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UNEP Access-to-Information Policy (Revised)

Introduction

The Governing Council of the United Nations Environment Programme,¹ at its twenty-seventh and first universal session held in February 2013, in paragraph 17 of decision 27/2, decided to enhance transparency and openness in its work, and in this regard requested the Executive Director to establish a written access-to-information policy.

Subsequently, the Executive Director established the UNEP² Access-to-Information Policy on 6 June 2014, which was implemented on an interim basis. Having undertaken a process of its review, the Executive Director establishes the present Policy that supersedes the above-mentioned interim policy.

The Executive Director recognizes that in order for UNEP to fully carry out its mandate entrusted to it by the General Assembly in its resolution 2997 (XXVII) and other relevant resolutions, it is critically important to disseminate and make accessible the information concerning its work or information generated through its programme, in particular with respect to environmental information as widely as possible. In particular in the context of Principle 10 of the Rio Declaration on Environment and Development, it is of fundamental importance for UNEP to make environmental information available to Member States, other stakeholders and the public in general with a view to supporting their efforts in achieving sustainable development.

For the purpose of this Policy, “environmental information” means³ any information in written, visual, aural, electronic or any other material form on:

- (a) The state of elements of the environment, such as air and atmosphere, water, soil, land, landscape and natural sites, biological diversity and its components, including genetically modified organisms, and the interaction among these elements;
- (b) Factors, such as substances, energy, noise and radiation, and activities or measures, including administrative measures, environmental agreements, policies, legislation, plans and programmes, affecting or likely to affect the elements of the environment within the scope of subparagraph (a) above, and cost-benefit and other economic analyses and assumptions used in environmental decision-making;
- (c) The state of human health and safety, conditions of human life, cultural sites and built structures, inasmuch as they are or may be affected by the state of the elements of the environment or, through these elements, by the factors, activities or measures referred to in subparagraph (b) above.

At the same time, UNEP has an obligation to handle sensitive information in an appropriate manner consistent with the relevant rules and practice of the United Nations. This Policy endeavors to strike an appropriate balance between the need to grant the public maximum access to information in the UNEP’s possession, including environmental information, and UNEP’s obligation to respect the confidentiality of information regarding its Member States, partners, employees and other parties.⁴

The Policy will be reviewed and may be updated as necessary by the Executive Director. Such review of the Policy will be undertaken in consultation with Member States and relevant stakeholders.

¹ The designation of the Governing Council of UNEP was changed to the United Nations Environment Assembly of UNEP by the General Assembly by its resolution 67/213 of 13 March 2013.

² “UNEP” in this context means the UNEP secretariat.

³ As defined in Article 2 of the Convention on Access to Information, Public Participation in Decision-Making and Access to Justice in Environmental Matters.

⁴ This approach is consistent with the Secretary-General’s bulletin on information sensitivity, classification and handling (ST/SGB/2007/6), which states that the work of the United Nations should be open and transparent, except insofar as the nature of information concerned is deemed confidential. The Secretary-General’s bulletin is available at https://archives.un.org/sites/archives.un.org/files/ST_SGB_2007_6_eng.pdf.

The Policy

1. UNEP is committed to making information relating to its work, including environmental information, available to the public.

2. The Policy is guided by openness. Any information in the custody of UNEP, in particular information concerning the work of UNEP in accordance with its mandate given by the General Assembly in resolution 2997 (XXVII) and other relevant resolutions (such as resolutions 47/190, S-19/2 and 66/288), including environmental information generated and maintained through programmes of UNEP, is available to the public, in the absence of a compelling reason for confidentiality in line with the exceptions to the Policy listed in paragraph 5 below.

