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Outcome of Co-Chairs consultations: Guidelines on decisions without a Board meeting

Summary

This document proposes for the Board's consideration (i) guidelines to determine in which cases decisions without a Board meeting may be requested, (ii) guidance with respect to the implementation of paragraph 43 of the Rules of Procedure of the Board and other related matters.

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I. Introduction

1.1 Background

1. Paragraph 41 of the RoP provides that decisions without a Board meeting may occur on an extraordinary basis when in the judgment of both Co-Chairs, a decision must be taken by the Board that should not be postponed to the next Board meeting.
2. In exercising such judgment, the Co-Chairs should be guided by the guidelines referred to in paragraph 42 of the RoP (a proposal for which is set out herein) and, prior to the adoption of such guidelines, the Co-Chairs will determine on a case-by-case basis which decisions may be requested without a Board meeting.
3. To date, decisions approved without a Board meeting have typically, though not exclusively, related to procedural or time-sensitive matters. These include appointment of Board members or alternate members to committees, panels or groups of the Board, appointment of external members to panels and groups of the Board, accreditation of observer organisations and extensions of time (e.g. for application of procurement guidelines, or for the fulfilment of conditions for entering into funded activity agreements in respect of approved funding proposals).¹ Notwithstanding this, there is nothing in the RoP which prevents the Board from authorizing, in advance, other decisions to be issued for approval without a Board meeting. In fact, the Board has expressly authorized this previously.²

1.2 Current status of Co-Chairs consultations

4. Prior to the twenty-second meeting of the Board, a draft of this document was shared with Board members and alternate members of the Board for review and comment between 17 December 2018 and 23 January 2018. The draft circulated was based on the document that was presented to the twenty-first meeting of the Board.³

1.3 Proposal by the Co-Chairs

5. In light of the discussions and the progress made at the twenty-first meeting of the Board, and further to comments received from Board members during the recent consultations, the 2019 Co-Chairs have revised this document to reflect such discussions and comments, and propose that the Board:
 - (a) Adopts the guidelines to determine in which cases decisions without a Board meeting may be requested, as set out in annex II; and
 - (b) Adopts the guidance in respect of the implementation of paragraph 43 of the RoP and in respect of the circulation of proposed decisions and comments received, as set out in annex III.

¹ Substantive decisions taken without a Board meeting are limited, but have included the policy on the protection of whistleblowers and witnesses (B.BM-2018/21); the performance reviews of the members of the accreditation panel (B.BM-2018/02), adoption of the revised terms of reference for the independent redress mechanism (B.BM-2017/10), 2017 work plan and supplementary budget for the independent evaluation unit (B.BM-2017/09) and administrative guidelines on the budget and accounting system, and the internal control framework and internal audit standards (B.BM-2015/05 and B.BM-2015/06).

² See decision B.13/29, paragraph (f), on accreditation master agreements.

³ Document GCF/B.21/23.



II. Recommended action by the Board

6. It is proposed that the Board adopt the draft decision set out in annex I.

Annex I: Draft decision of the Board

The Board, having considered document GCF/B.21/23 titled “Outcome of Co-Chairs consultations: Guidelines on decisions without a Board meeting”:

- (a) Adopts the guidelines to determine in which cases decisions without a Board meeting may be requested as set out in annex II; and
- (b) Also adopts the guidance in respect of the implementation of paragraph 43 of the Rules of Procedures of the Board and in respect of other related matters as set out in annex III.

Annex II: Guidelines to determine in which cases decisions without a Board meeting may be requested

Decisions without a Board meeting may occur on an extraordinary basis when in the judgment of both Co-Chairs a decision must be taken by the Board and not postponed to the next meeting of the Board. Subject to paragraphs 41-44 of the RoP, the Secretariat, with the approval of the Co-Chairs, may transmit a decision for approval without a Board meeting in the following cases:

1. The appointment of Board members and/or alternate members to seats on committees, panels and groups established by the Board;
2. The appointment of external members to seats on panels and groups established by the Board;
3. The accreditation of observer organizations;
4. Matters relating to the implementation of approved funding proposals, including where a decision is required to prevent undue delay in the commencement or continuation of the implementation of the relevant funded activity;
5. Pursuant to a Board decision which expressly envisages that a specific matter may be issued for a decision without a Board meeting; and
6. Following consultations by the Co-Chairs with their respective constituencies, such other time-sensitive matters which in the judgement of the Co-Chairs a decision must be taken on an extraordinary basis and not postponed to the next meeting of the Board

Annex III: Guidance in respect of the implementation of paragraph 43 of the Rules of Procedure of the Board and other related matters

I. Identifying “objections”

1. Decisions without a Board meeting are approved on a non-objection basis. Board members have two options when responding to a proposed decision:
 - (a) to raise an objection; or
 - (b) to request clarification.
2. In case of a request for clarification, the Secretariat, in consultation with the Co-Chairs, shall develop and provide a response. However, if the request for clarification cannot be addressed to the satisfaction of the Board member by the end of the no-objection period, the Co-Chairs shall determine whether said request shall be treated as an objection.

