

Standard Operating Procedure (SOP)

SOP number: 36
Version: 3.3 (last update: 19 December 2023)
Effective Date: 19 December 2023
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Title: Standard Operating Procedure on Legal Instruments No. 3 for ‘Non-Monetary Transactions’

Description: The present SOP describes processes and steps taken in the initiation, drafting, negotiation, clearance, signature, implementation and amendment of legal instruments by the Secretariats of the Basel, Rotterdam and Stockholm (BRS) Conventions applied for activities undertaken with implementing partners that do not involve a transfer of funds (**‘Non-Monetary Transaction’**).

This third category of SOP on legal instruments is to be applied for any Programme of Work (PoW) activity, the implementation of which does not require any transfers of funds between the Parties to a legal instrument.

General considerations:

1. In general,¹ the present SOP is drafted in line with the applicable “**Guidelines for the Use of UNEP’s Standard Legal Instruments**” (GUSLI), as last updated by the United Nations (UN) Environment Programme (UNEP) on 09 January 2014, and refers to the UNEP’s templates for legal instruments based on the applicable UN/UNEP’s rules, regulations and policies.² These are also referred to in the Delegation of Authority to the Executive Secretary from UNEP Executive Director, and in the new “Delegations of Authority Policy and Framework for the management and administration of Multilateral Environmental Agreement Secretariats and other bodies, for which UNEP provides the Secretariat or the secretariat functions” (MEAs DAPF). The templates for standard legal instruments, as regularly updated, together with the GUSLI, are also available on the UNEP’s intranet, ‘weCollaborate’, and on the “**BRS/Legal & Policy/Corporate Legal/Legal instruments**” shared drives.
2. This SOP is complementary to the two other SOPs on legal instruments No. 1 (‘Funds Received’) and No. 2 (‘Funds Transmitted’).
3. In principle, Parties to a legal instrument should sign a legal instrument well in advance in order to allow for proper arrangements and no later than **6 (six) weeks before** an event takes place. *
4. One original copy – electronic and, if necessary, printed – of the signed* legal instrument is to be kept by each Party to the legal instrument (*version signed

¹ The present SOP applies to the UNEP-part of the Rotterdam Convention Secretariat. Please note that the part of the Rotterdam Convention Secretariat, which is administered by the United Nations (UN) Food and Agriculture Organization (FAO) may also use its own templates and has to follow rules, procedures, policy and guidelines for legal instruments applicable to FAO.

² Available on the UNEP’s intranet, ‘weCollaborate’ under the quick link to “Legal Guidelines and Templates”.

by all Parties to the legal instrument). For the Secretariats of the BRS Conventions, the electronic – and if necessary, printed original signed copy is kept and filed by **the administrative team**, for the purposes of e.g. auditing, and of uploading as well as reporting. A scanned copy of the signed* (*by all Parties to the) legal instrument, whether it implies a transfer of funds or not, is to be sent to both **the legal officer** responsible for corporate matters and the administrative team.

5. If a legal instrument has to be amended in order to, for example to extend the duration of a legal instrument beyond its initial expiry date, a timely request for an amendment must be submitted for administrative and legal review, at least 6 (six) weeks before the initial expiry date. If a legal instrument has already **expired**, a new legal instrument needs to be put into place.
6. In principle, the legal instrument is to be in one or more of the 6 (six) official UN languages, all being usually equally authentic as per applicable UN rules and regulations or policies and practices. Also, to facilitate the understanding by all, the draft legal instrument is developed in English, at least and preferably, or in French, being the 2 (two) UN working languages. The choice of the language(s) is to be determined on a case-by-case basis, depending on the needs of the Collaborating Partner.

