



South Pacific Regional Environment Programme

United Nations Development Programme  
Global Environment Facility



AUSTRALIAN  
INTERNATIONAL  
DEVELOPMENT  
ASSISTANCE  
BUREAU

# South Pacific Biodiversity Conservation Programme



*Concept Paper:  
Proposing the Framework for a*

*Pacific Island Regional  
Conservation Trust Fund*

*Elliot Rosenberg (Consultant)  
May 1998*



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CONCEPT PAPER  
PROPOSING THE FRAMEWORK FOR A  
PACIFIC ISLAND REGIONAL  
CONSERVATION TRUST FUND

MAY 1998

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## FOREWORD

In July 1997 SPREP invited ESCAP/POC to prepare a Concept Paper setting out the case for the establishment of a South Pacific Biodiversity Conservation Fund and spelling out a proposed structure and operational procedures for such a Fund. Following this overture, our office suggested that Mr Elliot Rosenberg of the United States Environmental Protection Agency might be commissioned to be primarily responsible for the exercise. Mr Rosenberg, is a highly qualified economist with considerable experience in the application of the tools of economics in the search for optimum solutions to environmental problems. He also has intimate knowledge of development issues in the Pacific, acquired through years of work in the public and private sectors of a number of island countries and is eminently suited for the task. Members of our office interacted closely with Mr Rosenberg during the preparation of this report. We discussed at length and exchanged views on all the issues covered in the report.

Mr Rosenberg benefitted much from inputs provided by SPREP, representatives of island governments, donors, IBRD and other potential stakeholders in the proposed Fund. The draft report was considered by SPREP and ESCAP/POC. Observations on the draft made by these two organisations were taken fully into account in the finalisation of this report.

The report deals comprehensively with all the issues projected in the Terms of Reference. The well thought out recommendations were made after careful distillation of the views of those with whom he had consultations. And they now incorporate the collective wisdom of all. The steps needed to advance the Concept towards implementation are clearly set out. ESCAP/POC commends this report to SPREP and its Governing Body and compliments Mr Elliot Rosenberg for a job well done.

Savenaca Siwatibau

Head, ESCAP Pacific Operations Centre

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## Abbreviations

ADB	Asian Development Bank
CBD	Convention on Biological Diversity
COP	Conference of the Parties to the CBD
EPA	United States Environmental Protection Agency
ESCAP-POC	United Nations Economic and Social Commission for Asia and the Pacific - Pacific Operations Centre
EU	European Union
FSM	Federated States of Micronesia
GEF	Global Environmental Facility
GET	Global Environment Trust
n.d.	no date
NGO	Non-Governmental Organization
RTF	Regional Trust Fund
SPBCP	South Pacific Biodiversity Conservation Programme
SPREP	South Pacific Regional Environment Programme
TMAG	Technical and Management Advisory Group of the SPBCP
UNDP	United Nations Development Programme

UNEP United Nations Environment Programme

USAID United States Agency for  
International Development

### Acknowledgments

I would like to express my thanks to the many people who gave their time to discuss or provide written comments on the numerous and varied issues encompassed in this Paper. My sincere appreciation to Mr. Savenaca Siwatibau, Head of the United Nations Economic and Social Commission for Asia and the Pacific - Pacific Operations Centre (ESCAP-POC); Mr. Tamarii Tutangata, Director of the South Pacific Regional Environment Programme (SPREP); Mr. Jo Reti, Project Manager of the South Pacific Biodiversity Conservation Programme (SPBCP); and to their respective staffs for their support of this Concept Paper. And special thanks to Dr. Charles Kick of ESCAP-POC for keeping me informed of changing and new issues, and for his timely and insightful responses to my many inquiries.

As part of its commitment to the environment both domestically and globally, acknowledgment is also due to the United States Environmental Protection Agency ("EPA") for allowing me to accept this assignment and to devote the time necessary to complete this Concept Paper. My thanks to Janis Hastings and Phil Wong of EPA's Region 10 for their continuing support. Finally, I should emphasize that the views expressed in this Concept Paper are my own and do not necessarily reflect those of EPA or any other organization.

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## Introduction

1. In July 1997 I was asked by SPREP, in coordination with the UN/ESCAP Pacific Operations Centre, to develop a concept paper for consideration by SPREP and for presentation to and discussion by the participants at the Sixth Conference on Nature Conservation and Protected Areas. The terms of reference stated that the concept paper was to,

"Set out the case for the establishment of a South Pacific Biodiversity Conservation Fund.." and to

"Propose a suitable structure and mode of operation for the Fund."

2. Based on the many discussions I had within the region it became evident early on that the scope of the proposed Trust needed to address biodiversity conservation and related environmental issues. Concern was also expressed by some that the proposed Trust should not limit the beneficiaries to only community-based projects. The proposed Trust addresses the beneficiaries issue by broadening its scope, thereby allowing it to deal with the numerous varieties of conservation activities and related environmental programs with their inherent biodiversity issues. At the same time this allows the Trust to consider the need to balance cultural, social, economic and institutional objectives in a sustainable manner throughout the region.