III. “Working through” an objection with the Board member “directly”

3. The Co-Chairs will work through the objection(s) with the relevant Board member(s). This may include, discussions with the Board member(s) to allow:
 - (a) the Board member(s) to elaborate their concerns with the proposed decision; and/or
 - (b) the Co-Chairs to clarify the purpose of the proposed decision, and, as appropriate, allay any concerns, misapprehensions and/or misunderstandings.
4. The Co-Chairs may work through the objection with the Board member(s) personally, or they may, on matters requiring technical expertise, authorize the Secretariat to do so on their behalf and in accordance with their guidance,
5. After the Co-Chairs have concluded their discussions as part of working through the objections with the Board member(s) concerned, and irrespective of whether the working through process has been concluded before or after the no-objection period, the following scenarios may arise:
 - (a) The Board member(s) lift(s) their objection(s), in which case the proposed decision shall be deemed approved, subject to the exceptions in paragraph 10 below where objections are lifted after the no-objection period.
 - (b) The Board member(s) uphold(s) their objection(s), in which case the proposed decision will be considered by the Board at its next meeting.
 - (c) The Board member(s) suggest amendment(s) to the proposed decision, in which case the Co-Chairs may decide that the suggested amendments merit discussion in a Board meeting, in which case the objection shall be deemed upheld and the proposed decision will be considered by the Board at its following meeting.
6. The Co-Chairs will provide a written report to the Board detailing their discussions with the objecting Board member(s).

II. Time-frame for working through objections

7. It shall be for the Co-Chairs to determine when an objection has been worked through and/or when no further consultations would result in the objection being lifted. Subject to paragraph 9(b), the time-frame for the Co-Chairs to work through the objection(s) with Board member(s) concerned shall conclude at least 7 calendar days prior to the first day of the following Board meeting.

III. Status of proposed decision while objections are being “worked through”, including after the no-objection period

8. Decisions proposed for approval without a Board meeting shall not be considered approved during the period in which the Co-Chairs are working through the objection with the Board member(s) concerned, even if such period extends beyond the expiry of the no-objection procedure.

9. In relation to approved funding proposals whose approval was conditional upon certain matters being concluded within a specified period of time:

- (a) No later than [45][30] days prior to the relevant deadline established by the Board, the Secretariat shall notify the Co-Chairs as to the status of the relevant FAA and related negotiations, and the Co-Chairs shall inform the Board, as appropriate; and
- (b) If Board approval is sought, by way of decision without a Board meeting, for the extension of the relevant time period and an objection has been received which has not been lifted by the end of the no objection period, the Co-Chairs shall have [15] calendar days to work through such objection following the end of the no-objection period. While the Co-Chairs are working through the objection, the relevant period of time shall be suspended.

IV. Consequence of lifting an objection after the no-objection period

10. If an objection is lifted after the no-objection period has expired (and no other objections remain in place), then the relevant decision proposed for approval shall be deemed approved unless:

- (a) The relevant Board member lifted the objection on the basis that a new decision which addresses or resolves the original objection will be proposed by the Co-Chairs to the Board, in accordance with paragraph 41 of the rules of procedure, in which case, such new decision shall be proposed promptly for approval; or
- (b) The originally proposed decision, if approved on the date on which the objection is lifted, would
 - (i) adversely affect third parties in a way which it would not have done had it been approved at the end of the no-objection period;
 - (ii) no longer be appropriate in light of facts which have come to light, or events which have occurred, in the period between the expiration of the no-objection period and the date on which the objection is lifted; or
 - (iii) reinstate or otherwise reapprove a funding approval which by such date has lapsed.

11. If any of sub-paragraphs (i)-(iii) above apply, the Co-Chairs shall determine, taking into account all relevant facts and circumstances, whether a new decision should be issued for approval without a Board meeting, or whether the matter should be addressed at the following Board meeting.

V. Circulation of comments and objections to proposed decisions

12. For decisions which are approved without a Board meeting pursuant to paragraph 5(a), the Secretariat shall, when transmitting the adopted decision to Board members and alternate members, include all comments received from Board members during the no-objection period, as well as any responses provided in respect of such comments.

13. For scenarios covered by paragraph 5(b) and (c) and 10 to 11, the Secretariat shall circulate to the Board a copy of all comments and objections received, as well as any responses provided in respect of such comments and objections, including the report of the Co-Chairs referred to in paragraph 6 above. A status update shall be provided to the Board at the end of the no-objection period in case the Co-Chairs are still working through objections with Board member(s).

14. For proposed decisions in respect of which objection(s) have been upheld by the Board member(s) concerned and which are to be considered by the Board at the following meeting, the matters below may be taken into account by the Co-Chairs, as appropriate:

- (a) The proposed decision, in particular the outcome proposed for approval without a Board meeting, will be the basis for the consideration of the matter during the Board meeting.
- (b) Proposed decisions approved during the Board meeting will be included in the compendium of decisions and the Report of the meeting.
- (c) If the decision is not approved during the Board meeting the discussion on the matter will be reflected in the Report of the meeting.

VI. Active observers and transparency

15. Copies of decisions proposed for approval without a Board meeting shall be provided to the active observers for their information, unless otherwise decided by the Board, in accordance with paragraph 41 of the Rules of Procedure of the Board.

16. If a decision without a Board meeting is proposed by the Co-Chairs on a limited distribution basis, the provisions of the GCF Information Disclosure Policy shall apply.