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## **Report on IFAD's Hosting of the Global Mechanism of the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa**

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**For: Approval**

## Recommendation for approval

The Executive Board is invited to approve the submission of this report for information to the thirty-seventh session of the Governing Council.

### **Report on IFAD's Hosting of the Global Mechanism of the United Nations Convention to Combat Desertification in those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa**

#### **I. Background**

1. As required by Governing Council resolution 108/XXI (1998), the Executive Board will continue to be informed about the administrative arrangements for housing the Global Mechanism of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (UNCCD) and also about Global Mechanism's (GM) activities.
2. In addition, at its ninth special session on 3 May 2012, the Executive Board adopted a resolution on the Amendment to the Memorandum of Understanding (MoU) Between the Conference of the Parties of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa and the International Fund for Agricultural Development Regarding the Modalities and Administrative Operations of the Global Mechanism. Pursuant to this resolution, the Executive Board committed to report on such modalities and operations to the Governing Council.
3. Established under article 21 of the United Nations Convention to Combat Desertification in Those Countries Experiencing Serious Drought and/or Desertification, Particularly in Africa (UNCCD), the GM is a subsidiary body of the Convention. It is mandated to "increase the effectiveness and efficiency of existing financial mechanisms ... [and] ... to promote actions leading to the mobilization and channelling of substantial financial resources to affected developing country Parties."
4. The Conference of the Parties (COP), which is the UNCCD's supreme governing body, decided that the GM should be hosted by an existing organization and IFAD was selected as the host agency in 1997 at the COP's first session. This decision was accepted by the Governing Council under resolution 108/XXI (1998), and a Memorandum of Understanding (MoU) between the COP and IFAD setting out the modalities and administrative operations of the GM was entered into on 26 November 1999.
5. In resolution 108/XXI (1998) the Governing Council decided that:
  1. IFAD shall accept the decision of the Conference of the Parties (COP) of the CCD at its first session to select IFAD to house the Global Mechanism.
  2. The Executive Board is authorized to approve the modalities, procedures and administrative arrangements to be contained in a Memorandum of Understanding between the COP and IFAD for the housing of the Global Mechanism by IFAD.
  3. The President of IFAD is authorized to sign a Memorandum of Understanding between COP and IFAD, containing such arrangements as the Executive Board may approve for the housing of the Global Mechanism.

4. The President shall report periodically to the Executive Board on the administrative arrangements for the housing of the said Global Mechanism in IFAD and on such activities as IFAD may undertake in support of the Global Mechanism, while also keeping the Executive Board informed of the activities of the Global Mechanism.”
6. Pursuant to this MoU, IFAD has housed the GM since 1999 and has performed tasks in respect of the administration of the GM on behalf of the COP. In 2007, the eighth session of the COP mandated that the Joint Inspection Unit of the United Nations undertake an assessment of the GM and submit the findings to COP9 for consideration. Subsequently, at the ninth session of the COP, the COP9 Bureau was requested to commission an evaluation of existing and potential reporting, accountability and institutional arrangements for the GM and their legal and financial implications, including the possibility of identifying a new institution or organization to house the GM. After reviewing the Bureau’s report and considering the views of IFAD, as well as a management response from the GM, the COP at its tenth session adopted decision 6/COP.10 in October 2011 (available at [http://www.unccd.int/Lists/OfficialDocuments/cop10/COP10\\_decisions/dec6-COP.10eng.pdf](http://www.unccd.int/Lists/OfficialDocuments/cop10/COP10_decisions/dec6-COP.10eng.pdf)).
7. Under this decision, the COP stipulated that the accountability and legal representation of the GM would be transferred from IFAD to the UNCCD Secretariat, and mandated the Executive Secretary of the UNCCD to ensure that all accounts and staff managed by the GM are placed under one single administrative regime administered by the United Nations Office at Geneva, and managed under the financial rules and regulations of the United Nations. The decision also envisaged the possible end of IFAD’s role as the host of the GM and the beginning of a process to identify a new housing arrangement for the GM.
8. In April 2012, IFAD and UNCCD negotiated a revision to the MoU to reflect the decisions adopted by the COP in decision 6/COP.10, which is attached as appendix I. Accordingly, IFAD is no longer authorized to undertake any actions with respect to the financial or human resources management of the GM except at the request and on behalf of the Executive Secretary of the UNCCD, or those to whom he has delegated such authority.
9. At its ninth special session on 3 May 2012, the Executive Board adopted the following resolution on this amendment to the MoU:
- **“Decides** to accept the decision of the COP of the UNCCD to transfer the accountability and legal representation of the Global Mechanism from the Fund to the UNCCD Secretariat and considers this transfer to have been effected in principle by this amendment of the MoU, with the expectation that subsequent actions will be taken expeditiously to fully implement this transfer of administration and accounts as intended;
  - **Decides also** that the President, or any person acting on behalf of the President, shall no longer be authorized to act on behalf of, and for the account of, the Global Mechanism or the COP of the UNCCD, unless duly requested by the Executive Secretary of the UNCCD;
  - **Decides further** to accept the decision of the COP of the UNCCD to ensure that all accounts and staff managed by the Global Mechanism are brought under one single regime administered by the United Nations Office at Geneva and managed under the Financial Regulations and Rules of the United Nations;
  - **Directs** the President to transfer the balance of all Global Mechanism accounts to the UNCCD Secretariat;

