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CONFERENCE OF THE PARTIES
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DRAFT FINANCIAL RULES GOVERNING THE FUNDING OF THE SECRETARIAT OF THE CONVENTION ON BIOLOGICAL DIVERSITY

Note by the Interim Secretariat

1. INTRODUCTION

1. Article 23, paragraph 3, of the Convention on Biological Diversity requires the Conference of the Parties by consensus to agree upon and adopt financial rules governing the funding of the Secretariat. The same article states that at each ordinary meeting, it shall adopt a budget for the financial period until the next ordinary meeting.
2. The basis of contributions agreed by the Conference of the Parties and the timing and procedures of payment to the funds approved by the Conference of the Parties, as well as the regulations governing their management and use, constitute the financial rules governing the funding of the Secretariat (UNEP/CBD/IC/2/5, para. 3). The Intergovernmental Committee on the Convention on Biological Diversity at its second session reviewed draft financial rules prepared by the Interim Secretariat (UNEP/CBD/IC/2/5).
3. The Intergovernmental Committee recommended that the draft financial rules for the administration of the Trust Fund for the Convention on Biological Diversity contained in annex I to the present note, be used as the basis for deliberation by the Conference of the Parties on this matter (UNEP/CBD/COP/1/4, para. 106).
4. The Committee also recommended that the Interim Secretariat should, for illustrative purposes, draw up alternative scales of assessments for parties based on the different sets of assumptions found in paragraph 4 of the draft financial rules (see UNEP/CBD/COP/1/4, para. 109). The scales of assessments provide a basis by which the parties can decide on how to apportion the cost of the Secretariat budget. Estimates of contributions based on the alternative scales identified by the Committee are shown in annex II to the present note.
5. The Conference of the Parties should:
 - (a) Consider and adopt financial rules for the administration of the Trust Fund for the Convention on Biological Diversity;
 - (b) Consider and agree upon a basis for estimating contributions by parties to the Trust Fund.

2. EXAMINATION OF THE DRAFT FINANCIAL RULES

6. The draft financial rules for the Trust Fund provided in annex I to the present note contain several outstanding issues which need to be considered. These pertain to the nature of arrangement between the Trustee and the Conference of the Parties (paragraph 1); the means to finance the Trust Fund (paragraph 3); how the United Nations scale of assessments may be adjusted (paragraph 4) and how, in the event no consensus is reached, decisions on budget and the scale of assessments will be taken (paragraph 15). Paragraphs 3, 4 and 15 of the draft financial rules proposed by the Committee contain different proposals on these issues.

7. Paragraph 1 of the draft financial rules provided in annex I contemplates the possibility of the Trustee being an organization distinct from the organization selected to provide secretariat functions under the Convention.

8. Should the Conference of the Parties decide to designate a Trustee distinct from the organization selected to provide secretariat functions, it will in effect, have to enter into an agreement or understanding with an organization willing to establish and manage the Trust Fund for the Convention on Biological Diversity. The Conference of the Parties may wish to indicate:

- (a) A set of organizational attributes and other considerations which might be applied to indicate a range of suitable organizations to be considered, if interested;
- (b) A procedure for receiving offers from interested organizations;
- (c) The legal, institutional and operational elements that may be incorporated in the agreement or understanding to be reached between the Conference of the Parties and the organization to be designated as the Trustee;
- (d) Decide, should it be necessary, what arrangements should be made to receive contributions from parties and other sources between the period starting from the first meeting of the Conference of the Parties until such time when a Trustee has been designated; in this regard the Conference of the Parties could consider designating an existing Trust Fund on an interim basis.