3. This Concept Paper has evolved through several iterations. A first draft was created for discussion at the 1997 Pohnpei Conference. As a result of comments generated at that conference two significant revisions were made to the second draft: (1) an increase in the annual amount available for grants from US\$500,000 to US\$1 million; and (2), the primary utilization by the Trust of a qualified entity in a recipient nation for handling the Trust's obligatory functions within that nation.

4. This final paper has synthesized and incorporated a number of comments received subsequent to the second draft,

the most significant being:

- the deletion of any reference to the Trust utilizing the balance of remaining SPBCP funds;
- the revision of the Seed Money section;
- the revision of the Board membership to now include a representative of a community-based conservation or environment group while reducing the major donor representation from two to one;
- the inclusion of alternate Board members;
- the inclusion of a plan to prioritize the Trust's efforts during its formative years; and
- the inclusion of having the Expert Team address the legal aspects of transnational and other dispute resolutions.

5. It is important that the reader understand that this Concept Paper addresses the framework for a Regional Trust Fund and therefore does not dwell on the details of what are the more typical or general features of certain elements of a trust. For example, in the discussion of a trust there are a number of powers and duties of trustees that are routinely articulated in the relevant literature and therefore, these typical features are not repeated within this Paper but are cited for reference.

6. After presentation of this Paper by ESCAP to SPREP, it is anticipated that SPREP will then hold high-level discussions with stakeholder nations and prospective donors for their respective views regarding the actual establishment of a Regional Trust Fund. SPREP's Governing Body would then decide whether to formally proceed with the establishment of a trust.

\* \* \* \* \*

Executive Summary

7. The purpose of this Concept Paper is twofold. First, to set out the case for the establishment of a Pacific Island Regional Conservation Trust Fund ( " Regional Trust Fund" or " Trust" ), and second, to propose a suitable structure and mode of operation for this Trust.

8. Initially this Paper set out a number of recommendations for the establishment of a Regional Trust Fund which were then presented for discussion and comments at the Sixth South Pacific Conference on Nature Conservation & Protected Areas at Pohnpei, FSM, held during the last week of September 1997. After reviewing these comments, a revised second draft was to be presented to the SPBCP's Multi-Partite meeting at the end of November 1997. Comments from this meeting, other interested parties, SPREP and ESCAP-POC were then reviewed and this final Paper produced for ESCAP-POC for presentation to SPREP. It is anticipated that SPREP will then discuss the creation of a Regional Trust Fund with prospective recipient nations and donors, using the Concept Paper as a proposed framework and a decision ultimately made by SPREP's Governing Body whether to establish a Regional Trust Fund.

9. If SPREP's Governing Body decides to proceed with this effort then an Expert Team should be assembled shortly after that decision is made in order to execute the technical work necessary for the establishment of the Trust. Concurrently with or even prior to assembling this team it is recommended that SPREP should commence preliminary discussions with the GEF Secretariat, World Bank/GEF and UNDP/GEF to elicit their opinions about a Regional Trust Fund and its framework as finalized by SPREP.

10. Within the Pacific Island region there has been discussion about the establishment of a regional trust fund for biodiversity conservation for almost three years. Early discussions about a trust took place at the Third Meeting of the Technical and Management Advisory Group (TMAG) of the South Pacific Biodiversity Conservation Programme (SPBCP) in May 1995. This was followed by the Lucas Report (1996) and the Stanley Report (1996).

11. There exist a number of excellent reasons that support the establishment of a Regional Trust Fund, namely that this Trust would:

- provide reliable, regular and long-term funding for conservation and related environmental projects;
- most likely succeed the SPBCP and assure continuity of its programs;
- provide regionwide funding for biodiversity conservation and related environmental projects that might otherwise not be funded;
- assist in developing innovative, public and private participatory, long-term approaches to conservation;
- accelerate the creation of local solutions;
- help strengthen human resource and institutional capacity building at both the community, national and regional levels; and
- support the establishment of similar national and site-specific trusts within the region.

12. An emphasis is placed on explaining that the goal of the Trust is to address biodiversity conservation and related environmental issues as articulated in this Paper, and that the Trust not be perceived to exclusively address biological oriented, community-based biodiversity conservation efforts.