- **Recognizes** that any existing and potential future liabilities will be settled through due process;
- **Accepts** on behalf of the Fund, without prejudice to the provisions of the Convention as well as existing and future decisions of the COP, the amendments to the Memorandum of Understanding required by paragraphs 1, 3, 6, 7, 8 and 9 of COP decision L/22 and therefore entered into between the COP of the UNCCD and IFAD, which were concluded between the President and the UNCCD Secretariat, in accordance with the terms of the Memorandum of Understanding;
- **Requests** the President to inform the COP of the UNCCD accordingly;
- **Calls upon** Management to start outreach and consultation together with the Secretariat of the COP to come to an amicable solution of the GM staff issue in a most cost-effective way for all parties;
- **Directs** the President to seek Executive Board approval, using an expedited lapse-of-time procedure, before acting upon article VII C (terminating the MoU) or article VII D (further amending the MoU);
- **Requests** that the Executive Board continue to follow this issue and be updated and consulted as appropriate, on a regular basis, on progress made, including costs and financial implications through the Audit Committee, and to report on this matter to the Governing Council at its 2013 session."

## II. Location of the Global Mechanism

10. As noted above, at its tenth session, by its decision 6 in paragraph 11, the COP requested the Executive Secretary, UNCCD, in consultation with the COP10 Bureau, to undertake a process to identify a new housing arrangement for the GM. In response to this decision, the Executive Secretary presented a report to the eleventh meeting of the COP in Namibia in September 2013. The report evaluated the various housing options including keeping the GM at IFAD or transferring it to another Rome location; relocating it to Bonn, Geneva or New York; or locating it at the World Bank. The report concluded that co-locating the GM with the Secretariat at the UNCCD Secretariat Headquarters in Bonn provided the most benefits in terms of streamlined operational modalities and governance.
11. As reflected in that report and in the IFAD statement read out at COP11 (attached as appendix II), IFAD made it clear to the UNCCD that IFAD will support whatever decision the COP may take with respect to the housing of the GM, on the principle that the GM is an organ of the COP and that IFAD's role is that of a host, without accountability or responsibility for the acts of the GM or its staff and does not hold any responsibility or liability towards its staff. IFAD has also indicated that there should be no cost or liability for IFAD associated with its current or potential future role as host of the GM.
12. At its eleventh session, having considered the report by the Executive Secretary on a new housing arrangement for the GM, including potential co-location with the UNCCD secretariat at Bonn, the COP:
  - (i) Noting the recommendation contained in the document ICCD/COP(11)/3 further reaffirming decision 6/COP.10, **decides** to relocate the Global Mechanism from the International Fund for Agricultural Development in Rome to Bonn, to be co-located with the UNCCD secretariat;
  - (ii) Further recognizing the importance and need to continue with coordination and interaction with United Nations agricultural agencies and donor community in Rome, **decides** to establish a liaison office in Rome with appropriate staff. The purpose and functioning of the liaison office is to be

decided by the Managing Director of the Global Mechanism in agreement with the Executive Secretary;