9. In the opinion of the United Nations Office of Legal Affairs, should a United Nations entity be designated as Trustee of the Trust Fund, the establishment of that Trust Fund and the administration of contributions must be carried out in accordance with the United Nations Financial Regulations and Rules, the Financial Rules of that United Nations body and other financial directives of the United Nations. Accordingly, the United Nations Office of Legal Affairs has made the following comments with regard to the proposed financial rules of the Trust Fund:

- "(a) [Financial] Rule 5 provides that 'All contributions shall be paid in United States dollars or its equivalent in a convertible currency ...'. Since contributions may also be made in a currency other than United States dollars, you may wish to add a provision to the effect that in the conversion of such other currencies to the US dollar, the United Nations operational rate of exchange should be used;

"(b) [Financial] Rule 12 provides that 'it is for the Conference of the Parties and the Trustee to agree on an administrative support charge to be paid to the Trustee'. The support cost charge for administering trust funds should be the percentage approved by the General Assembly, which presently is set at 13% of the contribution. Accordingly, you may wish to provide for this percentage in the proposed rules;

"(c) [Financial] Rule 13 provides that 'at the end of each calendar year, the Trustee shall ... submit ... the certified and audited accounts for that year as soon as practicable'. Under Secretary-General's Bulletin ST/SGB/188 on the Establishment and Management of Trust Funds, all trust funds are subject to audit by the Board of Auditors and the Internal Audit Division. No other additional or special audit arrangements can be made with donors. Accordingly, we suggest that an additional sentence or rule should be inserted which could read as follows: The Trust Fund shall be subject exclusively to the internal and external auditing procedure of the United Nations as laid down in its Financial Regulations, Rules and Directives."

10. The Conference of the Parties is requested to:

(a) Indicate what modifications, if any, are to be made to the draft financial rules recommended by the Committee and presented in annex I;

(b) Clarify the relationship between the organization to be selected to carry out the functions of the secretariat and the entity proposed to establish and manage the Trust Fund.

3. ALTERNATIVE SCALE OF ASSESSMENTS

11. In accordance with the request of the Intergovernmental Committee (see UNEP/CBD/COP/1/4, para. 109), referred to in paragraph 4 above, the Interim Secretariat has drawn up alternative scales of assessments for parties based on the different sets of assumptions found in paragraph 4 of the draft financial rules contained in annex I which states that:

"... the scale of assessments is to be based on the United Nations scale of assessments for the apportionment of the expenses of the United Nations [adjusted to provide that no one contribution shall exceed 25 per cent of the total, [and] no contributions shall be required when the United Nations scale provides for a contribution of less than 0.1 per cent], [and no developing country Party shall be required to pay more than any developed country Party]."

12. Accordingly, the Interim Secretariat has prepared alternative scales of assessments based on the above formulation. These are presented in annex II to the present note.

13. Formula I: As of 30 August 1994, only a limited number of States Members of the United Nations are parties to the Convention. They represent only 56.02 per cent of the assessed contributions to the regular budget of the United Nations. In addition, the European Community, which is a party to the Convention but not assessed by the United Nations, have offered to contribute "... up to 2.5% of the administrative costs for the Convention" (UNEP/CBD/COP/1/4, para. 98). This implies the contribution of the European Community must be held constant at 2.5% of the Secretariat budget. To calculate respective shares with a ceiling of 25% on maximum contribution by any one party, it is necessary to raise each party's (except the European Community's) assessment percentage by a factor of 97.50 divided by 56.02, to obtain percentage contributions. The total

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Secretariat budget is thus made up by the share of European Community (2.5%) and all other Parties (97.5%). This basis of contributions can be regarded as formula I, and is shown in column 3 of annex II.

14. Formula II: The scale of contributions on the basis of a proportional scale of assessments with a ceiling of 25 per cent and with United Nations assessments of less than 0.1 per cent removed, can be regarded as formula II, and is shown in column 4 of annex II.

15. Formula III: Those parties which are not listed as developed countries or as countries with economies in transition in annex V of UNEP/CBD/COP/1/4 have been taken as developing countries. It is observed that when the contribution of developing country parties is pegged at the level of Monaco - a developed country party having 0.01 per cent on the United Nations scale of assessments - the aggregated contributions of all State parties equals 51.62 per cent of the assessed contributions of the Regular Budget of the United Nations and is shown in column 5 of annex II.

