstrated progress towards the intended results. There can be multiple Principal Recipients in one country.<sup>43</sup>

66. An innovative feature of the Adaptation Fund is that countries have the option of having direct access to the Fund. Countries can nominate domestic institutions for accreditation as National Implementing Entities, which will be responsible for endorsing project and program proposals from their country, and will be the direct recipient of funding.<sup>44</sup> Like the Multilateral Implementing Entities of the Adaptation Fund, these national entities have to meet a number of fiduciary standards and undergo a strict accreditation process.<sup>45</sup>

#### Fiduciary standards of implementing entities

67. The implementing entities bear full responsibility for the overall project management and also bear all financial, monitoring and reporting responsibilities. In order to do so, these

<sup>39</sup> The Adaptation Fund denominates these organizations as Multilateral Implementing Entities: <http://www.adaptation-fund.org/accreditedMIEs>

<sup>40</sup> The GEF these organizations as Implementing Agencies: [http://www.thegef.org/gef/gef\\_agencies](http://www.thegef.org/gef/gef_agencies)

<sup>41</sup> The GASFP denominates these organizations as supervising entities: *Framework Document for a Global Agriculture and Food Security Program (GAFSP)*, page 30-32. <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTARD/0,,contentMDK:22549242~pagePK:148956~piPK:216618~theSitePK:336682,00.html>

<sup>42</sup> The Montreal Fund denominates these organizations as Implementing Agencies [http://www.multilateralfund.org/implementing\\_agencies.htm](http://www.multilateralfund.org/implementing_agencies.htm)

<sup>43</sup> <http://www.theglobalfund.org/en/structures/?lang=en>

<sup>44</sup> As of September 2010, there is only one accredited National Implementing Entity to the Adaptation Fund. <http://www.adaptation-fund.org/accreditedNIEs>

<sup>45</sup> AF Secretariat, 2009. *Accessing Resources from the Adaptation Fund: The Handbook*, page 16-17. [http://www.adaptation-fund.org/system/files/Handbook.English\\_0.pdf](http://www.adaptation-fund.org/system/files/Handbook.English_0.pdf)

entities are requested to meet minimum fiduciary standards governing the use and disbursement of as well as the reporting on funds. Those standards cover the following areas:

- Financial integrity and management: accurate record of transactions; periodic audits; managing and disbursing funds efficiently; production of forward-looking financial plans and budgets; legal status to conclude contracts with third parties;
- Institutional capacity: capacity to undertake monitoring and evaluation; procurement procedures; ability to identify, develop and appraise project; competency to manage or oversee the execution of the projects.
- Transparency and self-investigative powers: competence to deal with financial mismanagement and other forms of malpractice.<sup>46</sup>

68. The GEF and the Adaptation Fund have established processes to ensure that the implementing entities meet these fiduciary standards.<sup>47</sup> Relying on implementing entities that meet fiduciary standards consistent with international best practices ensures a strong accountability in the use of resources.

#### Fees for project cycle management by implementing entities

69. The implementing entities normally request a fee for project cycle management services. These services include, in the case of GEF, portfolio development and management by regional and operational units, project identification, assistance to recipient countries in their project development and preparation, appraisal of project proposals and negotiation of co-financed operations, supervision of projects, preparation of implementation completion reports, and reviews by the respective agency's evaluation office.<sup>48</sup>

70. The fees to cover the support costs of implementing entities are independently reviewed on a regular basis, with a view to ensuring that the different entities provide accessible financial information on administrative expenses and to adjusting support costs accordingly.<sup>49</sup>

71. The operational procedures of the Adaptation Fund require that every project proposal submitted to the Board state the management fee requested by the national or multilateral implementing entity. The reasonability of the fee is assessed on a case by case basis.<sup>50</sup>

#### Institutional arrangements with implementing entities

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<sup>46</sup> AF Secretariat, 2009. *Accessing Resources from the Adaptation Fund: The Handbook*, page 14-15.  
[http://www.adaptation-fund.org/system/files/Handbook.English\\_0.pdf](http://www.adaptation-fund.org/system/files/Handbook.English_0.pdf)

<sup>47</sup> GEF Fiduciary standards: [http://www.thegef.org/gef/fiduciary\\_standards](http://www.thegef.org/gef/fiduciary_standards)

<sup>48</sup> GEF/C.25/7, Corporate Budget, FY06, paragraph 7.  
<http://www.thegef.org/gef/sites/thegef.org/files/documents/C.25.7%20Corporate%20Budget%20FY06.pdf>

<sup>49</sup> GEF/C.33/8. *Review of Administrative Expenses allocated to GEF Implementing Agencies*.  
<http://www.thegef.org/gef/sites/thegef.org/files/documents/C.33.8%20Review%20of%20Administrative%20Expenses%20.pdf>  
UNEP/OzL.Pro/ExCom/55/48. *Assessment of the Administrative Costs required for the 2009-2011 triennium (follow-up to decisions 50/27, 51/38 and 54/42)*  
<http://www.multilateralfund.org/files/55/5548.pdf>

<sup>50</sup> AF Secretariat, 2009. *Accessing Resources from the Adaptation Fund: The Handbook*, page 21.  
[http://www.adaptation-fund.org/system/files/Handbook.English\\_0.pdf](http://www.adaptation-fund.org/system/files/Handbook.English_0.pdf)

72. Two agreements generally set forth the institutional relationship between governing or executing bodies of the multilateral financial mechanisms and the implementing agencies.

73. First, a Memorandum of Understanding or other similar agreements are concluded between the implementing entity and the secretariat or board of the multilateral financial mechanism. Such Memorandum of Understanding provides the general framework for cooperation between the two entities, such in the case of GEF or the Montreal Fund,<sup>51</sup> or is designed more specifically to support a concrete project or programme, such as the template created by the Adaptation Fund Board.<sup>52</sup> The template adopted by the Adaptation Fund Board in January 2010 is in Annex XXX to this document.

74. Secondly, as one of the main responsibilities of the Fund *Treasurer* or *Trustee* is to transfer approved funds to those implementing entities responsible for project supervision and monitoring, agreement between the Fund *Treasurer* or *Trustee* and the implementing entities are concluded.

#### *The Benefit-sharing Fund*

75. The Operational Procedures of the Benefit-sharing Fund currently make no reference to implementing entities. Project recipients are responsible for progress and financial reports directly vis-à-vis the Governing Body.

76. At its Third Session, the Governing Body decided that any governmental or non-governmental organization, including genebanks and research institutions, farmers and farmers' organizations, and regional and international organizations, based in countries that are Contracting Parties to the International Treaty, may apply for grants under the Benefit-sharing Fund.<sup>53</sup>

77. The current procedures and the related decisions of the Governing Body have enabled a wide range of stakeholders to participate in the Benefit-sharing Fund as beneficiaries. This is a very innovative feature of the Benefit-sharing Fund as it strengthens participation and ownership around the projects.

78. At the same time, the current arrangements pose serious risks for the Benefit-sharing Fund. Making institutional arrangements with a wide range of disparate executing entities may become cumbersome and hamper cost-efficiency in the mid-term. It is also difficult to guarantee that all executing entities meet internationally recognized standards for project and financial management. Many of these entities need to strengthen their capacity to produce progress and financial reports consistent with international best practice.

79. Such risks will be amplified as more funds become available and as the average size of projects increases.<sup>54</sup> Furthermore, the direct disbursement of funds by FAO to a wide range

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<sup>51</sup> The Multilateral Fund Secretariat. *Policies, procedures, guidelines and criteria of the Multilateral Fund for the Implementation of the Montreal Protocol (as at April 2010)*. Annex II,4 Agreements between the Executive Committee of the Montreal Fund and the implementing agencies, page 523-531. <http://www.multilateralfund.org/files/Policy60.pdf>

<sup>52</sup> *Memorandum of Understanding between the Adaptation Fund Board and Implementing Entities for the management of Projects and Programmes financed by the Adaptation Fund*. AFB/B.9/12 Report of the Ninth Meeting of the Adaptation Fund Board, Annex IV. [http://www.adaptation-fund.org/system/files/AFB.B.9.12%20Report\\_final.pdf](http://www.adaptation-fund.org/system/files/AFB.B.9.12%20Report_final.pdf)

<sup>53</sup> Resolution 3/2009, *Implementation of the Funding Strategy of the Treaty*, para. 9.

<sup>54</sup> The funding available during the first project cycle was 500.000 US\$, with an average size of projects of 50.000 US\$. The expected funding for the second project cycle is at least US\$ 10 million and projects would be of any value but would not exceed US\$ 400.000.

of disparate executing entities with different legal status needs to conform to the FAO administrative procedures, which may not be suitable to the purpose, and may also become lengthy and complex for the Secretariat to manage.

80. It seems necessary to find a balance between the goal of ensuring participation and ownership of a wide range of stakeholders and the goal of establishing a high quality performance-based management system for the portfolio of projects funded.

81. A first step to find such a balance could be to establish clear institutional arrangements and partnerships with implementing entities, and to clarify the roles and responsibilities of such implementing entities in the Operational Procedures of the Benefit-sharing Fund.