13. Basic features of the proposed Trust are:

- the annual amount for grants ultimately totals US\$1 million. This would mean that the Trust's target corpus would be about US\$28 million (both amounts stated in constant terms);
- donations to the Trust would be open to any source;
- funding for any one project during a given year would not exceed ten percent (10%) of the total amount available that year for grants;
- where there exists within a recipient nation a conservation trust or similar entity or an

organization (government, NGO or private) that performs functions which are compatible with the Trust's goals, then the Trust would utilize that local trust or organization to perform as many of the Trust's functions as is possible within that nation;

- a Board consisting of seven (7) voting members:
  - 3 members - each member representing the head of a recipient nation's conservation or environmental agency
  - 1 member - representing a community-based conservation or environmental group
  - 1 member - representing the business community
  - 1 member - representing an NGO
  - 1 member - representing major donors

and 2 ex-officio (non-voting) members:

- the Director of SPREP
- the Trust Director

14. The primary reason for the number and representation of the Board as recommended is that it be as small as is reasonably possible while at the same time providing the Board with the broadest regional representation. These two factors better facilitate the Board's operability while encouraging lower expenditures for Board related expenses. Minimizing the number of meetings where Board members have to be physically present can provide another way to reduce Board related costs. For example, while it is recommended that the Board meet quarterly, only the Board's annual meeting may require Board members to attend in person while one or more of the other three quarterly meetings could be conducted by telephone conference call.

15. It is recommended that the Trust create a management and administrative body consisting at a minimum of a Director, a

secretary, a Programme Officer and an Assistant Programme Officer. It is expected that many other supporting functions could be provided by SPREP (by mutual agreement) since SPREP already has an infrastructure in place that could support numerous ongoing requirements of the Trust. Where SPREP does not have the expertise required for the Trust's ongoing business, the Trust may independently retain the services of these experts. If practicable the Trust's office should be co-located with SPREP in Apia. By keeping the Trust's management, administration, technical staff and office facilities to a minimum and utilizing SPREP and other organizations where and when possible, this approach would contribute towards minimizing the Trust's overhead expenses.

16. The requirements for and process by which proposals are to be selected annually for Trust grants would be specified in the by-laws or an operations manual. However, where and when available the Trust would utilize an existing entity within a recipient nation that is able to fulfill this proposal function on behalf of the Trust. The perspective of the proposal process will be for the Trust to provide positive support in the submission process and review of proposals.

Requirements for the submission of proposals will be widely disseminated within each recipient nation well in advance of the final submission date. The submission of proposals to the Trust will be open to any private or public entity, and the submission, review and selection process will adhere to a strict time frame. The Board, through the Director, will assure that the proposal process and requirements have followed Trust guidelines and that all proposals have been professionally reviewed and impartially selected.

17. It is recommended that there be two co-trustees. One trustee would represent the major donors; the second trustee would be the managing director or governor of the central bank of the country where the Trust is registered.

18. The country where the Trust is registered will be determined by the Expert Team. While registering the Trust in Western Samoa should be given first consideration, the ultimate location for registration of the Trust is primarily dependent upon the prevailing laws of that nation being compatible with meeting the Trust's requirements. Therefore it is possible that the Trust may be registered in a country

that is not a recipient nation.

19. An overriding element of the Trust throughout its inception, establishment and operation should be its independence and ability to function in an open manner. While the Trust may enter into agreements with or request assistance from other organizations or individuals, the Trust must always be allowed to fulfill its obligations as set forth in the Trust instrument without interference or coercion. As part of its normal operations the Trust will disclose or make available to the public all information relevant to its operations, including its annual report.

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Why Establish a Pacific Island Regional Conservation Trust Fund?

20. The foremost reason for establishing this Trust is that it will provide *reliable, regular and long-term funding* for conservation and related environmental efforts within the region that is outside traditional funding sources. In effect, by establishing the Trust the recipient nations have also made a commitment to a long-term regional conservation strategy that can co-exist with their national and related regional strategies. In order to provide for an annual funding level from the Trust of US\$1 million, the recipient nations would also be recognizing that a substantial amount of capital must be tied-up for the duration of the Trust.

21. There are additional sound reasons for the establishment of this Trust. (Reasons preceded by: R relates to a recipient nation; D relates to a donor; I relates to international impact.)

- R - By having created the SPBCP the member nations have already provided the basis for the proposed Trust. The establishment of the Trust will allow for the logical succession of the SPBCP.
- D - The succession of the SPBCP by a Regional Trust Fund also demonstrates to prospective donors that the recipient nations, individually and collectively, are committed to a long-term biodiversity conservation effort.
- RDI- Besides the SPBCP, the Pacific Island nations have a long and positive history for addressing common regional issues. Some examples include: the Secretariat for the Pacific Community, The Forum Secretariat, The Forum Fisheries Agency, the South Pacific Regional Environment Programme, the South Pacific Applied Geosciences Commission, the university of the South Pacific, the Pacific Islands Development Program, The Pacific Tourism Council, and the Pacific Regional Agricultural Programme.
- I - Demonstrate international support for conservation efforts in the Pacific Island region.
- RI - With respect to projects specifically associated



with conservation and related environmental activities, perhaps only a few of the recipient nations would have access to reliable, regular and long-term funding for these activities, whereas collectively all recipient nations would benefit from the annual proceeds from the Trust.