Information made available to the public

3. The information relating to the following functions and responsibilities of the United Nations Environment Assembly of UNEP and the Executive Director stipulated in General Assembly in resolution 2997 (XXVII) will be made available to the public:

The United Nations Environment Assembly's functions and responsibilities:

- (a) To promote international co-operation in the field of the environment and to recommend, as appropriate, policies to this end;
- (b) To provide general policy guidance for the direction and co-ordination of environmental programmes within the United Nations system;
- (c) To receive and review the periodic reports of the Executive Director on the implementation of environmental programmes within the United Nations system;
- (d) To keep under review the world environmental situation in order to ensure that emerging environmental problems of wide international significance receive appropriate and adequate consideration by Governments;
- (e) To promote the contribution of the relevant international scientific and other professional communities to the acquisition, assessment and exchange of environmental knowledge and information and, as appropriate, to the technical aspects of the formation and implementation of environmental programmes within the United Nations system;
- (f) To maintain under continuing review the impact of national and international environmental policies and measures on developing countries, as well as the problem of additional costs that may be incurred by developing countries in the implementation of environmental programmes and projects and to ensure that such programmes and projects shall be compatible with the development plans and priorities of those countries;
- (g) To review and approve the Programme of utilization of resources of the Environment Fund.

The Executive Director's functions and responsibilities:

- (a) To provide substantive support to the United Nations Environment Assembly;
- (b) To co-ordinate, under the guidance of the United Nations Environment Assembly, environment programmes within the United Nations systems, to keep their implementation under review and to assess their effectiveness;

- (c) To advise, as appropriate and under the guidance of the United Nations Environment Assembly, intergovernmental bodies of the United Nations system on the formulation and implementation of environmental programmes;
- (d) To secure the effective cooperation of, and contribution from, the relevant scientific and other professional communities in all parts of the world;
- (e) To provide, at the request of all parties concerned, advisory services for the promotion of international cooperation in the field of the environment;
- (f) To submit to the United Nations Environment Assembly, on his/her own initiative or upon request, proposals embodying medium-range and long-range planning for United Nations programmes in the field of the environment;
- (g) To bring to the attention of the United Nations Environment Assembly any matter which the Executive Director deems to require consideration by it;
- (h) To administer, under the authority and policy guidance of the United Nations Environment Assembly, the Environment Fund;
- (I) To report on environmental matters to the United Nations Environment Assembly;
- (j) To perform such other functions as may be entrusted to him by the United Nations Environment Assembly.

4. Primarily, information will be made available, in the available language or languages, on UNEP public website – www.unep.org.

Exceptions

5. While UNEP commits to providing access to information relating to its work, the implementation of this Policy will be consistent with the relevant rules and practices of the United Nations, including those contained in Secretary-General's bulletin concerning information sensitivity, classification and handling (ST/SGB/2007/6). Information to be designated confidential and handled as such includes the following:

- (a) Documents created by the United Nations, received from or sent to third parties, under an expectation of confidentiality which has been expressly stated orally or in writing;
- (b) Documents whose disclosure is likely to endanger the safety or security of any individual, violates his or her rights, or invades his or her privacy;
- (c) Documents whose disclosure is likely to endanger the security of Member States or prejudice the security or proper conduct of any operation or activity of the United Nations;
- (d) Documents covered by legal privilege or related to internal investigations;
- (e) Internal inter-office or intra-office documents and other communications, including draft documents, if disclosure would undermine the Organization's free and independent decision-making process;
- (f) Documents containing commercial information, if disclosure would harm either the financial interests of the United Nations or those of other parties involved;
- (g) Information which, if disclosed, in UNEP's view, would seriously undermine the policy dialogue with Member States or partners concerned.

Request for information

6. Information that is not available on UNEP public website may be made available upon request. For UNEP's internal tracking purposes, such requests should quote the following language: "Under UNEP's Access-to-Information Policy, I am requesting information on....". The request should be directed to:

Access-to-Information Desk
United Nations Environment Programme
Address: P.O. Box 30552, Nairobi 00100, Kenya
Phone: +254 20 7621234
Email: unepinfo@unep.org

7. Regarding request for information that may be considered an exception under this Policy, the officer concerned should seek guidance from Senior Legal Officer on handling of such requests.