- (iii) **Authorizes** the Executive Secretary, from the 1 October 2013, to take all necessary measures, in consultation with the Managing Director of the Global Mechanism and the President of the International Fund for Agricultural Development and, going forward, with others as appropriate, to develop the institutional arrangements for this decision in an expeditious manner so as to ensure that the administrative, procedural and legal aspects are implemented.
13. The UNCCD has approached IFAD to discuss the modalities of implementing the new institutional arrangements. IFAD's governing bodies will be provided with updates by IFAD Management as the discussion proceeds.

### **III. Staffing of the Global Mechanism**

14. As mentioned in paragraph 9(3) above, the Executive Board, at its special session of 3 May 2012, decided to accept the decision of the COP to ensure that all accounts and staff managed by the GM are brought under one single regime administered by the United Nations at Geneva (UNOG) and managed under the Financial Regulations and Rules of the United Nations. The revised MoU between UNCCD and IFAD (appendix I) states in this regard that IFAD will not be responsible for any element of the personnel management or financial management of the GM, including the selection and recruitment of its staff and Managing Director and that IFAD is not, nor will it be, party to employment contracts with employees or contractors of the GM. The amended MoU also specifies that IFAD rules and procedures will not apply to such contractors or employees.
15. The United Nations Office of Human Resource Management (OHRM) in New York resisted the simple transfer of GM staff to the UNCCD or their assumption by the UNCCD. Therefore the UNCCD, in coordination with OHRM, decided that the best approach was to advertise all of the existing GM jobs as UNCCD positions.
16. Accordingly, the UNCCD secretariat managed the vacancy process with the assistance of UNOG and finally, on 1 April 2013, all the GM staff were recruited as UNCCD staff and were offered letters of appointment in accordance with United Nations Staff Rules and Regulations. The UNCCD has confirmed in writing that all GM staff have signed letters of appointment with UNCCD for fixed-term contracts of one year starting from 1 April 2013. These contracts are administered and managed by UNOG. All GM staff were appointed at the same grade except for three staff members who received offers at a higher grade.

### **IV. Transfer of accounts**

17. In accordance with the COP10/6 decision and the revised MoU, IFAD and the secretariat of the UNCCD have been working on a plan for the handover of the GM accounts. The UNCCD had informed IFAD that until a United Nations Trust Fund was set up, the transfer could not be effected. When the UNCCD confirmed that such a Trust Fund had been established, IFAD, on 5 July 2013, wrote to UNCCD suggesting a process and time frame for the full handover of financial accounts. It was foreseen that the handover would be effected by the end of the third quarter of 2013.
18. Despite the best efforts of IFAD, there remain many unresolved issues around the GM that could result in future liabilities which IFAD may need to pay on behalf of UNCCD. In particular, these involve:
- (a) Outstanding litigation from GM staff and the former Managing Director;
  - (b) Significant disputed balances between GM and other parts of the United Nations; and
  - (c) Significant outstanding travel advances to GM staff.

19. IFAD's best estimate of the potential liability arising from (a) and (b) above is US\$4,575,000. Therefore IFAD has set aside these monies in an escrow account to be used in the eventuality that some or all of these liabilities crystallize. IFAD has informed the UNCCD that this is a temporary measure and that there are a number of outcomes that would enable IFAD to close this account and return the money, such as:
  - (a) The outstanding litigation could be withdrawn, the disputes settled and travel advances repaid;
  - (b) A written guarantee from the UNCCD that it would reimburse IFAD for any cost arising from these liabilities; or
  - (c) A third party could give such a guarantee.
20. IFAD has, in various written communications to the UNCCD, expressed its serious concerns over the potential financial liabilities for IFAD. It is to be noted that IFAD had to initially advance its own donors' funds in order to pay a Tribunal (the International Labour Organization Administrative Tribunal [ILOAT]) award on behalf of the GM. Therefore, in the handing over of the GM accounts, IFAD wishes to obtain the assurance that all financial liabilities faced by the Fund because of the GM, including potential financial liabilities linked to appeals from the GM staff, will be covered.
21. It is to be noted that until 30 September 2013, IFAD followed all GM instructions to make payments and operational disbursements and did not withhold or refuse any payments. On 22 October 2013, IFAD transferred to the UNCCD bank account US\$1,414,000 representing the balance of funds in the GM bank accounts less the amount mentioned in paragraph 19 above.
22. IFAD is confident that it can collaborate with the UNCCD and reach a mutually acceptable solution. IFAD welcomes a workable solution that would provide the assurance that all financial liabilities would be covered before all the funds are transferred to the GM.