82. The Bureau has already requested the Committee to analyze options for establishing institutional arrangements for project oversight and implementation. At its fifth meeting, the Committee highlighted the importance of making such arrangements and establishing partnerships.<sup>55</sup>

83. The Committee stressed that moving forward with the establishment of multiple partnerships for the implementation of the Benefit-sharing Fund represents a positive step towards the implementation of the Fund.<sup>56</sup> It requested in particular to formalize the partnership with UNDP as soon as possible.<sup>57</sup> Indeed, the Committee recognized that a “partnership with UNDP will build the credibility of the Benefit-sharing Fund further by having an experienced agency supporting it, including on the oversight and implementation of projects.”<sup>58</sup>

84. The Committee also reviewed the submissions of other international organizations that expressed interest in partnering with the Benefit-sharing Fund. The Committee requested the Secretariat to explore further potential partnerships with relevant organizations, including organizations outside of the UN system.<sup>59</sup>

85. The process of invitations to international organizations to partner with the Benefit-sharing Fund is ongoing and will be undertaken in a rolling manner, in order to allow for processing of expressions of interest by the Committee.

86. In order to keep momentum in the development of the Benefit-sharing Fund and at the same time enhance its operation, advice is sought from the Committee on the following suggested steps:

- swift establishment of partnerships and institutional arrangements with a key set of interested multilateral implementing entities that meet fiduciary standards for financial management and project oversight;<sup>60</sup>

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<sup>55</sup> IT/ACFS-5/10/Report, para. 54.

<sup>56</sup> IT/ACFS-5/10/Report, para. 58.

<sup>57</sup> IT/ACFS-5/10/Report, para. 59.

<sup>58</sup> IT/ACFS-5/10/Report, para. 23.

<sup>59</sup> IT/ACFS-5/10/Report, para. 60-61.

<sup>60</sup> Besides the on-going cooperation with FAO, the Committee has already requested the establishment of a partnership with UNDP at the fifth meeting and will be considering the full submission of UNOPS at the sixth meeting in IT/ACFS-6/10/6 document, *Operation of the Benefit-sharing Fund: submissions from international organizations*. Expressions of interest and reports have been provided by the World Bank, IFAD, CATIE and Oxfam Novib.

- regular processing of expressions of interest by other multilateral, international and regional organizations and invitation to establish partnerships and institutional arrangements;
- establishment of a set of minimum fiduciary standards for internal use that the implementing entities are expected to meet.
- exploration of modalities through which implementation can be entrusted to a national public or non governmental institution.<sup>61</sup> This may result in innovative partnerships and arrangements with institutions interested in becoming national implementing entities of the Benefit-sharing Fund.

87. If the Committee agrees on the step-by-step process as suggested above, the institutional arrangements and partnerships may be built through the following instruments:

- a general Memorandum of Understanding between the Secretariat and the implementing entity establishing the partnership;
- specific agreements with the Implementing entity in support of the implementation of individual projects, to be appended to the general Memorandum of Understanding. Such agreements will include general principles, provisions for project implementation, records and reporting, timeline, conditions for fund disbursement and use and other relevant provisions related to project implementation;<sup>62</sup>
- in the case of specific investments by an implementing entity in a Call for Proposal, there will be a separate agreement appended to the general Memorandum of Understanding enabling the involvement of the implementing entity in the structuring and execution of the project cycle and detailing the principles to be met by the implementing entity so that the use of funds follows the priorities, procedures and decisions relevant to the Benefit-sharing Fund.

88. Draft elements for templates of these different types of agreements with implementation entities are presented in *Appendix C* to this document, for consideration by the Committee.

89. The Committee may wish to recall that the Governing Body at its first Session, requested the Secretary “to positively pursue, with the secretariats of relevant international mechanisms, funds and bodies, means by which they might contribute to the implementation of the Funding Strategy of the Treaty, and the possibility of establishing memoranda of understanding with the Governing Body in this regard.”<sup>63</sup>

90. The Committee may wish to instruct the Secretariat to take into account, as appropriate, the models of other multilateral financial mechanisms in preparing the drafts of these agreements.

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<sup>61</sup> This would be similar to FAO’s *Partnership in Development (National Execution)* modality. Under this modality, responsibility for execution can be entrusted to a public or private national institution, whereby FAO’s involvement is limited to the provision of discrete financial, technical and/or operational services, always on the basis of full cost recovery, including flat rate for indirect costs to be determined on a case-by-case basis. Since this NEX modality implies limited control over the process by FAO, the Organization’s financial rules have been amended to address the related accountability issues vis-à-vis the funding source.

<sup>62</sup> In the cases where FAO is the implementing entity, specific internal arrangements will be established between the Secretariat and the FAO Divisions responsible for project implementation, following the same principles of other implementing entities.

<sup>63</sup> IT/GB-1/06/Report, Resolution 1/2006, para. 10.

91. The Committee may also wish to advise on how to structure the role and responsibilities of implementing entities in the Operational Procedures of the Benefit-sharing Fund, with a view to ensuring the participation and ownership of a wide range of stakeholders and establishing a high quality performance-based management system for the portfolio of projects funded.

#### 4.6 Secretariat

##### *Comparative analysis*

92. The Secretariats of the surveyed multilateral financial mechanisms carry out a wide range of services and functions, within the following main components:

- *governance*: to organize and service the meetings of the governing bodies; to elaborate policies and strategies for review and approval by the governing bodies and to report on implementation of their decisions;
- *programme management*: to perform oversight and coordination of general operations and project cycle, including by: i) instructing fund disbursement; ii) formulating programmatic approaches based on analytical work; iii) coordinating the review of project proposals; iv) preparing periodic reports on project portfolio implementation and performance; v) gathering and disseminating lessons learned and best practices to improve portfolio quality and foster replication;
- *relations with constituents and key stakeholders*: to maintain regular contacts with the chair and bureau of governing bodies, fund administrator, implementing entities, experts; to mobilize resources; to establish and maintain relationships and dialogue with key stakeholders involved in the mechanism; to design and implement outreach and communication strategies.<sup>64</sup>

93. These functions and services are covered by the fund resources and financed through a budget regularly adopted by the governing bodies of the fund. These budgets are named in different manners, such as “corporate budget” in the case of GEF or “administrative budget” in the case of the Montreal Fund.

94. None of the Secretariats conduct oversight of individual project implementation. They rely on implementing entities that are present in the field for supporting the design and implementation of projects in line with the priorities, operational procedures, report formats of the funding mechanisms. The costs of services by the implementing entities are part of the operational budget of the fund, and are paid by the fees taken from individual projects.

##### *Benefit-sharing Fund*

95. The Secretariat of the Treaty carries out set of services and functions for the Benefit-sharing Fund similar to other secretariats analyzed. The Operational Procedures of the Benefit-sharing Fund, and the Funding Strategy in general, include specific references to the responsibilities of the Secretariat in the management of the project cycle of the Benefit-sharing Fund, which include activities to enable the monitoring of the Governing Body.

96. For the first project cycle, the Secretariat also facilitated the direct disbursement of funds to project recipients and project monitoring. Such services were carried out on an exceptional basis to enable the implementation of the small-scale pilot projects of the first project cycle.

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<sup>64</sup> See for example: <http://www.theglobalfund.org/en/secretariat/>; [http://www.multilateralfund.org/fund\\_secretariat.htm](http://www.multilateralfund.org/fund_secretariat.htm); <http://www.thegef.org/gef/Secretariat>; <http://www.adaptation-fund.org/secretariat>.



97. The Committee may wish to advise on the services and functions that the Secretariat should undertake in the next project cycles.

#### 4.7 Scientific and technical advisory bodies

##### *Comparative analysis*

98. The provision of independent scientific and technical advice is an important feature of the surveyed multilateral funds.

99. GEF has probably the most structured advisory body. The Scientific and Technical Advisory Panel (STAP) provides strategic scientific and technical advice to the GEF on its strategy and programs. The Panel consists of six members who are internationally recognized experts in GEF's key areas of work, and are supported by a network of experts. The STAP reports regularly to the GEF Council.

100. Secretariat services are provided by GEF-UNEP, which appoints the panel members in consultation with GEF partners and implementing agencies, upon approval of the GEF Council. The members, who have a recognized leadership in the GEF areas, are appointed for a term of two years renewable. To avoid any conflict of interests, members who are involved in projects, or hold positions in Government, non-governmental organizations, or who are working in, or have any contractual arrangement, as consultants or otherwise, with an Implementing or Executing Agency or the GEF Secretariat, shall disclose this information.<sup>65</sup>

101. The Adaptation Fund Board has established another model for the technical review of project proposals. The Project and Programme Review Committee is responsible for assisting the Board in tasks related to project and programme review in accordance with the Provisional Operational Policies and Guidelines, and for providing recommendations and advice to the Board thereon. It consists of Board members and alternates. The meetings of the Committee are back-to-back with the meetings of the Adaptation Fund Board and are closed to observers unless decided by the Board.<sup>66</sup>

102. The Committee may require assistance or advice from experts in the performance of their functions. The Board approves terms of reference for the experts, while the secretariat issues a call for experts at international level and prepares a roster of experts with demonstrated and recognized capacity in their field of work. The Committee Chair and Vice-Chair will choose experts from the roster.<sup>67</sup>

103. The Executive Committee of the Montreal Fund has currently no specific advisory body, although it used to have a sub-committee for project review.<sup>68</sup> Its Secretariat engages the necessary expertise as needed.