16. The scale of contributions on the basis of a proportional scale of assessment with a ceiling of 25 per cent, and with no developing country paying more than any developed country, can be regarded as formula III and is shown in column 6 of annex II.

17. New parties could be expected to contribute on the same basis as that agreed by the Conference of the Parties for existing parties, except that their contribution could be adjusted on a pro rata basis to reflect the date on which they became parties.

18. Another issue is whether States not parties to the Convention, should make prorated voluntary contributions equal to what they would have paid if they had been parties, or should contributions be left to their discretion. Likewise, a formula for contributions by non-member States of the United Nations and regional economic integration organizations (REIO) will need to be considered.

Annex I

DRAFT FINANCIAL RULES FOR THE ADMINISTRATION OF THE TRUST FUND
FOR THE CONVENTION ON BIOLOGICAL DIVERSITY

1. The Conference of the Parties to the Convention shall designate an organization (hereinafter referred to as the Trustee) which shall establish and manage the Trust Fund for the Convention on Biological Diversity (hereinafter referred to as the Trust Fund) in accordance with these rules.

2. The Trust Fund shall be used for funding the administration of the Convention including the functions of the Secretariat.

[3A. The Trust Fund shall be financed from:

(a) Contributions made by Parties to the Convention in accordance with a scale of assessments;

(b) Additional contributions made by such Parties;

(c) Contributions from States not Parties to the Convention, as well as governmental, intergovernmental and non-governmental organizations, and other sources.]

[3B. The Trust Fund shall be financed from:

(a) Contributions made by Parties to the Convention based on an indicative scale of assessments;

(b) Contributions made by Parties and States that are not Parties outside the indicative scale of assessments referred to in subparagraph (a) above;

(c) Contributions made by governmental, intergovernmental and non-governmental organizations, and other sources.]

4. It is for the Conference of the Parties to determine the scale of assessments referred to in paragraph 3 (a) above. The scale of assessments is to be based on the United Nations scale of assessments for the apportionment of the expenses of the United Nations [adjusted to provide that no one contribution shall exceed 25 per cent of the total, [and] no contributions shall be required when the United Nations scale provides for a contribution of less than 0.1 per cent], [and no developing country Party shall be required to pay more than any developed country Party]. The contributions referred to in paragraph 3 (a) shall be due on 1 January of each calendar year.

5. All contributions shall be paid in United States dollars or its equivalent in a convertible currency and into a bank account to be specified by the Trustee.

6. Accounting records shall be kept in such currency or currencies as the Trustee deems necessary.

7. (a) Budget proposals expressed in United States dollars covering the expenditure and income from contributions referred to in paragraph 3 (a) above shall be prepared by the head of the Secretariat (hereinafter referred to as the Executive Secretary) for periods of two calendar years at the minimum. At least 90 days before the date fixed for the opening of each ordinary meeting of the Conference of the Parties, these budget proposals shall be dispatched by the Executive Secretary to all Parties to the Convention.

(b) The budget shall, in accordance with Rule 15, be approved by the Conference of the Parties and, if necessary, be revised at an ordinary or extraordinary meeting of the Parties.

8. Contributions referred to in paragraphs 3 (b) and (c) shall be used in accordance with any terms and conditions agreed between the Executive Secretary and the respective contributor. At each ordinary meeting of the Conference of the Parties, the Executive Secretary shall present a report on contributions received and expected as well as their sources, amounts, purposes and conditions.

9. The Executive Secretary may commit resources against the Trust Fund only if such commitments are covered by contributions already received. In the event that the Trustee anticipates that there might be a shortfall in resources over the financial period as a whole, it shall notify the Executive Secretary, who shall adjust the budget so that expenditures are at all times fully covered by contributions received.

10. Contributions referred to in paragraph 3 (a) above from States and regional economic integration organizations that become Parties to the Convention after the beginning of a financial period shall be made pro rata temporis for the balance of that financial period. Consequent adjustments shall be made at the end of each financial period for other Parties.

11. Contributions not immediately required for the purposes of the Trust Fund shall be invested and any interest so earned shall be credited to the Trust Fund.