## **V. Legal matters**

23. On 30 August 2012, IFAD received notification of three complaints filed with ILOAT by three GM staff members against IFAD. On 23 October 2012, the Registrar of ILOAT forwarded to IFAD seven applications filed by GM staff to intervene and link their cases to the three appeals. On 12 December 2012, the Fund was notified of another complaint filed by a former GM staff member against IFAD. Finally, by 26 March 2013, the Fund had received three additional applications from GM staff to intervene in the above-mentioned cases. These cases are still pending at the ILOAT for adjudication although the concerned staff have signed letters of appointment with UNCCD. As in the past, Management will keep the Executive Board informed of the outcomes of this and other matters related to the GM.

## **VI. Conclusion**

24. Management is committed to reaching, in close coordination with the UNCCD, a successful conclusion to these matters in order to achieve the timely transition of the GM to Bonn and minimize any potential liabilities for IFAD.
25. A final report will be submitted for the Executive Board's consideration and transmittal to the Governing Council upon completion of the process of termination of the housing arrangements for the GM, which is expected to occur in March 2014.

## Appendix I

**Amendment to the Memorandum of Understanding (hereinafter referred to as "MOU") between the Conference of the Parties (hereinafter referred to as "the Conference of the Parties" or "the COP") to the United Nations Convention to Combat Desertification, particularly in Africa (hereinafter referred to as "the Convention") and the International Fund for Agricultural Development (hereinafter referred to as "IFAD" or "the Fund") regarding the modalities and administrative operations of the Global Mechanism, dated 26 November 1999.**

**WHEREAS**, pursuant to Article 21, paragraph 5 of the Convention, the Conference of the Parties by its Decision 24/COP.1 selected IFAD to house the Global Mechanism established under Article 21, paragraph 4, of the Convention;

**WHEREAS**, pursuant to the Memorandum of Understanding between the Conference of the Parties to the United Nations Convention to Combat Desertification and the International Fund for Agricultural Development, the Fund has been performing services on behalf of the COP, including engaging staff and consultants for the Global Mechanism, and managing the attendant legal relationship between the Global Mechanism and its staff and consultants, as well as administering the accounts and financial resources of the Global Mechanism.

**WHEREAS** The Conference of Parties by decision 10/COP.3 adopted the above mentioned MOU between the COP and IFAD and brought it into force on 26 November 1999,

**WHEREAS** decision 6/COP.10 adopted at the 10<sup>th</sup> session of the Conference of the Parties to the United Nations Convention to Combat Desertification, which is attached hereto as Annex 1 and forms an integral part of this Amendment, decided, inter alia, to revise its Memorandum of Understanding with the International Fund for Agricultural Development contained in decision 10/COP.3, regarding the modalities and administrative operations of the Global Mechanism,

**WHEREAS** decision 6/COP.10 further directed and authorized the Executive Secretary of the secretariat of the Convention (hereafter referred to as "UNCCD secretariat"), in order to address the governance issues immediately, and under the guidance of the Bureau of the tenth session of the Conference of the Parties and in consultation with the President of the International Fund for Agricultural Development, to revise and implement the Memorandum of Understanding between the Conference of the Parties and the International Fund for Agricultural Development to limit IFAD to: (1) logistical and administrative support other than those provided under paragraph 5 and (2) privileges and immunities to Global Mechanism staff through the Government of Italy;

**NOW THEREFORE**, the amendments to the above mentioned Memorandum of Understanding between the Conference of the Parties and IFAD are as follows:

1. Delete in full the Preamble to the MOU and substitute therefore the Preamble set out above.
2. Delete in full the following Articles of the said MOU:
  - **I- FUNCTIONS OF THE GLOBAL MECHANISM**
  - **II. STATUS OF THE GLOBAL MECHANISM WITHIN THE FUND**
  - **III. RELATIONSHIP OF THE GLOBAL MECHANISM TO THE CONFERENCE**
  - **IV. COLLABORATIVE INSTITUTIONAL ARRANGEMENTS**
  - **V. FIELD OFFICE SUPPORT FOR THE GLOBAL MECHANISM**
3. Delete Article VI. ADMINISTRATIVE INFRASTRUCTURE and Article VII. FINAL PROVISIONS and substitute therefore the following text.

**"Article VI- ADMINISTRATIVE INFRASTRUCTURE**

1. In accordance with the provisions of decision 6/COP.10:
  - a. While the Global Mechanism will have a separate identity within the UNCCD secretariat, it will be an organic part of the structure of the secretariat directly under the Executive Secretary.
  - b. The accountability and the legal representation of the Global Mechanism are hereby transferred from the International Fund for Agricultural Development to the UNCCD secretariat.
  - c. The Executive Secretary shall assume overall management responsibility, including coordinating and reporting on, inter alia, accounting, performance and activities of the Global Mechanism, to the Conference of the Parties.
  - d. Until such time that all accounts and staff managed by the Global Mechanism shall be under one single administrative regime administered by the United Nations Office at Geneva and managed under the Financial Regulations and Rules and Staff Rules of the United Nations, IFAD shall continue to, in consultation with the Executive Secretary, provide personnel and financial management services to employees or contractors of the Global Mechanism. Accordingly, IFAD is not, and will not be, responsible for any element of the personnel management or financial management of the Global Mechanism, including the selection and recruitment of its staff and Managing Director. Furthermore, IFAD is not, nor will it be, a party to employment contracts with employees or contractors of the Global Mechanism, and the IFAD rules and procedures will not apply to such employees or contractors.
  - e. The appointment of the Managing Director of the Global Mechanism shall be done through the recruitment process of the United Nations by the Executive Secretary.



- f. Until such time as the full implementation of Decision 6/COP.10, IFAD shall house the Global Mechanism and provide sufficient office space for its offices on the basis of an agreement to be concluded between the Executive Secretary and the President of IFAD.
- g. IFAD shall also provide the Global Mechanism with logistical and administrative support services as set out in a supplementary Letter of Agreement to be concluded between the Executive Secretary and the President of IFAD pursuant to Article VII B of this Amendment to the MOU.
- h. The provision of office space under (f) above and the logistical and administrative support services under (g) above, shall be on the same conditions of access and use granted to other IFAD users.
- i. At the request of the Executive Secretary, the following services related to the privileges and immunities of staff members of the Global Mechanism in Italy shall be provided by IFAD:
  - Provision of services related to the privileges and immunities of the staff members of the Global Mechanism in Italy, including, but not limited to, submitting requests for visas, diplomatic identity cards, diplomatic license plates, tax exemption and tax reimbursement.
  - Provision of badges to the Global Mechanism staff allowing them access to IFAD premises.
  - The office space allocated to the Global mechanism, being within the Headquarters of IFAD, is, in accordance with Section 4 of the Headquarters Agreement, inviolable and subject to the sole control and authority of IFAD. The inviolability of IFAD's headquarters seat is for the benefit of IFAD alone, and may be waived by IFAD in accordance with the provisions of such Headquarters Agreement.

2. The President of IFAD and the Executive Secretary shall cooperate to the fullest degree to ensure the smooth implementation of this Amendment to the Memorandum of Understanding and any other decision which may be made by the Conference of the Parties relative to any new housing arrangement that may be concluded for the Global Mechanism."

## VII. FINAL PROVISIONS

### A. Entry into operation

The present Amendment to the Memorandum of Understanding, which amends and replaces the Memorandum of Understanding dated 26 November 1999, shall enter into operation upon signature by the Executive Secretary and the President of the Fund.