##### *Benefit-sharing Fund*

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<sup>65</sup> <http://www.thegef.org/gef/STAP>

<sup>66</sup> <http://adaptation-fund.org/system/files/PPRCTORs.pdf>

<sup>67</sup> <http://www.adaptation-fund.org/system/files/General%20Guidelines%20for%20Committees.pdf>

<sup>68</sup> The Multilateral Fund Secretariat. *Policies, procedures, guidelines and criteria of the Multilateral Fund for the Implementation of the Montreal Protocol (as at April 2010)*. Pages 91-96.  
<http://www.multilateralfund.org/files/Policy60.pdf>

104. The Operational Procedures of the Benefit-sharing Fund approved by the Governing Body establishes a panel of experts to provide recommendations to the Bureau on the appraisal of project proposals. The experts are designated by the Bureau in consultation with their regions. The panel of experts works without remuneration and with resources for any necessary meeting coming from the core administrative budget of the Treaty.

105. At its third session, the Governing decided that, in future project cycles, the Panel of Experts for project proposal appraisal will be composed of at least two experts per region in each project cycle, selected by the Bureau, in consultation with the regions, from a roster of experts.<sup>69</sup>

106. The experience of other multilateral funds in the use of scientific and technical advisory panels will be of relevance to further streamlining the operations of the Benefit-sharing Fund, in particular to determine the functions of the panel of experts, the necessary expertise of its members, and to avoid conflicts of interest. Further thought may be needed on the interface between the panel of experts on the one hand, and the Bureau and *Ad Hoc* Advisory Committee on the Funding Strategy on the other. It may be advisable, for instance, to engage the panel of experts earlier during the project cycle and ensure adequate interactions with the *Ad Hoc* Advisory Committee on the Funding Strategy.

#### **4.8 The monitoring and evaluation unit**

107. Other multilateral financial mechanisms have developed their monitoring and evaluation framework in a gradual manner. GEF and the Montreal Fund have established their own evaluation units. These units have a central role in ensuring the independent evaluation function, for instance by setting minimum requirements for monitoring and evaluation, ensuring oversight of the quality of monitoring and evaluation systems at program and project levels, and sharing evaluative evidence. These units were established many years after the establishment of the financial instruments as such.

108. This element of the institutional architecture of other multilateral financial mechanisms does not appear to be immediately relevant to the Benefit-sharing Fund processes at the present time.

### **V. ADDITIONAL PROCEDURES TO SUPPORT THE FURTHER OPERATIONALIZATION OF THE BENEFIT-SHARING FUND**

109. The Governing Body requested the Committee to advise on the development of institutional disbursement, reporting and monitoring procedures.

110. The comparative analysis of other multilateral financial mechanisms has produced a number of specific suggestions, in particular on the setting up of concrete institutional arrangements with the implementing entities. It has also highlighted the need to establish reliable institutional arrangements with FAO as the administrator of the fund.

111. This section focuses on the development of procedures to be annexed to the Operational Procedures of the Benefit-sharing Fund that will facilitate the disbursement of funds, and project monitoring and reporting.

112. The proposed draft procedures should be seen in the context of the evolving institutional arrangements of the Fund, in particular with implementing entities to support

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<sup>69</sup> Resolution 3/2009, Implementation of the Funding Strategy of the Treaty, para. 12.

project oversight and implementation. The comparative analysis of other multilateral financial mechanisms shows that:

- (a) the integrated application of procedures and institutional arrangements with implementing entities ensures a regular and thorough monitoring and evaluation, the secure and transparent disbursement and use of funds, and accountability in the Treaty's relevant governance and management processes;
- (b) most multilateral financial mechanisms developed their operational procedures and institutional arrangements in a step-by-step manner during the start-up phase and thus experienced an ongoing and gradual evolution of their procedures and arrangements, as experience was gained during the first few rounds of their project cycles about the most efficient, effective and transparent manner of functioning and their functional needs.

113. Based on the above considerations, the draft procedures should be considered as interim procedures, until a better understanding is gained of the Fund's functional needs for an optimal implementation of its project cycle. The draft procedures would be applicable to the second project cycle of the Fund as initiated by the Call for Proposals 2010 and would subsequently be revised by the Governing Body, as necessary. This is in line with the Funding Strategy, which in Section IX provides for the Governing Body to review the Annexes of the Funding Strategy, including the Operational Procedures, at the Fifth Session of the Governing Body.<sup>70</sup> In the intersessional period between the fourth and fifth sessions of the Governing Body, the *Ad Hoc* Committee could be requested to review the draft *interim* procedures and institutional arrangements and develop permanent procedures and institutional arrangements, based on the experience gained in the first and second project cycles.

114. The policies and procedures of other multilateral financial mechanisms provide a general framework for conducting monitoring and evaluation of projects and disbursement of funds. These policies and procedures do not intend to substitute the policies and procedures of the implementing entities. The institutional arrangements between the secretariat and administrator of the Fund on the one hand, and the implementing entities on the other include specific terms and conditions for the disbursement of funds as well as the timeline and contents of monitoring and evaluation reports.

115. The proposed draft interim procedures, as well as the institutional arrangements, have been elaborated by the Secretariat following a review of state-of-the-art procedures and arrangements employed by existing multilateral funds. They are based on the assumption and recommendation that the Fund adopt the highest fiduciary standards, financial management and project and programme management practices currently practiced by multilateral funding mechanisms. The draft *interim* procedures are therefore oriented and based upon the best practice currently available in multilateral funding mechanisms, such as the World Bank, GEF or the Adaptation Fund.

116. At the same time, the draft interim procedures have been customized and tailored to the specific functional needs of the Governing Body, the Treaty stakeholders and partners, and bearing in mind that the Trust Account of the Benefit-sharing Fund is currently administered through FAO, with its applicable rules and regulations.

117. The Committee should consider that the draft interim procedures are to enable the implementation of a diverse range of projects. For example, the current Call for Proposals 2010 is already supporting the preparation of different categories projects, in terms of:

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<sup>70</sup> Appendix F, IT/GB-1/06/Report, para 16

- nature: Immediate Action Projects vs. Strategic Action Plans;
- size: projects can be of any value but not exceed US\$ 300.000 in the case of Immediate Action Projects or US\$ 400.000 in the case of Strategic Action Plans;
- duration: two years in the case of Immediate Action Projects and one year in the case of Strategic Action Plans.

118. The proposed new draft procedures have been prepared considering that the Benefit-sharing Fund is still in its start-up phase and there is a need to maintain sufficient flexibility to respond to changing circumstances and needs of the Governing Body. These procedures will need to be reviewed regularly as is foreseen in Section IX of the Funding Strategy of the Treaty and as experience is gained in project implementation and fund disbursement.

119. The next sections provide specific information about the draft interim procedures prepared by the Secretariat that are annexed to this document.

### **Draft Interim Procedures for Reporting, Monitoring and Evaluation**

120. The Governing Body requested draft monitoring and reporting procedures for its consideration at its fourth session. The Operational Procedures of the Benefit-sharing Fund also indicate that standard evaluation procedures based on norms and standards of the United Nations Evaluation Group will be used to carry out the independent evaluation of projects or groups of projects. The Committee recommended that the procedures not burden applicants with overly burdensome reporting.

121. The comparative analysis of relevant multilateral financial mechanisms has shown that many of these mechanisms deal with reporting, monitoring and evaluation in an integrated manner, and that they follow the principle of continuity of reporting throughout project implementation to allow tracking of results and progress.<sup>71</sup> Thus, reporting and monitoring should jointly be planned at the beginning of the project. As the final product of any evaluation is also a report, it seems pertinent to deal with evaluation together with monitoring and reporting.

122. Other multilateral financial mechanisms have developed the monitoring and evaluation framework in a gradual manner. Although GEF was established in 1991, its first framework for monitoring and evaluation was approved in 1997. Since then, it has been regularly reviewed and strengthened.<sup>72</sup> A similar process took place in the Montreal Fund.<sup>73</sup>

123. It is also important to emphasize that the Benefit-sharing Fund projects are likely to achieve a sustainable effect and impact if they are fully integrated within a result-based programmatic approach. The monitoring and evaluation of individual projects is facilitated if there is a general programmatic framework to which the project is contributing.

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<sup>71</sup> See for example: Operational policies and guidelines for parties to access resources from the Adaptation Fund. para. 46-52. [http://www.adaptation-fund.org/system/files/AFB.Operational\\_Policies\\_and\\_Guidelines.pdf](http://www.adaptation-fund.org/system/files/AFB.Operational_Policies_and_Guidelines.pdf)

<sup>72</sup> GEF Evaluation Office. 2006. *The GEF Monitoring and Evaluation Policy*. para. 6. <http://www.thegef.org/gef/node/1904>

<sup>73</sup> The Multilateral Fund Secretariat. *Policies, procedures, guidelines and criteria of the Multilateral Fund for the Implementation of the Montreal Protocol (as at April 2010)*. Chapter XI, page 459 - 473. <http://www.multilateralfund.org/files/Policy60.pdf>

124. Many multilateral financial mechanisms create mid-term programmes or strategies for the key thematic areas in which they focus. These global strategies and programmes create a results framework with concrete outcomes and outcome targets, outputs and indicators.<sup>74</sup> Once a result-based programmatic framework is in place, it will facilitate the monitoring of progress towards results and the evaluation of individual projects.