12. It is for the Conference of the Parties and the Trustee to agree on an administrative support charge to be paid to the Trustee.

13. At the end of each calendar year, the Trustee shall transfer any balance to the following calendar year and submit to the Conference of the Parties, through the Executive Secretary, the certified and audited accounts for that year as soon as practicable.

14. In the event that the Conference of the Parties decides to terminate the Trust Fund, a notification to that effect shall be presented to the Trustee at least six months before the date of termination selected by the Conference of the Parties. The Conference of the Parties shall decide, in consultation with the Trustee, on the distribution of any unspent balance after all liquidation expenses have been met.

[15A. The Parties shall reach agreement by consensus on:

- (a) The scale of assessments and any subsequent revision to it;
- (b) The budget.]

[15B. The Parties shall make every effort to reach agreement on the budget by consensus. If all efforts to reach consensus on the budget have been exhausted and no agreement has been reached, the budget shall, as a last resort, be adopted by a [two-thirds] [four-fifths] majority vote of the Parties present and voting representing a [two-thirds] [four-fifths] majority vote of the developing country Parties present and voting and a [two-thirds] [four-fifths] majority vote of the other Parties present and voting.]

16. Any amendments to these rules shall be adopted by the Conference of the Parties by consensus.

Annex II

ALTERNATIVE SCALES OF ASSESSMENTS FOR CONTRIBUTIONS 1995-1996
(List includes only Parties to the Convention
at 30 April 1994)

	United Nations scale of assessments 1992-1994	Formula I Proportional scale of assessments with a 25% ceiling	Formula II Proportional scale of assessments with 25% ceiling and with United Nations assessment rates of less than 0.1 per cent reduced to zero	United Nations scale of assessments (column 2) adjusted so that no developing country Party pays more than any developed country Party	Formula III Proportional scale of assessments with 25% ceiling and no developing country Party paying more than any developed country Party
	(per cent)	(per cent)	(per cent)	(per cent)	(per cent)
1	2	3	4	5	6
UN MEMBER STATES					
Albania	0.01	0.02		0.01	0.02
Antigua & Barbuda	0.01	0.02		0.01	0.02
Armenia	0.13	0.23	0.23	0.13	0.25
Australia	1.51	2.63	2.68	1.51	2.85
Austria	0.75	1.31	1.33	0.75	1.42
Bahamas	0.02	0.03		0.01	0.02
Bangladesh	0.01	0.02		0.01	0.02
Barbados	0.01	0.02		0.01	0.02
Belarus	0.48	0.84	0.85	0.48	0.91
Belize	0.01	0.02		0.01	0.02
Benin	0.01	0.02		0.01	0.02
Brazil	1.59	2.77	2.82	0.01	0.02
Burkina Faso	0.01	0.02		0.01	0.02
Canada	3.11	5.41	5.51	3.11	5.87
Chad	0.01	0.02		0.01	0.02

China	0.77	1.34	1.36	0.01	0.02	0.02
Costa Rica	0.01	0.02		0.01	0.02	0.02
Cuba	0.09	0.16		0.01	0.02	0.02
Czech Republic (a)	0.42	0.73	0.74	0.42	0.79	0.79
Denmark	0.65	1.13	1.15	0.65	1.23	1.23
Dominica	0.01	0.02		0.01	0.02	0.02
Ecuador	0.03	0.05		0.01	0.02	0.02
Egypt	0.07	0.12		0.01	0.02	0.02
Estonia	0.07	0.12		0.07	0.13	0.13
Ethiopia	0.01	0.02		0.01	0.02	0.02
Fiji	0.01	0.02		0.01	0.02	0.02
Finland	0.57	0.99	1.01	0.57	1.08	1.08
France	6.00	10.44	10.63	6.00	11.33	11.33
Gambia	0.01	0.02		0.01	0.02	0.02
Georgia	0.21	0.37	0.37	0.21	0.40	0.40
Germany	8.93	15.54	15.83	8.93	16.87	16.87
Ghana	0.01	0.02		0.01	0.02	0.02
Greece	0.35	0.61	0.62	0.35	0.66	0.66
Grenada	0.01	0.02		0.01	0.02	0.02
Guinea	0.01	0.02		0.01	0.02	0.02
Guyana	0.01	0.02		0.01	0.02	0.02
Hungary	0.18	0.31	0.32	0.18	0.34	0.34
India	0.36	0.63	0.64	0.01	0.02	0.02
Indonesia	0.16	0.28	0.28	0.01	0.02	0.02
Italy	4.29	7.47	7.60	4.29	8.10	8.10
Japan	12.45	21.67	22.07	12.45	23.52	23.52
Jordan	0.01	0.02		0.01	0.02	0.02
Kenya	0.01	0.02		0.01	0.02	0.02
Luxembourg	0.06	0.10		0.06	0.11	0.11