- D - With respect to conservation and related environmental activities, a Regional Trust Fund would make it easier for some donors to contribute to a single regional effort rather than attempting to address funding requests from the many recipient nations;
- R - The Trust can assist in providing specific, ongoing expertise on a regional basis that may not be available within every recipient nation.
- R - The Trust can provide grants that would otherwise not be available to some recipient nations.
- RD - The Trust would help to facilitate better coordination of communication, funding, and strengthening of institutional capabilities, i.e., capacity building.
- R - The Trust can adapt more easily to the ability of a beneficiary to manage its project(s), i.e., a recipient's absorptive capacity.
- R - The Trust can assist with the establishment of similar national and site specific trusts.
- RD - Helping to stabilize recurrent cost financing.
- I - Leveraging other sources of funds.
- RDI - The Trust would provide an established entity where funding of future related activities could be placed and managed.

22. While some of the above reasons have been articulated by the World Bank (1996), Whimp (n.d.) and USAID (1996) as general concepts, Lucas (1996:19-20) and Stanley (1996:13-15) mention other advantages of trusts such as:

- Providing seed money to start up community efforts.
- Provides an innovative funding opportunity for donors and recipients.
- Leaving a sustainable (development) legacy.
- Ethics Building.

23. Stanley (1996:6-8) has articulated in greater detail than allowed for here the natural science reasons for establishing this Trust. In the context of this Concept Paper two quotations from his paper are worth repeating here:

" Nature conservation is of fundamental importance to the sustainable development of the Pacific Island countries. This is because the interlinkages between social, cultural and economic well-being of people and biological diversity are most pronounced and intimate on inhabited small islands and their associated ecosystems.

Consequently the conservation of biological diversity is, anthropocentric as it may seem, an inherent aspect of sustaining people's livelihood and culture. It must therefore be pursued with the highest priority and urgency, using new approaches that are more effective and appropriate in the context of the South Pacific." (Dr. Fuavao, former Director of SPREP and David McDowell, IUCN)

" Island biological diversity, with its high degree of endemism, is among the most critically threatened in the world. It is estimated that about 75 percent of the mammals and birds that have become extinct in recent history were island-dwelling species, with more extinctions like in the future." (Action Strategy for Nature Conservation in the South Pacific Region 1994- 1998, SPREP 1994) [Stanley's citations]

### Trust Beneficiaries

24. It is recommended that the beneficiaries of the Regional Trust Fund be all individuals, community-based groups, businesses, NGOs and government entities within the member nations of SPREP - excluding Australia, France, New Zealand, and the United States - who are able to fulfill the goals of the Trust, with minimal or no external assistance. (For the purpose of clarity and identification these SPREP member nations, with the exclusions as noted, are hereafter referred to as the recipient nations.) When compared to the SPBCP

whose primary beneficiaries are community-based projects, the proposed Trust provides for a more inclusive and varied beneficiary group within the Pacific Island region. This will allow the Trust to better address the multitude of biodiversity conservation and related environmental issues within the region and could also facilitate the Trust's ability to work closely with SPREP to further their related efforts.

25. While some types of beneficiaries such as community-based groups and NGO's may be readily apparent, other types of beneficiaries also have important roles to play in conservation efforts. For example, an increasing number of businesses have as an integrated part of their normal practice an involvement (direct or indirect) in both site specific and broader conservation and environmental efforts. This is occurring in part because more businesses are becoming aware of their social responsibilities to the communities where they provide work and serve. This conservation/environmental role for business can be seen, for example, in the overall goal for both Brazil's National Biodiversity Project and the Brazilian Biodiversity Fund Program, which is "... to promote and support partnerships among government, non-profit organizations, academic institutions, and the private business sector ..." (GEF 1996:1) and where those business activities eligible for funding are specifically mentioned as part of these efforts (GEF 1996:15) [emphasis my own]. In addition, contracting parties to The Convention on Biological Diversity (the "CBD") shall "Encourage cooperation between its governmental authorities and its private sector in developing methods for sustainable use of biological resources" (CBD:Article 10(a)).

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We also see companies involved with national biodiversity organizations in addressing both the scientific and commercial aspects of genetic biodiversity. One example: Merck & Co. paying US\$1.35 million to Costa Rica's National Biodiversity Institute (INBio) where besides research, part of the money will be used for conservation and INBio will get a percentage of the royalties (USN&WR 4/20/98:44).

Also see Article 15 of the CBD: Access to Genetic Resources.

Trust Goals

26. "As its principle goal the Trust will provide funding within the Pacific Island Region for the biodiversity conservation of the region's habitat and related environmental issues."

27. To better address the numerous broad-based biodiversity conservation and related environmental issues throughout the region's geographically diverse group of recipient nations, the principle goal recognizes that there are many elements (i.e. natural science, economic, social, cultural, institutional, technological) that contribute to biodiversity solutions and these need to be addressed as circumstances dictate.