125. The *Ad Hoc* Advisory Committee already recommended, at its fifth meeting, that elements for developing a mid-term programme of the Benefit-sharing Fund on food security and climate change adaptation, be prepared for discussion at this meeting, as preparatory work for the Fourth Session of the Governing Body.<sup>75</sup> The adoption of such a programmatic approach, if it contains a results-based framework, would support the implementation of the proposed monitoring and evaluation procedures and strengthen the capacity to measure progress towards results and impact of individual or portfolio of projects of the Benefit-sharing Fund.

126. The draft procedures for reporting, monitoring and evaluation have been prepared considering the need for flexibility and with a view of not burdening applicants with overly onerous reporting. They have been prepared on the understanding that monitoring and evaluation are not only facilitated by the procedures themselves, but through the establishment of a programmatic approach for the Benefit-sharing Fund and the setting up of institutional arrangements with the Benefit-sharing Fund. These draft procedures are based in the following principles:

- In order to achieve a sustainable effect and impact, projects need to be fully integrated within a results-based framework and implementation need to be based on feedback from systematic monitoring and evaluation mechanisms.
- Project requirements and expectations are to be more explicit and consolidated.
- Monitoring and evaluation processes are to strengthen partnerships, participation and ownership around projects.
- Findings and lessons learned from monitoring and evaluation mechanisms are to be disseminated widely.

127. The advice from the Committee is sought on the draft interim procedures for monitoring and evaluation found in *Appendix A*.

### **Draft Interim Procedures for Disbursement**

128. The Operational Procedures of the Benefit-sharing Fund call for transparent and secure disbursement procedures to be approved by the Governing Body.<sup>76</sup> The Governing

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<sup>74</sup> The GEF, for example, has recently adopted the programming document covering the operations and activities for the next four years. It has a strategy for its biodiversity focal area, which includes a results based framework with concrete outcome targets: millions of hectares of protected areas or production landscapes where biodiversity is managed sustainably; percentage of projects that support creating a national biodiversity framework; ... [http://www.thegef.org/gef/sites/thegef.org/files/documents/GEF\\_R5\\_31\\_CRP1.pdf](http://www.thegef.org/gef/sites/thegef.org/files/documents/GEF_R5_31_CRP1.pdf)

The GAFSP Result Framework has 4 key components, including raising agricultural productivity and reducing risk and vulnerability. A set of core indicators for each component are intended to provide a basis for monitoring project results under the GAFSP. Core indicators, include, for example, number of farmers, households or people benefiting from investment. Source: *Framework Document for a Global Agriculture and Food Security Program (GAFSP)*, page 47. <http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTARD/0,,contentMDK:22549242~pagePK:148956~piPK:216618~theSitePK:336682,00.html>

<sup>75</sup> IT/ACFS-5/10/Report, para. 42.

<sup>76</sup> IT/GB-2/07/Report, Appendix D, Section 7, p.5

Body requested that these procedures be prepared for its consideration and approval at its fourth session.

129. Following Article 19.3 (h) of the Treaty, the Governing Body has established a Trust Account to receive the financial contributions to the Benefit-sharing Fund. Since the establishment of the account and in accordance with the Financial Rules of the Governing Body, the Benefit-sharing Fund has been administered by FAO and its accounts and financial management are subject to the internal and external auditing procedures of FAO. Therefore, the disbursement procedures are to be consistent with FAO relevant policies and procedures. At the same time, they need to be tailored to the needs of the Governing Body and Benefit-sharing Fund.

130. The comparative analysis of relevant multilateral financial mechanisms shows that fund disbursement occurs generally at two levels: (1) global level: fund disbursement occurs between the Fund administrator and the implementing entities, upon request from the Secretary or Chair of the relevant governing body; (2) field level: fund disbursement occurs between the implementing entities and the executing entities of the project or other sub-contractors.

131. None of the policies or procedures of the existing multilateral financial mechanisms that have been examined, deal specifically with the disbursements at the field level. Once the funds have been transferred from the Fund administrator to the implementing entity, each implementing entity is responsible for the use of funds transferred and is accountable to the governing bodies of the fund based on its own policies. For example, the GAFSP Framework Document explains that, upon the transfer of funds, fiduciary responsibilities and legal liability are transferred from the fund administrator to the implementing entity. The rules, guidelines, policies, procedures for procurement, financial management, safeguards and supervision of the implementing entity apply.<sup>77</sup>

132. The policies, guidelines or procedures of the multilateral financial mechanisms examined deal with the disbursement of funds from the Fund administrator to the implementing entities.

133. No funds are disbursed to implementing entities before the project has been approved. Each project proposal submitted by implementing entities to the governing bodies contains a specific budget and a proposed project resource allocation requested for approval. The final budget allocation of the project is the amount specified in the final project proposal approved by the governing bodies.

134. Once the project has been approved, the Secretariat or a representative of the Fund governing bodies, such as the Board Chair, instructs the Fund administrator to disburse funds to the implementing entity.

135. The transfer of funds is effected in accordance with the terms and conditions of the relevant agreements signed by the secretariat or executive board of the fund, the fund administrator and the implementing entity. In the case of GEF, the GEF Secretariat enters into Memoranda of Understanding with the implementing entities. Those Memoranda of Understanding contain general provisions and conditions, including with regard to administration of GEF funds, and refer to a Financial Procedures Agreement that is

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<sup>77</sup> See for example: Framework Document for a Global Agriculture and Food Security Program (GAFSP), paragraph 82, 88.

<http://web.worldbank.org/WBSITE/EXTERNAL/TOPICS/EXTARD/0,,contentMDK:22549242~pagePK:148956~piPK:216618~theSitePK:336682,00.html>

established between the GEF Trustee and the implementing entity. This agreement contains detailed conditions for the transfer and use of funds of all projects approved for implementation of that implementing entity.

136. In the case of the Adaptation Fund, once its Board has approved a project proposal, a Memorandum of Understanding is signed to support the implementation of that specific project. Such Memorandum follows a template adopted by the Board. The Board may instruct the Trustee to disburse funds in tranches based on time specific milestones, and may require a progress review from the implementing entity prior to each tranche disbursement.

137. The policies, guidelines, procedures and agreements examined contain a number of elements of relevance to the disbursement of funds and financial management of projects, such as:

- *Use of funds and accountability:* the implementing entity ensures that the funds received are used for the purposes for which they were provided and is accountable to the relevant governing body of the Fund for all activities funded.
- *Administrative responsibility:* the implementing entity is solely responsible for the administration of funds made available and carries out such administration in accordance with its regulations and rules, standard practices and procedures.
- *Disbursement schedule:* disbursement schedule is stipulated. Prior to each disbursement a financial or other report may be required.
- *Records and reporting:* provision of regular financial reports, including audited financial statements, prepared in accordance with the accounting and reporting procedures of the implementing entities.
- *Standard of care:* the implementing entity administers the funds received with the same degree of care used in the administration of its own funds.
- *Fund reallocation:* any changes in the original budget allocation by the implementing entity need to be communicated to the secretariat or relevant governing body of the fund.
- *Undisbursed or unused funds:* provisions are made for retaining or returning undisbursed or unused funds.
- *Refund:* provisions are made for returning funds in case disbursements have occurred in a manner inconsistent with the agreements.
- *Currency:* allocations are normally denominated in US Dollars and transfer of funds from the fund administrator to the implementing entity is often in this currency. The implementing entity may convert the funds received into other currency to facilitate its further disbursement.
- *Fund disbursement from the implementing entity:* project implementation is dependent upon the receipt of funds by the implementing entity.
- *Investment income:* provisions are made for returning income earned on the investment of funds transferred to implementing entities.

138. These elements have been considered in the preparation of draft interim disbursement procedures and relevant institutional arrangements for project oversight and implementation.

139. The advice from the Committee is sought on the draft interim disbursement procedures found in *Appendix B*.

## **VI. GUIDANCE SOUGHT FROM THE COMMITTEE**

140. This document has informed the Committee of FAO processes on autonomy of statutory bodies as they relate to the functional needs of the Benefit-sharing Fund. Based on a

comparative analysis of relevant multilateral financial mechanisms, the document has provided a number of suggestions on the further operationalization of the Benefit-sharing Fund, in particular on the establishment of institutional arrangements and the development of procedures for reporting, monitoring and reporting and for disbursement. The finalization of procedures and institutional arrangements will require discussion with the relevant Departments of FAO before presentation to the Governing Body.

141. The Committee may wish to:

- (a) review the draft *interim* procedures for disbursement attached in *Appendix A*;
- (b) review the draft *interim* procedures for monitoring and reporting attached in *Appendix B*;
- (c) advise the Secretary on the establishment of institutional arrangements for the Benefit-sharing Fund recalling the request by the Governing Body at its first Session, “to positively pursue, with the secretariats of relevant international mechanisms, funds and bodies, [...] the possibility of establishing memoranda of understanding with the Governing Body”;
- (d) advise on the conclusion of agreements with a key set of interested multilateral implementing entities for the implementation of the second project cycle and on further steps for establishment of partnership and arrangements with implementing entities;
- (e) advise on draft elements for the agreements establishing institutional arrangements with implementing entities in *Appendix C*;
- (f) give guidance on the functional needs of the Benefit-sharing Fund in the context of FAO’s processes on autonomy of statutory bodies;
- (g) provide any further guidance as appropriate on the operation of the Benefit-sharing Fund.