- Actors:**
1. Programme Officer (PO)
 2. Administrative Officer (AO) – Funds Management, Administration and Human Resources Branch (FMAHR)
 3. Legal Officer responsible for corporate legal matters (LO) - FMAHR
 4. Branch Chief(s) - BC(s) - and Coordinator of the Rome-based Rotterdam Convention Secretariat (CRRCS)³
 5. Executive Secretary(ies) (ES)⁴/Deputy Executive Secretary (DES) – Executive Office (EO)
 6. Collaborating Partner (CP)

Steps:

I. Initiation and drafting of the legal instrument

1. The PO (lead), who is responsible for implementing the activity, initiates as early as possible - i.e. **at least 2 (two) months before the starting date of the activity or earlier when other Parties to the agreement are involved in clearance/signature, i.e. UNON, UNEP, ED, etc.** - and prepares, with a team consisting of the PO, relevant other POs, the LO and AO, a first draft legal instrument - and any revised draft thereafter - for implementing the activity, following the below guidelines for different categories of legal instruments, consistent with financial rules and regulations and the relevant rules for human resources of the UN, UNEP and conventions as well as relevant decisions of the Conferences of the Parties. The team will also need to take into consideration BRS policies that may pertain to such legal instruments (e.g., those on gender and sustainability).

³ The coordinator of the Rome-based part of the Rotterdam Convention Secretariat is to be involved in relevant activities involving the Rotterdam Convention.

⁴ The Executive Secretary of the Rome-based part of the Rotterdam Convention Secretariat is to be involved in relevant activities involving the Rotterdam Convention.

The templates⁵ to be used under this scenario are as follows:

With UN entities

- (a) Letter of Agreement (LOA)-Part A

With Non-UN CPs

- (b) Memorandum of Understanding (MOU)

With any donors, CPs, including UN or Non-UN entities

- (c) Letter of Intent (LOI):

A LOI is used to unilaterally express an intention to have a relationship with any donors or implementing partners, including with UN entities, when detailed commitments cannot be articulated yet, which may lead to a more formal legal instrument.

- (d) Exchange of Letters (EOLs):

An EOLs is usually used to reciprocally express intentions to establish a relationship between the Secretariat(s) and any donors or implementing partners, including with the UN through a subsequent legal instrument.

2. The initiation, drafting and first or interim clearances of the legal instrument by the different team members comprise the following steps that should be recorded by the PO:

- (a) The PO initiates and prepares a first draft legal instrument, including a narrative description, and shares it with the team members. The PO ensures this process is initiated **at least 2 (two) months before** the starting date of the activity;
- (b) The AO financially reviews (standard⁶ timeline: 5 [five] working days) the draft and confirms that the legal instrument has no finance-related implications. Please note that any changes will reset counting of the 5 days.
- (c) The LO legally reviews the draft (standard timeline: 5 [five] working days). Please note that any changes will reset counting of the 5 [five] working days.

3. Each team member is responsible for obtaining the clearance of his or her respective BC/CRRCS⁷ before clearing herself or himself the first draft of the legal instrument. If necessary, the team may meet to resolve any outstanding issues.

II. Negotiation of the legal instrument with the CP

⁵ The UNEP's templates to be used are available on the "BRS/Legal & Policy/Corporate Legal/Legal instruments" shared drives or on the UNEP intranet, 'weCollaborate'. The FAO-part of the Rotterdam Convention Secretariat may also use its own templates.

⁶ This is a standard timeline, which may be shorter or longer depending on, for instance, the workload of FMAHR.

⁷ The clearance of the first – or revised interim – draft(s) by all BC/CRRS is not required, only by the respective PO(s)'BC(s). However, prior to the final e-routing slip a) clearance by the DES, in view of b) approval and signature by the ES, all **final drafts** (agreed also by the CP) should be: i) financially reviewed and cleared by the AFMO, then ii) legally reviewed and cleared by the LO, iii) cleared by the FMAHR BC, and then iv) cleared by the respective PO(s)'BC(s).

4. The PO sends the first draft – and any subsequent revised drafts - of the legal instrument to the CP for review.
5. Upon receipt of comment(s) from the CP on the submitted first and subsequent draft versions, the team may meet, if necessary, to resolve any outstanding issues. Each team member is responsible for obtaining the clearance of his or her respective BC/CRRCS⁸ before clearing herself or himself the revised drafts of the legal instrument (**timeframe: within 8 (eight) working days from the date of receipt of the comment(s) from the CP**).
6. Steps 4 to 5 are repeated as many times as necessary.