28. By incorporating the term "related environmental issues" in the principle goal, reference is specifically made to those environmental issues that have a demonstrable relation to biodiversity conservation. To reduce or eliminate confusion that may arise due to possible ambiguity or due to incorrect semantic interpretations being made about the word "environmental", this word does not stand on its own but is included in the term "related environmental issues" which is then further defined by having a "demonstrable relation to biodiversity conservation". At the same time some ambiguity can be useful thereby allowing the Board the flexibility to better address the varied but relevant projects submitted to the Trust for funding.

29. Trusts or endowments which address broader-based biodiversity conservation issues are not uncommon. Some examples include:

- the Mexico Nature Conservation Fund which supports "...biodiversity conservation and sustainable-use activities (USAID[b]);
- one of the project objectives of the Peruvian National Trust Fund for Protected Areas is to "... provide the country with a reliable institutional mechanism to channel debt donations for sustainable development and conservation ..." (GEF 1995b:2);
- to strengthen Bulgaria's National Nature Protection

Service technical assistance training is provided by USAID in areas such as *community development* and *tourism development* (USAID[a]);

30. Additional examples of some GEF supported biodiversity projects include:

- the Bwindi Impenetrable National Park & Mgahinga Gorilla National Park Conservation project where funds are to be allocated for "...community-based *ecodevelopment projects*" (World Bank 1997:52);
- China's Nature Reserves where management is to work with communities to "...create incentives for *sustainable resource use*" (World Bank 1997:54);
- the Indonesian Kerinci Seblat Integrated Conservation and Development project which includes the monitoring and evaluation of "...*human impacts and sustainable development around the park.*" (World Bank 1997:54);
- the Algerian El Kala National Park and Wetlands management project will be undertaking as one of its efforts "...*natural resource use development...*" (World Bank 1997:63);
- Egypt's Red Sea Coastal and Marine Resource Management project which supports "...the development and implementation of policies, plans and regulations that ensure that *economic development of the Red Sea is consistent with sound environmental management...*" (World Bank 1997:63); and
- India's Ecodevelopment project which "...*integrates conservation and development objectives in 7 threatened, priority sites*" (World Bank 1997:64).  
[all emphases my own]

31. It is important to note that in the Convention on Biological Diversity it states that contracting parties are

" Conscious of the intrinsic value of biological diversity and of the ecological, genetic, social, economic, scientific, educational, cultural,

recreational and aesthetic values of biological diversity and its components"

and

" Acknowledge that substantial investments are required to conserve biological diversity and that there is the expectation of a broad range of environmental, economic and social benefits from those investments" (CBD:Preamble).

The CBD then calls for contracting parties to

" Promote environmentally sound and sustainable development in areas adjacent to protected areas with a view to furthering protection of these areas (CBD:Article 8(e)).

32. Examples of secondary goals that can be included in the final Trust instrument include but are not limited to:

- specific biodiversity issues
- transnational relevant projects
- habitat sustainability
- community-based proposals
- strengthening capacity building
- sustainable development and other sustainability issues
- supporting the use of national, local or site specific trusts
- the development and promotion of conservation and environmental education and public awareness programs
- the use of incentive measures<sup>2</sup>

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<sup>2</sup> "Incentives are the opportunities and constraints that influence the behavior of individuals and organisations in a society. Incentives for biodiversity management are derived from a complex interaction of a society's law, policies, property rights, social conventions, cultural norms, and levels of compliance." (UNEP 1996:#7)

"An incentive measure is a specific inducement designed and

- supporting revenue generating conservation projects
- assuring that conservation activities are not treated as an independent activity but include resource related activities such as agriculture and fishing

33. The Expert Team would specify certain secondary goals that would be considered an integral part of the Trust's efforts during its formative period while allowing for other secondary goals to be included later by the Board.

#### Emphasis on Initial Trust Activities

34. During the Trust's formative years its Board, management, administrative, financial and operating capabilities will be at the low end of their respective learning curves and funding will be limited. Therefore it is impractical to expect that the Trust could possibly address all of the issues that may be presented to it during this time. Consequently, it is important that during this formative period the Trust focuses on developing internal expertise and prioritizes its efforts. It is practical and necessary that for the Trust's first three to five years a plan is in place that sets out specific priorities within set time frames. Examples could include:

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implemented to influence government bodies, business, non-governmental organisations, or local people to conserve biological diversity or to use its components in a sustainable manner. Incentive measures usually take the form of a new policy, law, or economic or social programme." (UNEP 1996:#8)

<u>time period</u> <u>(months)</u>	<u>activity</u>
1 - 6	Have in place functional management, administrative and accounting systems.
1 - 12	Develop the means to adequately address the solicitation, selection, disposition and monitoring of grants.
1 - 24 (and annually thereafter)	Identify and prioritize those species, habitats and ecosystems within the region, by risk and characterization, which are relevant to the Trust's goal.
1 - 36	All projects should focus on community-based efforts.
1 - 60	Assist recipient nations in developing the infrastructure (e.g., management, financial accountability, technical expertise, etc.) to support Trust related projects.