## **APPENDIX A: INTERIM REPORTING, MONITORING AND EVALUATION PROCEDURES FOR THE BENEFIT-SHARING FUND<sup>78</sup>**

### **1. Objectives**

Monitoring and evaluation have the following overarching objectives:

- a. Promote accountability for the achievement of priorities established by the Governing Body through the assessment of results, effectiveness, processes, and performance.
- b. Promote learning, feedback, and knowledge sharing on results and lessons learned, as a basis for decision-making on policies, strategies, programmes, and project management.

### **2. Procedural steps for reporting, monitoring and evaluation of projects**

The following minimum steps shall be applied to reporting, monitoring and evaluation during the project cycle.

#### **1. *Submission of project proposals: design of a monitoring and reporting (M&E) plan***

- a. a concrete and fully budgeted monitoring and evaluation plan, which is included in the full project proposal by the time a project proposal is submitted for appraisal.
- b. the plan generally contains:
  - indicators for project implementation;
  - indicators for results (outcomes, outputs and, if applicable, impacts);
  - baseline for the project, with a description of the problem to be addressed, with indicator data;
  - identification of reviews and evaluations that may be undertaken; and,
  - organizational set-up and budgets for monitoring and evaluation.
- c. according to the format for the M&E plan contained in the templates for project proposals.
- d. Responsibility: Implementing entities, in consultation with executing entities, following the format for the M&E plan prepared by the Secretary.

#### **2. *Reporting and monitoring: application of M&E plan***

- a. implementation of the M&E plan, comprises, as a minimum:
  - indicators for implementation are actively used, or if not, a reasonable explanation is provided;
  - indicators for results are actively used, or if not, a reasonable explanation is provided;
  - the baseline for the project is fully established and data compiled to assess progress reviews; and,

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<sup>78</sup> Appendix II of the Operational Procedures for the use of resources under the direct control of the Governing Body.

- the organizational set-up for M&E is operational and budgets are spent as planned.
- b. project monitoring and supervision ensured through the internal operational standards and systems and field presence of implementing entities.
- c. monitoring should be based on periodic observation visits, capture the views of stakeholders and identify obstacles in project implementation.
- d. *Implementation Reports* submitted periodically, at least annually, according to a reporting schedule with milestones included in the project document.
- e. *Implementation Reports* meet the following requirements:
  - *Financial Records Requirement*, including periodical audited financial statement to the Secretary on the use of received funds.
  - *Results Reporting Requirement*, including an implementation periodical report on progress and results for all activities to the Secretary.
- f. Responsibility: Implementing entities, based on periodic observation visits and capturing the views of executing entities and stakeholders, develop the monitoring products and deposit them with the Secretary.

### **3. Independent Evaluation: elaboration of a terminal evaluation report**

- a. minimum requirements:
  - be based on norms and standards of the United Nations Evaluation Group, and in particular of the implementing entities concerned.
  - assess at a minimum:
    - achievement of outputs and outcomes, and provide ratings for targeted objectives and outcomes;
    - likelihood of sustainability of outcomes at project termination, and provide a rating for this; and
- b. minimum contents of the terminal evaluation report:
  - basic data on the evaluation:
    - when the evaluation took place,
    - who was involved,
    - the key questions, and
    - methodology;
  - basic data of the project, including actual Benefit-sharing Fund and other expenditures;
  - lessons of broader applicability; and,
  - the terms of reference of the evaluation (in an annex).
- c. exception to small-size projects may be granted.
- d. terminal evaluation report submitted to the Secretary within a reasonable time after project termination, as stipulated in the project document.
- e. Responsibility: an institution or group of experts independent of project management reviewed if needed by the evaluation office of the implementing entity.

## **4. Roles and responsibilities for Monitoring and Evaluation**

### *The Governing Body*

The Governing Body is responsible for the strategic oversight of results at the level of the Benefit-sharing Fund. The *Ad Hoc* Advisory Committee on the Funding Strategy, with the support of the Secretary, monitors the progress in the implementation and impact of the project portfolio funded by the Benefit-sharing Fund.

The Governing Body approves the procedures for monitoring and evaluation. The *Ad Hoc* Advisory Committee on the Funding Strategy advises on the review of these procedures and makes specific recommendations for changes in them to the Governing Body.

### *The Bureau of the Governing Body*

The Bureau of the Governing Body may request information related to the monitoring and evaluation from the project portfolio to the *Ad Hoc* Advisory Committee on the Funding Strategy that may be of relevance to the project cycle. The *Ad Hoc* Advisory Committee on the Funding Strategy will inform the Bureau of any issues arising from the monitoring and evaluation that may require the guidance from the Governing Body, so that the Bureau can take it into account in preparation for the next Session of the Governing Body.

### *The Ad Hoc Advisory Committee on the Funding Strategy*

The *Ad Hoc* Advisory Committee on the Funding Strategy, with the support of the Secretary, provides a biannual report to the Governing Body on the overall status of portfolio implementation and progress towards results based on Implementation Reports and Evaluation Reports received from implementing entities. It also provides advice on the development of programmatic approaches for the Benefit-sharing Fund, that incorporates results frameworks and learning mechanisms to enhance monitoring and evaluation of individual projects.

The *Ad Hoc* Advisory Committee on the Funding Strategy advises the Secretary who prepares the templates of the implementation reports and project proposals, including the format for the M&E plan.

At any stage of the project implementation, the *Ad Hoc* Advisory Committee on the Funding Strategy may recommend the Bureau that the Governing Body considers the suspension or cancellation of a project for several reasons, notably: (a) financial irregularities in the implementation of the project; or, (b) material breach and poor implementation performance leading to a conclusion that the project can no longer meet its objectives. Before the *Ad Hoc* Advisory Committee on the Funding Strategy makes its recommendation whether to suspend or cancel a project or a programme, the implementing entity will be given a fair chance to present its views.

### *Implementing Entities*

Implementation entities will be responsible for the monitoring of individual projects during their implementation. They shall ensure that capacity exists to measure and monitor results at the country-level, as monitoring should be based on periodic observation visits, capture the views of stakeholders and identify obstacles in project implementation. Monitoring and evaluation during project implementation will follow the standards, procedures and requirements of the implementing entities directly concerned.

## **APPENDIX B: DRAFT INTERIM DISBURSEMENT PROCEDURES**

### **1. Background**

Based on Article 19.3 (h) of the Treaty, the Governing Body has established a Trust Account to receive financial contributions to the Benefit-sharing Fund. In accordance with the Financial Rules of the Governing Body, the Trust Account of the Benefit-sharing Fund is administered by FAO and its accounts and financial management are subject to the policies and procedures of FAO.

The implementation of these interim disbursement procedures shall be:

- In line with the Financial Rules of the Governing Body.
- Consistent with existing FAO financial rules and procedures as well as other applicable FAO rules and procedures.
- In accordance with generally accepted accounting principles, and, as soon as these are accepted and implemented by FAO, in accordance with the International Public Sector Standards.<sup>79</sup>

### **2. Procedural steps for disbursement of funds**

The following steps shall be applied to the disbursement of funds during the project cycle.

#### **1. Transfer of funds to implementing entities**

- a. according to a project-cycle agreement with implementing entities that will include, *inter alia*:
  - a schedule for the disbursement of funds in tranches based on time specific milestones;
  - a requirement for an *Implementation Report* from the implementing entity prior to each tranche disbursement.
- b. Responsibility: following signature of project-cycle agreement, the Secretary requests the first tranche funds be transferred to implementing entity. The implementing entity submits an Implementation Report before requesting transfer of subsequent tranches of funds.

#### **2. Disbursement of funds from implementing entities to project beneficiaries**

- a. dependent upon receipt of funds by the implementing entity.
- b. according to the policies and procedures of the implementing entity
- c. use of payment and disbursement systems that meet international fiduciary standards;
- d. fund disbursement adequately documented for preparation of financial records.
- e. responsibility: implementing entities.

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<sup>79</sup> [http://www.ipsas.org/en/ipsas\\_standards.htm](http://www.ipsas.org/en/ipsas_standards.htm)

### **3. Roles and responsibilities of the implementing entities**

In order to achieve transparent and secure disbursement of funds, the Governing Body shall rely on implementing entities that meet fiduciary standards for disbursement, including on:

- Managing and disbursing funds efficiently and with safeguards to recipients on a timely basis;
- A control framework that is documented with clearly defined roles for management, internal auditors, the governing body, and other personnel;
- Financial projections demonstrating financial solvency;
- Demonstration of proven payment and disbursement systems.

The Secretary, in consultation with relevant FAO departments, shall draft memoranda of understanding or other necessary agreements with the implementing entities. A framework template approved by the Governing Body shall be used to prepare such agreements. The agreements shall include provisions on roles and responsibilities on:

- disbursement;
- financial reporting;
- accountability requirements regarding financial transactions, such as cancellations of approved amounts, financial closures and unutilized funds if any.

Each implementing entity will be responsible for the use of funds transferred by FAO and directly accountable to the Governing Body in accordance with the implementing entities own fiduciary framework, policies, guidelines and procedures.

Upon the transfer of funds, fiduciary responsibilities and legal liability will be transferred to the implementing entity. FAO will no longer hold any legal obligation over the effective financial management of the funds, provided that accountability for the proper handling and the use of funds will be between the implementing entity receiving the funds and the Governing Body.

The rules, guidelines, policies, procedures for procurement, financial management, safeguards and supervision of the implementing entity will apply between the implementing entity and the project recipient.