III. Final electronic routing slip clearance by the Secretariat

Note: the final draft should be agreed in principle by both the CP and the Secretariat at this stage.

7. Upon agreement on a final draft internally, by all relevant actors as described above, and externally, by the CP, the PO initiates the **final e-routing slip clearance of the legal instrument** – ** only if necessary:* printed in 2 (two) original copies, one for the Secretariat and one for the CP (clearance by the team members and their respective BC/CRRS)⁹. All **final drafts** should be:

- i) financially reviewed and cleared by the AO - who confirms there is no financial implications - then,
- ii) legally reviewed and cleared by the LO,
- iii) cleared by the FMAHR BC,
- iv) cleared by the respective PO(s)'BC(s), for transmission to
- v) clearance by the DES, in view of
- vi) approval and signing by the ES.

The **final e-routing slip clearance** shall be materialised **via e-mails**, reflecting comments by each clearance actor (e. g. on arrears, etc.), for tracing and routing of the whole chain of clearances and comments to the ES.

IV. Electronic signatures and communication

8. The legal instrument is e-signed¹⁰ and date(s) of respective signatures are inserted - **optional:* only if printed copies are required, in 2 (two) original paper copies - in principle first by the ES or DES and subsequently by the CP. The legal instrument must also be initialled at all pages by signatories representing all the Parties to the legal instrument. **Optional, if paper signing is necessary:* one original copy of the legal instrument, as signed by all, is to be kept by the CP and the other copy is kept by the BRS administrative team.

⁸ See above footnote on the clearance and signing process of interim and final drafts.

⁹ In case the signing of **printed copies** is required: the LO shall first compare i) the printed copy with ii) the latest electronic version that was reviewed and cleared/approved internally by the PO(s), LO, AFMO, BCs, DES, on one hand, and externally by the CP, on the other hand, in order to check whether there are any inconsistencies or other noteworthy points to raise, **before engaging** into the paper signing process by the ES.

¹⁰ See above footnote No. on the clearance and signing process of interim and final drafts.

9. **The PO sends a scanned copy** of the legal instrument, **when signed by all, to the EO, AO and LO**, in order to be filed in the relevant databases as well as in the BRS shared drive under “**BRS\Legal & Policy\Corporate Legal\Legal instruments\5. Signed**” and any other repository (e. g. in ‘weCollaborate’, etc.) – this is important for auditing records.

V. Implementation and monitoring of the legal instrument

10. The PO monitors the implementation of the legal instrument, including e. g. by ensuring that the required reports, if any, are timely received as needed.

VI. Amendment of the legal instrument

11. The PO monitors the timeframe and, if necessary, **well in advance prior expiration of the legal instrument**, informs the team, which is mentioned in step I, of the need to prepare an amendment to the legal instrument.

12. If necessary at this stage, the PO informs the ES/DES about the amendment of the legal instrument and asks for clearance.

13. Following clearance, if necessary at this stage, by the ES/DES, the PO informs the CP about the possible amendment.

14. In case the CP agrees to the amendment of the respective legal instrument, steps I to V are applied accordingly.

Document revision history

Version	Description	Date
0.0	Initial draft	19 January 2012
0.1	Adoption and final revisions at Management Team meeting	12 June 2014
0.2	Revision after Management Team discussion	19 May 2016
1.0	First version issued and posted	05 July 2016
2.0	First revision of the first adopted version	02 nd June 2018
2.1	2019 revision	31 st July 2019
2.2	Adoption	[] 2019
3.0	First version of revised draft (2023 revision)	23 rd October 2023
3.1	2 nd version of revised draft	07 November 2023
3.2	3 rd version of revised draft	24 November 2023
3.3	4 th version of revised draft	19 December 2023