35. Development of the actual plan for the formative years of the Trust would be addressed by the Expert Team for inclusion in the Trust by-laws. However, once the priorities have been met the Board should then have the flexibility to address issues as it deems fit.

#### The Trust Instrument

36. Basic aspects of the Trust instrument are that it is:

- permanent (i.e., exists in perpetuity)
- irrevocable



- permitted tax-exempt status
- free of attachment

37. Additional aspects of the Trust that are not adequately specified or not specified at all by the laws of the nation where the Trust is registered should be specified by the Expert Team in the trust instrument.

#### Country of Registration

38. Since it is recommended that the Trust's operations be located in Apia, the Expert Team should examine the feasibility of registering the Trust in Western Samoa. Western Samoa already has in place the Trustee Act 1975, Trustee Companies Act 1987, International Trusts Act 1987 and English common law and equity (Briggs). However, the nation where the Trust is registered will ultimately depend on the compatibility of that nation's laws with the Trust's requirements.

#### Transnational Issues and Dispute Resolution

39. Since the Trust will be registered in one country but will operate regionally among fourteen or so nations, jurisdictional and other types of disputes can be expected to arise from time to time. The Expert Team would specify in the Trust's by-laws how these transnational and other types of dispute issues would be resolved where reference may be made to the *Hague Convention on the Law Applicable to Trusts and Their Resolution*. The means specified to resolve these issues should also be addressed in any contracts, agreements and grants issued by the Trust. (For background on this subject see World Bank (1995); Glasson (1997:A1-45/46); and Harris (1997:C2-3 - C2-30).)

#### Annual Audit

40. The Trust's assets and expenditures and management thereof should be audited annually by an accounting firm

according to generally accepted accounting and auditing principles that are recognized within the region. Selection of the auditor shall be by the co-trustees in a manner prescribed in the by-laws by the Expert Team.

41. The audit should be completed sufficiently in advance of the 2nd quarter (June) Board meeting in order to allow time for its review by the Board and inclusion in the Trust's annual report.

#### Annual Funding Level for Grants

42. The annual proposed funding level for grants is recommended to be US\$1 million, in constant terms. This amount is predicated on several factors, namely that:

- beneficiaries of the Trust reside in 14 or more nations;
- there needs to be in fact and appearance an annual distribution amount that can fund a sufficient number of projects annually while at the same time justifying continuing regional support for the Trust; and
- US\$1 million approximates the annual amount currently distributed by the SPBCP.

43. Another factor that must be taken into consideration is the ability of the Trust to reach the target principal amount, i.e. US\$28 million. If that principal amount does not appear to be achievable or in actuality is not achievable, then a lower annual funding level must be considered based on this lower principal amount.

44. It should also be recognized that reaching the target principal amount would take several years or more. During the Trust's formative period where the initial principal is small but is gradually increasing towards the target amount, the annual amount available for grants would also start at a much lower level due to the lower initial funding levels. But the annual amount available for grants would gradually increase

as revenue generated from the growing principal increases until the US\$1 million annual funding level target is eventually achieved.

### The Trust Principal

45. In order to provide for an annual funding level of US\$1 million and taking into consideration other Trust related expenses, the Trust's target principal is estimated to be in the range of US\$25 million to US\$30 million.<sup>3</sup> For purposes of discussion in this Paper, the target corpus amount (i.e., the Trust's principal goal) is referred to as ±US\$28 million. The Expert Team will determine the actual target principal amount based on:

- an annual funding level of US\$1 million;
- historical, prevailing and estimated future rates of return;
- the Trust's estimated operating expenses; and
- the requirement to maintain the target principal amount and concurrently the annual funding level in constant terms over time.

### Investment of the Principal

46. The by-laws should prescribe the criteria for selecting the investment advisor(s), the Trust's asset manager, and criteria for investment of the Trust's assets. At a minimum the investment criteria should include:

- maximizing return
- avoiding capital losses
- avoiding foreign exchange losses
- other specified safeguards

The only types of investments allowed of the Trust's principal

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<sup>3</sup> This assumes a return on the invested principal of five percent (5%).

should be specified in the by-laws and addressed by the Expert Team. These may include:

- mutual funds whose goal is long-term growth with the least risk<sup>4</sup>
- government issued notes, bills and bonds<sup>5</sup>

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<sup>4</sup> For example, there are mutual funds that invest in various types of government issued/government backed securities, or triple A rated company shares or debentures. There are also environment friendly mutual funds, but their investments must also meet the Trust's goal for minimizing risk.

<sup>5</sup> Financial instruments are typically issued by a nation's central or reserve bank, on behalf of the government, and may also be referred to as (Treasury) notes, bills or bonds.