## **APPENDIX C: DRAFT ELEMENTS FOR THE AGREEMENTS ESTABLISHING INSTITUTIONAL ARRANGEMENTS WITH IMPLEMENTING ENTITIES**

### GENERAL MoU

- Background and purpose of the MoU (to contextualize the partnership within the goals and objectives of the Benefit-sharing Fund);
- General principles connected to the operation of the Benefit-sharing Fund, based on the relevant decisions of the Governing Body;
- Responsibilities - to set forth the respective tasks connected to:
- Project cycles under the Benefit-sharing Fund, including on: i) transfer and use of funds; ii) oversight and implementation of projects; iii) reporting.
- Strategic development of the Fund (including on programming of the Fund, mobilizing of resources, advising to relevant Treaty intergovernmental processes);
- Mechanisms for consultation and communications;
- Reference to subsequent accompanying agreements to be appended to the MoU (i.e. project cycle agreement; contribution agreement).

In addition to the content above, the MoU would contain the customary clauses for legal agreements of such a kind (e.g. applicable law, privileges and immunities, use of logo and IPRs, dispute settlement, termination).

PROJECT CYCLE AGREEMENT (in cases where FAO transfers funds to the implementing entity)

### FINANCIAL:

- **Accountability:** the implementing entity ensures that the funds received are used for the purposes for which it was provided and is accountable to the relevant governing body of the Fund for all activities funded.
- **Administrative responsibility:** the implementing entity is solely responsible for the administration of funds made available and carries such administration in accordance with its regulations and rules, standard practices and procedures.
- **Disbursement schedule:** disbursement schedule is stipulated. Prior to each disbursement a financial or other report may be required.
- **Financial records:** provision of regular financial reports, including audited financial statements, prepared in accordance with the accounting and reporting procedures of the implementing entities.
- **Standard of care:** the implementing entity administers the funds received with the same degree of care used in the administration of its own funds.
- **Fees for project cycle management**
- **Fund reallocation:** any changes in the original budget allocation by the implementing entity need to be communicated to the Secretary.
- **Undisbursed or unused funds:** provisions for retaining or returning undisbursed or unused funds.
- **Refund:** provisions for returning funds in case disbursement have been made in a manner inconsistent with the agreements signed.
- **Currency:** project allocations are normally denominated in US Dollars.
- **Fund disbursement from the implementing entity:** project implementation is dependent upon the receipt of funds by the implementing entity.

- Investment income: provisions for returning income earned on the investment of funds transferred to the implementing entity.

#### PROJECT IMPLEMENTATION:

- The implementing entity implements, monitors and evaluates the projects in a manner consistent with the Operational Procedures of the Benefit-sharing Fund;
- The implementing entity follows the reporting, monitoring and evaluation procedures of the Benefit-sharing Fund;
- The implementing entity reports on project implementation to the Secretariat based on the schedule established for the project implementation;
- The implementing entity reports to the Secretariat on projects where implementation faces financial irregularities or poor performance, for subsequent consideration of project cancellation or suspension by the Governing Body.

ANNEX (containing all the projects approved for which the implementing entity is responsible for)

CONTRIBUTION AGREEMENT (in cases where the implementing entity contributes financially to the call for proposals)

- Background (to contextualise the financial contribution in the specific call for proposals);
- Amount of the contribution;
- Disbursement of the funds according to the operational procedures and decisions by the Governing Body;
- Involvement of the implementing entity in the structuring of the call for proposals;
- Applicable provisions taken from the part on project implementation of the project cycle agreement.

*APPENDIX D: MEMORANDUM OF UNDERSTANDING (MOU)*, dated \_\_\_\_\_, between the ADAPTATION FUND BOARD (Board) and \_\_\_\_\_ (Implementing Entity) in support of the \_\_\_\_\_ ([Project]/[Programme]).

Whereas, the Conference of the Parties (COP) of the United Nations Framework Convention on Climate Change (UNFCCC) in its decision 10/CP.7 decided that an adaptation fund (AF) would be established to finance concrete adaptation projects and programmes in developing countries that are parties to the Kyoto Protocol to the UNFCCC (Kyoto Protocol);

Whereas, the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) in its decision 1/CMP.3 decided that the operating entity of the AF would be the Board, with the mandate to supervise and manage the AF under the authority and guidance of the CMP;

Whereas, in accordance with decisions 5/CMP.2 and 1/CMP.3, paragraph 5 (b), the Board has approved operational policies and guidelines for parties to access resources from the AF (Operational Policies and Guidelines), establishing that eligible parties who seek financial resources from the AF would submit proposals either directly through their nominated national implementing entities or through multilateral implementing entities; and

Whereas, the proposal submitted by the Implementing Entity seeking AF resources in support of the [Project]/[Programme] ([Project]/[Programme] Proposal) has been approved;

THEREFORE, the Board and the Implementing Entity have reached the following understanding:

#### 1. DEFINITIONS.

Unless the context otherwise requires, the several terms defined in the Preamble to this MOU will have the respective meanings set forth therein and the following additional terms will have the following meanings:

1.01. "Grant" means the AF resources approved by the Board for the [Project]/[Programme] and transferred from the Trustee to the Implementing Entity;

1.02. "Designated Authority" means the authority that has endorsed on behalf of the national government the application for accreditation of the Implementing Entity and the [Project]/[Programme] Proposal by the Implementing Entity;

1.03. "Executing Entities" are organizations that execute adaptation projects and programmes supported by the AF under the oversight of implementing entities.  
Annex IV

1.04. "Implementing Entity Grant Account" means the account to be established by the Implementing Agency to receive, hold and administer the Grant;

1.05. "Secretariat" is a body appointed the CMP to provide secretariat services to the Board, consistent with decision 1/CMP.3, paragraphs 3, 18, 19 and 31;

1.06. "AF Trust Fund" means the trust fund for the AF administered by the Trustee in accordance with the Terms and Conditions of Services to be Provided by the International Bank for Reconstruction and Development as Trustee for the Adaptation Fund. and

1.07. "Trustee" means the trustee of the Adaptation Fund.



## 2. GENERAL PRINCIPLES.

2.01. All the provisions of this MOU will be carried out in accordance with the Operational Policies and Guidelines.

2.02. The Implementing Entity will carry out all its obligations under this MOU in accordance with its standard practices and procedures, provided that, whenever any such practices and procedures are inconsistent with the Operational Policies and Guidelines, including the Fiduciary Risk Management Standards attached to them (Attachment to this MOU), the Implementing Entity will (a) immediately notify the Board accordingly, through the Secretariat, (b) promptly take all necessary actions to resolve any such inconsistencies, and (c) in case the IE makes any disbursements in a manner inconsistent with the Operational Policies and Guidelines, including the Fiduciary Risk Management Standards, and these inconsistencies cannot be resolved, refund to the Adaptation Fund Trust Fund any such disbursements.

2.03. The Implementing Entity will defend, indemnify and hold harmless the Board, the Secretariat and their respective officials in respect of any action, claim or other demand or liability arising out of or in connection with this MOU, including injury to persons and damage to, or loss of, property.

## 3. ADMINISTRATION OF THE GRANT.

3.01. The Grant amounts to \_\_\_\_ US dollars (\$\_\_\_\_). The project document, which details the purposes for which this grant is made, is attached in annex X. The disbursement schedule and special conditions that apply to the implementation of this grant are stipulated in annex XX.

3.02. The Trustee will disburse funds on the written instruction of the Adaptation Fund Board.

3.03. The Implementing Entity will be responsible for the administration of the Grant and will carry out such administration with the same degree of care used in the administration of its own funds, taking into account the provisions of this MOU.

3.04. The Implementing Entity may convert the Grant into any other currency to facilitate its disbursement and will make available the proceeds of the Grant to the Executing Entities.

3.05. Any changes in the original budget allocation in the Grant funds by the Implementing Entity, in consultation with the Executing Entity, should be communicated to the Board.

## 4. [PROJECT]/[PROGRAMME] IMPLEMENTATION.

4.01. The Implementing Entity will ensure that the Grant is used for the purposes for which it was provided, and will refund any disbursements made for purposes other than those for which the Grant was provided.

4.02. The Implementing Entity will be responsible for the overall management and supervision of the [Project]/[Programme], and will bear all financial, monitoring and reporting responsibilities.

4.03. The Implementing Entity will promptly inform the Board, through the Secretariat, of any conditions that may interfere with the management and supervision of the [Project]/[Programme].

## 5. [PROJECT]/[PROGRAMME] SUSPENSION.

5.01. After consultation with the Implementing Entity, the Board may suspend the [Project]/[Programme] for reasons that include, but are not limited to, financial irregularities in the implementation of the [Project]/[Programme], or a material breach or poor implementation performance leading the Board to conclude that the [Project]/[Programme] may not meet its objectives unless the material breach or the poor implementation performance is promptly remedied.

## 6. PROCUREMENT.

6.01. The procurement of goods and services (including consultants' services) for activities financed by the Grant will be done in accordance with the Implementing Entity's standard practices and procedures, which must be consistent with the procurement requirements in the Operational Policies and Guidelines, including the Fiduciary Risk Management Standards (Attachment to this MOU). In case the Implementing Entity makes any disbursements in a manner inconsistent with the Operational Policies and Guidelines, including the Fiduciary Risk Management Standards, and these inconsistencies cannot be resolved, the Implementing Entity shall refund to the Adaptation Fund Trust Fund any such disbursements.