### B. Implementation of the Memorandum of Understanding

The Executive Secretary and the President of IFAD may enter in such supplementary arrangements for the implementation of this Amendment to the Memorandum of Understanding as may be found desirable.

### C. Termination

For the purposes foreseen under the provisions of operative paragraph 10 of decision 6/COP.10, the Memorandum of Understanding including the present Amendment thereto may be terminated at the initiative of the Executive Secretary or the President of the Fund with prior written notice of at least one month. In the event of termination, the Executive Secretary and the President of IFAD will jointly reach an understanding on the most practical and effective means of carrying

out any responsibilities assumed under the present Memorandum of Understanding and its Amendment.

For all other purposes, the Memorandum of Understanding including the present Amendment thereto may be terminated at the initiative of the Conference of the Parties or the Fund with prior written notice of at least one year. In the event of termination, the Conference of the Parties and IFAD will jointly reach an understanding on the most practical and effective means of carrying out any responsibilities assumed under the Memorandum of Understanding and its Amendment.

**D. Amendment**

The present Amendment to the Memorandum of Understanding may be revised by mutual consent in writing between the Executive Secretary and the President of IFAD. The amendment shall be effective on the day of signature.

**E. Interpretation**

If differences arise in the interpretation of the present Amendment to the Memorandum of Understanding, the Executive Secretary or the President of the Fund shall reach a mutually acceptable solution on the basis of the English text thereof.

Signed in Bonn and Rome, respectively

**FOR THE CONFERENCE OF THE PARTIES TO THE  
CONVENTION TO COMBAT DESERTIFICATION**



\_\_\_\_\_  
Executive Secretary

Date: 02/04/2012

**FOR THE INTERNATIONAL FUND FOR  
AGRICULTURAL DEVELOPMENT**



\_\_\_\_\_  
President

Date: 02/04/2012

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Appendix II

**COP11****IFAD's Position on the housing arrangements for the Global Mechanism (GM)**

International Fund for Agricultural Development (IFAD) reiterates its support to any decision the Conference of the Parties (COP) may choose to implement with respect to the housing of the Global Mechanism, including a decision that the GM remains in IFAD, as long as it is based on the principle, decided by the COP10 and agreed in the revised Memorandum of Understanding (MoU) entered into between IFAD and the COP, that the Global Mechanism is an organ of the COP and whereby IFAD is absolved of any management responsibilities over the GM and its staff, as well as liability, including financial liability, for any actions or activity of the GM.

In accordance with the COP10/6 decision and the revised MoU, IFAD and the Secretariat of the UNCCD have been working on a plan for the handover of the GM accounts. The UNCCD informed IFAD that until a UN Trust Fund is set up, the transfer could not be effected. The UNCCD communicated to IFAD recently that such Trust Fund has been established and in a letter dated 5 July 2013, IFAD has communicated that the full handover is foreseen by the end of the third quarter of 2013 (30 September 2013).

IFAD's governing bodies have been kept fully apprised of the situation and have expressed serious concerns over the potential financial liabilities for IFAD. It is to be noted that IFAD had to use its Donors funds in order to pay a Tribunal (ILOAT) award on behalf of the GM. IFAD's governing bodies have reiterated the urgency for IFAD not to incur further financial liabilities. Therefore, in the handing over of the GM accounts, IFAD wishes to obtain the assurance that all financial liabilities it faced because of the GM, including potential financial liabilities linked to appeals from the GM staff, will be covered. To this end, solutions are being contemplated such as putting the amount in an escrow account, obtaining from the GM/UNCCD or other third party, a bank guarantee or letter of credit which would permit IFAD to release all funds in the GM accounts.

The Executive Secretary has informed IFAD that this issue will be put before the COP11 as it is the competent body that approves the budget (including the GM budget).

We are confident that IFAD and the UNCCD can collaborate and reach a mutually acceptable solution. IFAD welcomes a workable solution that would provide the assurance that all financial liabilities will be covered before all the funds are transferred to the GM.

IFAD will continue to support the UNCCD and the Conference of the Parties in the accomplishment of their mandates and call on all of its partner organizations, donors, and the affected countries to do the same.