- other government guaranteed financial instruments<sup>6</sup>
- high-rated shares and debentures of companies that are environmentally friendly

#### Contributions to the Trust

47. Contributions to the Trust would be open to all donors. Examples of possible donors are:

- GSF
- UNDP
- UNEP
- ADB
- EU
- bi-lateral aid
- recipient nations
- NGOs
- private donors
- foundations<sup>7</sup>
- non-traditional donors

#### Seed Money - Initial Funding of the Trust

48. It would be highly desirable for the Trust to receive an adequate level of initial funding or seed money at the time of its creation. This seed money would help the Trust commence its activities and demonstrate to prospective donors that creation of the Trust is taken as a serious undertaking

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<sup>6</sup> These may include state government as well as national government issued financial instruments, and debt instruments issued by parastatal entities.

<sup>7</sup> Some examples where foundations have been a source of funding include: (1) the MacArthur Foundation and the Packard Foundation made contributions towards the creation of the Mexico Nature Conservation Fund (USAID [B]); (2) the Whitley Foundation (UK) is a donor to the Fideicomiso para la Conservacion Guatemala (World Bank 1995); and (3) the MacArthur Foundation is a donor to the Dominican Republic's Fondo Integrado Pro Naturaleza (World Bank 1995).

by the countries in the region and those committed donors. At the same time the seed money would help to attract more substantive funding from expected major donor sources and would provide "...adequate income streams, reduce administrative costs and assure program continuity." (USAID 1996:21)

#### Invasion of the Principal

49. In general, when the target corpus of a trust is diminished, then the trust's ability to provide reliable, regular and long-term funding at a stipulated annual level is jeopardized and most likely no longer a viable proposition until such time that the amount withdrawn is restored, if ever. (In this instance the Trust's proposed annual funding level for projects is US\$1 million; the target principal is ±US\$28 million - both amounts expressed in constant terms.)

However, where the trust's total principal exceeds the target corpus, then that amount in excess of the target corpus could be invaded while having little or no adverse impact on the stipulated annual funding level.

50. From time to time biodiversity related emergency situations arise within and amongst the recipient nations that may require one-time financial assistance from external sources. Providing this assistance, while not a primary responsibility of the Trust, in part recognizes the importance of this issue which is also addressed in the Convention.<sup>6</sup> It is recommended that invasion of the principal be allowed solely for the purpose of providing emergency grants. At the same time it should be emphasized that the Trust is not a primary source of funding for emergency grants, and any funds distributed for this purpose should be limited in size. Accordingly, invasion of the corpus for emergency grants should be allowed only where all of the following provisions have been met:

- The emergency is associated with imminent or severe damage to a specie, habitat, or ecosystem within or

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<sup>6</sup> See Article 14(d)(e) of the CBD: Impact Assessment and Minimizing Adverse Impacts.

amongst the recipient nations.

- The distribution of emergency grants can only be from that amount in excess of the target corpus, i.e., the target corpus can never be invaded.
- No one emergency grant can exceed US\$500,000 or that amount in excess of the target corpus, whichever amount is less.
- Prior to making the grant, the Director must certify that the grant request includes an adequate plan for utilization of the funds and restoration of that habitat, specie(s) or ecosystem.
- The Director certifies that there will be adequate monitoring of the grant.
- A unanimous vote is required of the Board and the trustees.

#### Emergencies Defined

51. Within the by-laws there needs to be a relatively unambiguous definition of an "emergency" that will allow the Board and Trustees the discretion to respond to an emergency request that falls within the goals of the Trust. For example, it can be stated in the by-laws that,

"The Trust is allowed to provide grants for emergencies where there is imminent or severe damage or degradation to a specie(s), habitat, or ecosystem which has a biological diversity implication. Emergency grants can be distributed only after all provisions for providing these grants have been met."

52. Some examples that may precipitate emergency related requests are: weather-related occurrences (e.g. mud slides, flooding, drought); natural disasters (e.g. earthquakes, tidal waves); other factors such as oil spills, El Niño and global warming related effects; and where new data or information indicates (approaching) irreversibility.

Providing an Existing Structure for Future Related Funding

53. Over time there may be activities in the region that have an identifiable relationship to biodiversity conservation and also require the means for addressing reliable, regular and long-term funding.<sup>9</sup> One way that this could be addressed is to utilize the Regional Trust Fund, once it is up and running.

The efficiencies gained by doing this are many: there is no need to create a new trust with all of its associated expenses; the Regional Trust Fund already has knowledge of the region; the Trust has established contacts within the region; the Trust would be fully operational and able to act immediately - and the Trust could establish a sub-account to handle this new funding. Of course, the Trust must receive adequate remuneration for its managerial, technical and administrative efforts. The Expert Team should address this issue.

Trustees

54. It is recommended that there be two (2) co-trustees as follows:

- 1 trustee - governor or managing director of the reserve or central bank of the nation where the Trust is registered
- 1 trustee - representing the major donors

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<sup>9</sup> For example, these activities may include GEF sponsored projects in any one or more of the other three areas designated for attention by the GEF.