## 7. RECORDS AND REPORTING.

7.01. The Implementing Entity will provide to the Board, through the Secretariat, the following reports and financial statements:

- a) annual progress reports on the status of the [Project]/[Programme] implementation, including the disbursements made during the relevant period or more frequent progress reports if requested by the Board;
- b) a [Project]/[Programme] completion report, including any specific [Project]/[Programme] implementation information, as reasonably requested by the Board through the Secretariat, within six (6) months after [Project]/[Programme] completion;
- c) a mid-term and final evaluation report, by an independent evaluator selected by the Implementing Entity shall be provided to the Board. The final evaluation report shall be submitted within nine (9) months after [Project]/[Programme] completion. Copies of these reports shall be forwarded by the Implementing Entity to the designated authority for information.
- d) a final audited financial statement for the Implementing Entity Grant Account, by an independent auditor, within six (6) months of the end of the Implementing Entity's financial year during which the [Project]/[Programme] is completed.

## 8. CONSULTATION.

8.01. The Board and the Implementing Entity will share information with each other, at the request of either one of them, on matters pertaining to this MOU.

## 9. COMMUNICATIONS.

9.01. All communications concerning this MOU will be made in writing, in the English language, to the representatives designated below, by letter or by facsimile.

The representatives are:

For the Board:

Adaptation Fund Board Secretariat  
 1818 H Street, NW  
 Washington, D.C. 20433  
 Annex IV  
 6  
 USA  
 Attention: Adaptation Fund Board Chair  
 Fax: \_\_\_\_\_

For the Implementing Entity:

\_\_\_\_\_  
 \_\_\_\_\_

#### 10. EFFECTIVENESS AND AMEDMENTS OF THE MOU.

10.01. This MOU will become effective upon signing.

10.02. This MOU may be amended, in writing, by mutual consent between the Board and the Implementing Entity.

#### 11. TERMINATION OF THE MOU.

11.01. This MOU may be terminated by the Board or the Implementing Entity, by prior written notice of at least ninety (90) days to the other.

11.02. This MOU may also be terminated and replaced by a contract between the Board and the Implementing Entity.

11.03. This MOU will automatically be terminated in case of:

- a) cancellation of the Implementing Entity's accreditation by the Board; or
- b) communication by the Designated Authority that it no longer endorses the Implementing Entity or the [Project]/[Programme].

11.04. Upon termination of the MOU, the Board and the Implementing Entity will consider the most practical way of completing any activities to be carried out under this MOU. The Implementing Entity will promptly return any unused portion of the Grant to the Adaptation Fund Trust Fund, including any net investment income earned. No Grant funds may be disbursed after termination.

#### 12. SETTLEMENT OF DISPUTES

12.01. Any dispute, controversy or claim arising out of or relating to this MOU, or the breach, termination or invalidity thereof, will be settled amicably between the Board and the Implementing Entity.

12.02. Any dispute, controversy or claim arising out of or relating to this MOU, or the breach, termination or invalidity thereof, which has not been settled amicably between the Board and the Implementing Entity will be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as present in force.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed this MOU on -----.

THE ADAPTATION FUND BOARD

\_\_\_\_\_  
 Chair

THE IMPLEMENTING ENTITY

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APPENDIX TO THE MOU: FIDUCIARY RISK MANAGEMENT STANDARDS TO BE MET BY IMPLEMENTING ENTITIES

Competency	Specific capability required	Illustrative means of verification
<b>I. Financial Management and Integrity</b>	Accurately and regularly record transactions and balances in a manner that adheres to broadly accepted good practices, and are audited periodically by an independent firm or organization	<p><b>Illustrative means of verification</b></p> <ul style="list-style-type: none"> <li>- Production of reliable financial statements prepared in accordance with internationally recognized accounting standards.</li> <li>- Annual external audited accounts that are consistent with recognized international auditing standards.</li> <li>- Production of detailed departmental accounts</li> <li>- Use of accounting packages that are recognised and familiar to accounting procedure in developing countries</li> <li>- Demonstrate capability for functionally independent internal auditing in accordance with internationally recognized standards.<sup>80</sup></li> </ul>
	Managing and disbursing funds efficiently and with safeguards to recipients on a timely basis;	<ul style="list-style-type: none"> <li>- A control framework that is documented with clearly defined roles for management, internal auditors, the governing body, and other personnel.</li> </ul>
	Produce forward-looking financial plans and budgets	<ul style="list-style-type: none"> <li>- Financial projections demonstrating financial solvency.</li> <li>- Demonstration of proven payment / disbursement systems</li> <li>Evidence of preparation of corporate , project or departmental / ministry budgets</li> <li>Demonstration of ability to spend against budgets</li> </ul>

<sup>80</sup> Such as International Standards on Auditing (ISA).

## II Requisite Institutional Capacity

Legal status to contract with the  
Adaptation Fund and Third Parties

- Demonstration of necessary legal personality in case it is not government department/institution.

- Demonstrated legal capacity/authority and the ability to directly receive funds

Procurement procedures which provide for transparent practices, including competition

- Evidence of procurement policies and procedures at national levels consistent with recognized international practice (including dispute resolution procedures)

Capacity to undertake monitoring and evaluation

- Demonstration of existing capacities for monitoring and independent evaluation consistent with the requirements of the Adaptation Fund.

- Evidence that a process or system, such as project-at-risk system, is in place to flag when a project has developed problems that may interfere with the achievement of its objectives, and to respond accordingly to redress the problems.

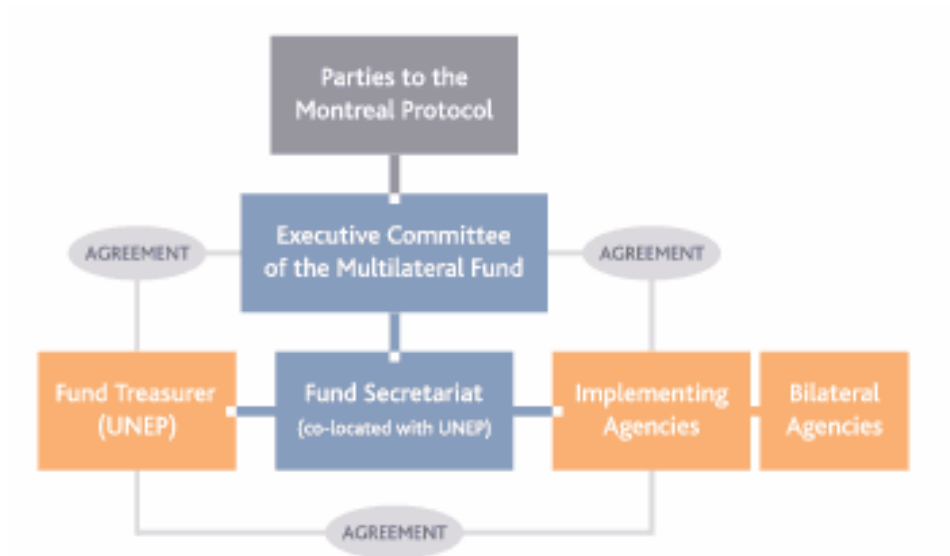
Ability to identify, develop and appraise project

- Availability of/ Access to resources and track records of conducting appraisal activities

- Evidence of institutional system for balanced review of projects, particularly for quality-at-entry during design phase.

- Risk assessment procedures are in place.

	<p>Competency to manage or oversee the execution of the project/programme including ability to manage sub-recipients and to support project / programme delivery and implementation</p>	<p>- Understanding of and capacity to oversee the technical, financial, economic, social, environmental and legal aspects of the project and their implications</p>
<p><b>III Transparency, self - investigative powers, and anti-corruption measures</b></p>	<p>Competence to deal with financial mis-management and other forms of malpractice</p>	<p>- Demonstrated competence to execute or oversee execution of projects / programmes of the same nature as intended project or programme          Demonstration of capacity and procedures to deal with financial mismanagement and other forms of malpractice.</p> <p>Evidence of an objective investigation function for allegations of fraud and corruption.</p>

**APPENDIX E: INSTITUTIONAL ARCHITECTURE OF RELEVANT MECHANISMS****MONTREAL FUND**

Source: [http://www.multilateralfund.org/institutional\\_arrangements.htm](http://www.multilateralfund.org/institutional_arrangements.htm)

Governing bodies: the Conference of the Parties to the Montreal Protocol and the Executive Committee of the Multilateral Fund.

Fund administrator: UNEP is Fund Treasurer.

Implementing entities: UNDP, UNEP, UNIDO and the World Bank.