8. All information requests should be handled promptly. The requestor should expect to receive an acknowledgement of receipt of the request within five (5) working days. Depending on the complexity of the request, UNEP will endeavour to handle all requests within thirty (30) calendar days after the acknowledgment of receipt is sent. If it is not possible to handle a request within thirty days, UNEP will inform the requestor of the reason why it needs more time and the estimated date for communicating the information concerned.

9. In principle, information should be made available free of charge. For information requests that involve the reproduction of material in hard copies in a large quantity which cannot be delivered within the available resources, UNEP, as required, may charge a limited fee to recover the actual cost of printing of such material and associated labor cost, which will be communicated to the requestor and will need to be paid in advance.

10. If a document contain both confidential information and non-confidential information, and if in UNEP's view it is consistent with the purpose of paragraph 5 above, part of such document containing only non-confidential information may be made available to the public upon request.

11. UNEP may partially or wholly deny a request for information in accordance with the limitations set out in this Policy, or if the request is deemed an excessive demand upon UNEP's resources. In case of denying a request for information, UNEP will provide the requestor with a reason for denying such a request.

Review and appeal process

12. If a request of information is denied, the requestor may seek the review of the decision by addressing a letter to the Access-to-Information Panel established pursuant to paragraph 17 below, providing reasons for the appeal.

13. Every request for appeals will be acknowledged. The Panel will review the denial of requests to disclose information concerned or portion of such information to a member of the public.

14. The Executive Director will have the authority to take a final decision concerning the request for information in question.

15. In case of rejecting an appeal, UNEP will provide the requestor with a reason for such rejection.

16. That review should normally be completed within sixty (60) working days of being requested. The outcome of the review will be communicated to the requestor.

Access-to-Information Panel

17. The Access-to-Information Panel is hereby established.

18. The Panel consists of three members, all appointed by the Executive Director: two UNEP staff members and one individual, in his/her personal capacity, from outside of UNEP. Members of the Panel will be selected on the basis of the following criteria: in-depth knowledge and thorough understanding of UNEP policies, structures, programmes and operations at Headquarters, Regional and Sub-regional or Country Office levels; thorough knowledge of, and familiarity with, information disclosure and access to information policies; and proven ability to work with UNEP partners. Members will serve for a term of two years, which may be extended for another term at the discretion of the Executive Director.

19. The Panel's primary function is to assist the Executive Director to review appeals relating to a request for information and to determine whether the Policy has been properly applied, and to submit its conclusion and relevant recommendations to the Executive Director.

20. In addition, the Panel assists the Executive Director to monitor the implementation of the Policy.

21. The Panel will deliberate with the presence of three members.

22. The Chair of the Panel will be selected from amongst, and by the Panel members.

23. The Panel may develop, as appropriate, more detailed procedures for the review of denied requests, review the implementation of the Policy and provide recommendations on changes which should be made, as well as re-examine the Policy on a regular basis in light of operational and other changes within UNEP.

24. The Panel will meet virtually or in situ whenever there is an appeal for review. The Panel may also meet to consider policy matters related to the Policy and its application, as necessary.

Extraordinary circumstances

25. In extraordinary circumstances, the Executive Director or such officials as the Executive Director so authorizes may disclose certain information covered in the list of exceptions set out in paragraph 5 above, if the overall benefits of such disclosure outweigh the potential harm to the interests protected by the exceptions. This may include situations in which the disclosure of certain confidential information would be likely to avert imminent and serious harm to public health or safety, or imminent and significant adverse impacts on the environment. Such disclosure by the Executive Director or the authorized official would be on the most restricted basis necessary to achieve the purpose of the disclosure. The disclosure of information received from a Government or a third party in confidence requires the written consent of the Government or the third party concerned.