Malawi	0.01	0.02		0.01	0.02
Malaysia	0.12	0.21	0.21	0.01	0.02
Maldives	0.01	0.02		0.01	0.02
Marshall Islands	0.01	0.02		0.01	0.02
Mauritius	0.01	0.02		0.01	0.02
Mexico	0.88	1.53	1.56	0.01	0.02
Micronesia (Federated States of)	0.01	0.02		0.01	0.02
Monaco (a)	0.01	0.02		0.01	0.02
Mongolia	0.01	0.02		0.01	0.02
Nepal	0.01	0.02		0.01	0.02
Netherlands	1.50	2.61	2.66	1.50	2.83
New Zealand	0.24	0.42	0.43	0.24	0.45
Nigeria	0.20	0.35	0.35	0.01	0.02
Norway	0.55	0.96	0.97	0.55	1.04
Pakistan	0.06	0.10		0.01	0.02
Papua New Guinea	0.01	0.02		0.01	0.02
Paraguay	0.02	0.03		0.01	0.02
Peru	0.06	0.10		0.01	0.02
Philippines	0.07	0.12		0.01	0.02
Portugal	0.20	0.35	0.35	0.20	0.38
Romania	0.17	0.30	0.30	0.17	0.32
Saint Kitts and Nevis	0.01	0.02		0.01	0.02
Saint Lucia	0.01	0.02		0.01	0.02
Samoa	0.01	0.02		0.01	0.02
Seychelles	0.01	0.02		0.01	0.02
Slovakia (a)	0.13	0.23	0.23	0.13	0.25
Spain	1.98	3.45	3.51	1.98	3.74
Sri Lanka	0.01	0.02		0.01	0.02

Sweden	1.11	1.93	1.97	1.11	2.10
Tunisia	0.03	0.05		0.01	0.02
Uganda	0.01	0.02		0.01	0.02
United Kingdom of Great Britain and Northern Ireland	5.02	8.74	8.90	5.02	9.48
Uruguay	0.04	0.07		0.01	0.02
Vanuatu	0.01	0.02		0.01	0.02
Zambia	0.01	0.02		0.01	0.02
NON-MEMBER STATES					
Cook Islands (b)	0.01	0.02		0.01	0.02
Kiribati (b)	0.01	0.02		0.01	0.02
Nauru (b)	0.01	0.02		0.01	0.02
NOT LISTED					
European Community (c)		2.50	2.50		2.50
	56.02	100.00	100.00	51.62	100.00

Source: Official Records of the General Assembly, Forty-seventh Session, Supplement No. 11 (A/47/11) (See General Assembly resolution 46/221 A-D and 48/223 A-C).

- (a) According to communications received from the Secretary of the United Nations Committee on Contributions, the General Assembly has adopted rates of assessment for the Czech Republic, Monaco and Slovakia of 0.42, 0.01 and 0.13 per cent respectively (approved by the General Assembly in its resolution 48/223 A of 23 December 1993).
- (b) Cook Islands, Kiribati and Nauru are not States Members of the United Nations. On the basis of the size of their national income and population, their respective theoretical rate of assessment is 0.01 per cent.
- (c) Not assessed by the United Nations.