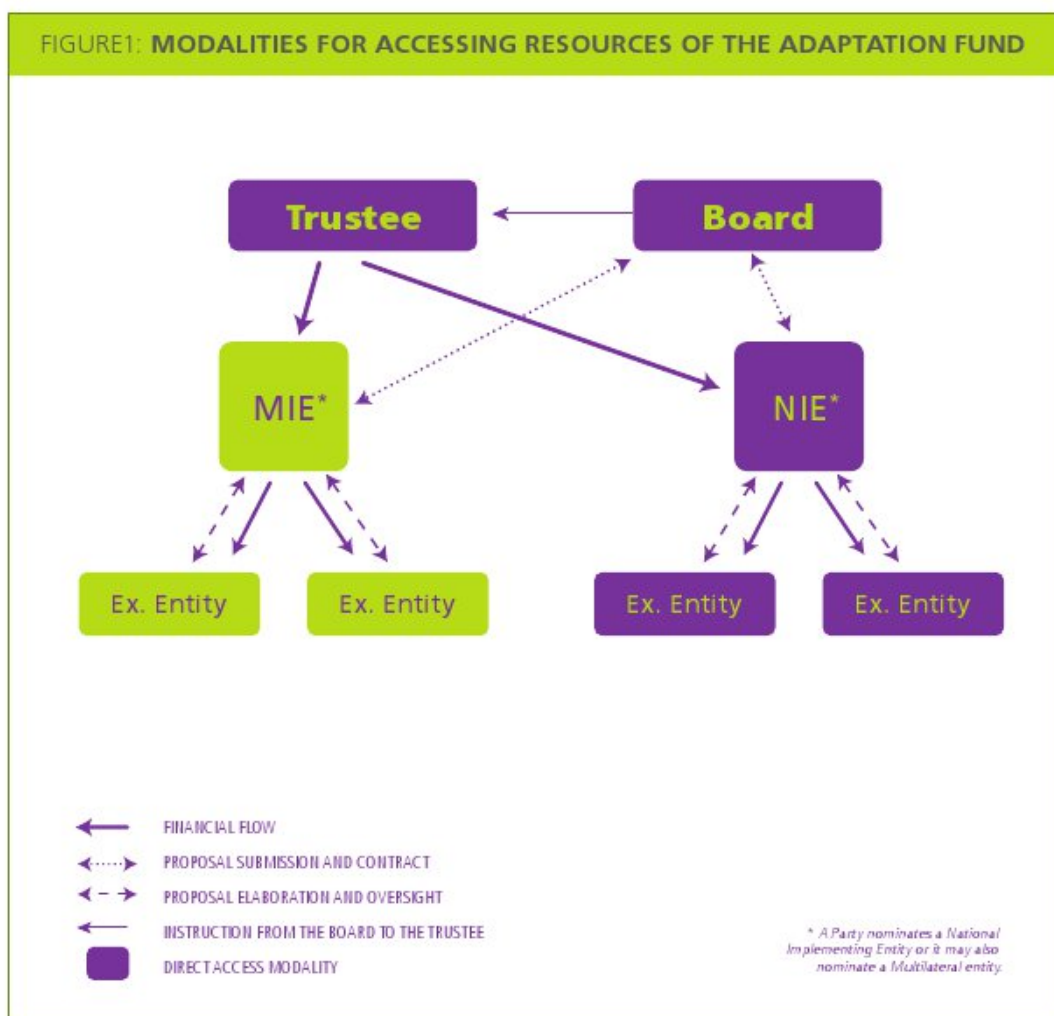
Secretariat: Fund Secretariat.

Scientific and technical advisory bodies: use expertise from bodies of the Conference of Parties to the Protocol.

Monitoring and evaluation unit: contained within the Fund Secretariat.



## GLOBAL ADAPTATION FUND



**Source:** <http://www.adaptation-fund.org/node/260>

Governing bodies: the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) and the Adaptation Fund Board.

Fund administrator: World Bank is currently *Trustee*.

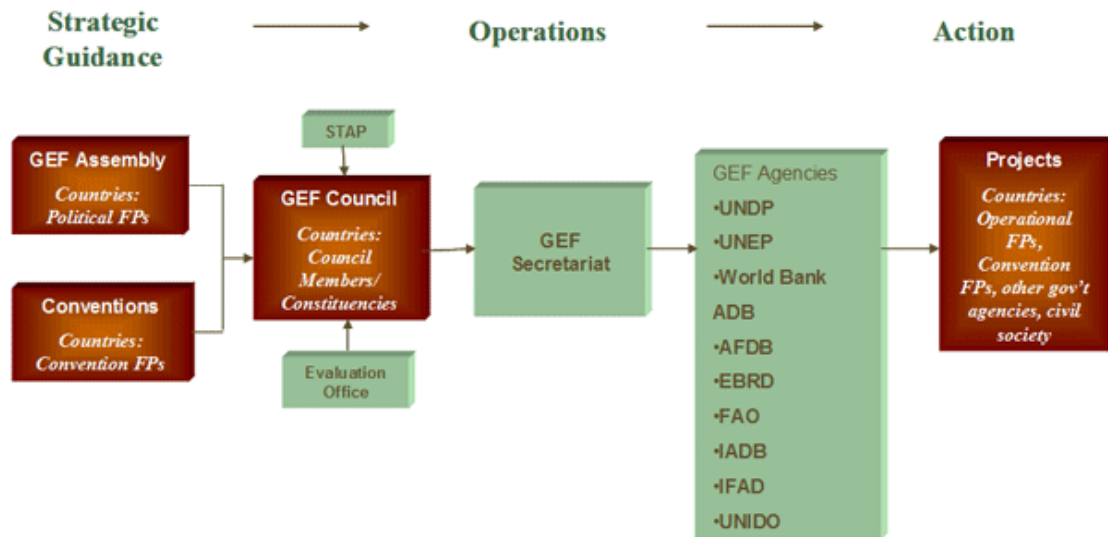
Implementing entities: contains a mechanism to enable both national implementing entities (NIEs) and multilateral implementation entities (MIEs).

Secretariat: Secretariat of the Adaptation Fund.

Scientific and technical advisory bodies: Board has a number of committees where experts are called upon as needed.

Monitoring and evaluation unit: no specific unit in the Adaptation Fund Secretariat.

## GLOBAL ENVIRONMENTAL FUND



Source: [http://www.thegef.org/gef/gef\\_structure](http://www.thegef.org/gef/gef_structure)

Governing bodies: the Conference of the Parties of Rio Conventions, plus GEF Assembly and GEF Council.

Fund administrator: World Bank is currently *Trustee*.

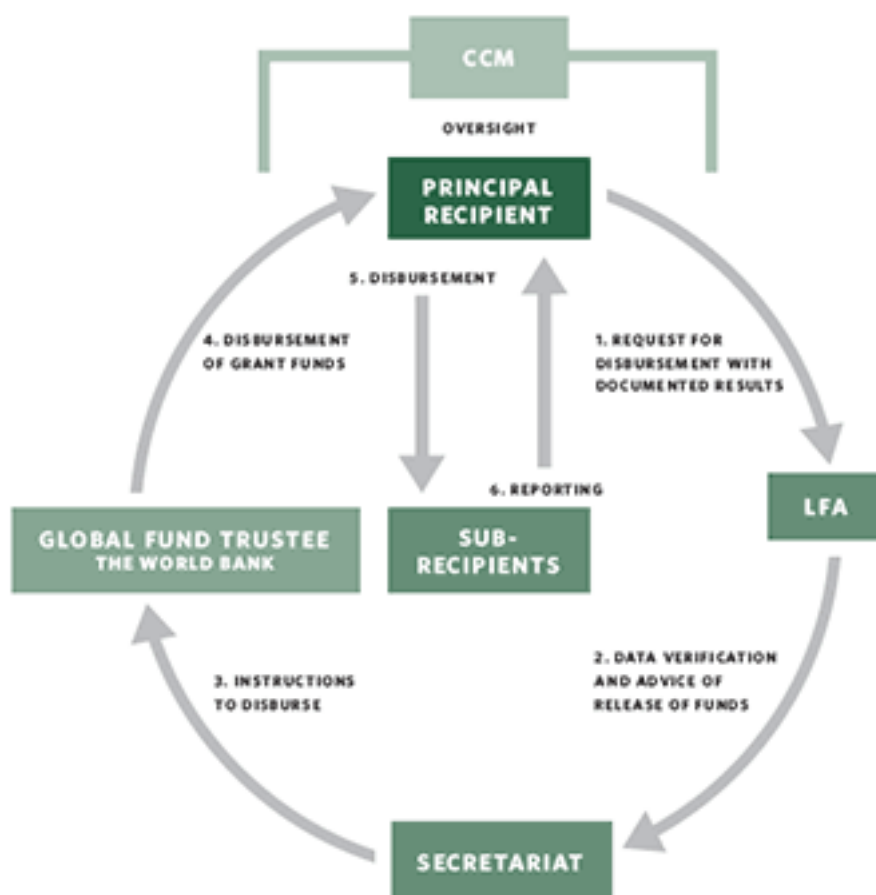
Implementing entities: a wide range of multilateral implementing agencies as reflected above.

Secretariat: GEF Secretariat.

Scientific and technical advisory bodies: the Scientific and Technical Advisory Panel reports directly to the GEF Council.

Monitoring and evaluation unit: reports directly to the GEF Council.

## THE GLOBAL FUND TO FIGHT AIDS, TUBERCULOSIS AND MALARIA



Source: <http://www.theglobalfund.org/en/structures/?lang=en>

Governing bodies: Fund Board plus Country Coordinating Mechanisms (CCM)

Fund administrator: World Bank is *Trustee*.

Implementing entities: Principal Recipients can be national and international institutions, mostly governmental.

Secretariat: Fund Secretariat

Scientific and technical advisory bodies: Technical Review Panel reports to the Board.

Monitoring and evaluation unit: the Secretariat relies on Local Fund Agents (LFA) to monitor implementation and advise on release of funds.