55. The major donors shall select their representative. Those trustees' powers and responsibilities not specified by the laws of the nation where the Trust is registered should be further specified by the Expert Team in the Trust's by-laws.<sup>10</sup> Also, the powers of the trustees would be shared jointly.

### Trust Board

56. In determining the composition and size of the Board, there are three goals that need to be achieved simultaneously. One goal is to minimize the size of the Board to better facilitate its operation; the second goal is to minimize its costs; and the third goal is to achieve a broad representation that represents stakeholders while preventing domination by any group. To fulfill these goals it is recommended that the Board consist of seven (7) voting members and two (2) non-voting members as described below.

#### voting members

- |           |   |   |
|-----------|---|---|
| 3 members | - | representing the heads of three beneficiary nations' conservation or environmental agencies |
| 1 member  | - | representing NGOs   |
| 1 member  | - | representing community-based conservation/environmental groups                              |
| 1 member  | - | representing the business community <sup>11</sup>   |

<sup>10</sup> There are typical or general powers and duties which are frequently cited in the literature (Bogart 1987:93-124), (World Bank 1995), (Glasson 1997:A1-13 - A1-23,v.1).

<sup>11</sup> Business representation on a trust's board is suggested as benefiting a broader participation (Spergel) and occurs in actuality (GEF 1995a:5; 1996:19).

1 members - representing major donors  
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7

non-voting ex-officio members

1 member - Trust Director  
1 member - SPREP Director  
-----  
2

57. In electing Board members it is important that all Board members be committed to the goals of the Trust and to their duties; that they understand their responsibilities; and it is desirable that they have some expertise that contributes to the Board's efforts (USAID 1996:21-22). In addition, Board members should be elected without regard to gender.<sup>12</sup>

58. Major Donor representation on the Board should be encouraged for a number of reasons. First, the Donors are also stakeholders. Second, the Donors have a major investment in desiring the Fund to succeed. Third, the Donor representative brings expertise to the Board. And fourth, there is a ready example within the region, the Tuvalu Trust Fund, where donor representation has contributed to a trust's success. In this instance three of the four Board members of the Tuvalu Trust Fund are major Donor representatives (Bell:§2).

59. Additional ex-officio members may be added as suggested to the Expert Team from discussions that will be held with prospective beneficiary nations and donors or by the Expert Team itself. If additional ex-officio members are identified by the Expert Team then they too should be addressed in the Trust by-laws.

60. The Board should not hesitate to invite or allow observers to attend any Board meeting.

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<sup>12</sup> The CBD states that contracting parties affirm the need for "...the full participation of women at all levels of policy-making and implementation of biological diversity (Convention:Preamble).

#### Alternate Board Members

61. For purposes of assuring continuity of the Board's activities, it is recommended that an alternate be elected for each voting and non-voting Board position, as noted. Alternates for voting members would be elected in the same manner as that for regular Board members as described in the next section, while the major Donors would select their own alternate. The Trust Director and SPREP Director would select their respective alternates. In any event alternates should not be elected to attend only one specific meeting but should be available to sit in anytime during the tenure of that respective regular Board member whenever that regular member cannot participate.

#### Board Member Election and Terms

62. All Board members, with the exception of the Donor representatives, would be elected by the members of SPREP at its bi-ennial meeting. Board members would serve a four-year term; the beginning of each term to coincide with the beginning of the month immediately following the SPREP bi-ennial meeting.

63. Of the six regular and six alternate Board members (excluding the major Donor member and alternate) to be initially elected, if that process occurs at a time prior to and near in time to the SPREP bi-ennial meeting, then at this meeting three members (and their respective alternates) should be elected for two-year terms and the other three members (and their respective alternates) elected for four year terms. The expiration of the (regular and alternate)members with 2-year terms would then coincide with the next bi-ennial meeting and their successors would be elected for a full four-year terms, and the same thereafter.

64. If the initial election of members does not coincide with a bi-ennial meeting (presumably during an interim year between a bi-ennial meeting), then the SPREP Management Committee would elect members, where three regular members and their

alternates would serve three year terms and the other members and their respective alternates would serve five-year terms. Thereafter, their respective successors would be elected at the bi-ennial meetings.

#### Board Meetings

65. It is recommended that the Board meets quarterly. A suggested schedule could look like the following:

	<u>Meeting</u>	<u>Date</u> <u>first week of:</u>
ANNUAL MEETING	1st quarter	March
	2nd quarter	June
	3rd quarter	September
	4th quarter	December

66. Of the four meetings each year, the annual meeting would require the personal attendance of all Board members. At the annual meeting the Board would publicly release its annual report which would include but not necessarily be limited to a review of all projects being funded; a copy of the audit for the prior year's Trust operations and investments; financial statements; policy changes; and other Board actions.

67. It is also recommended that no more than four weeks following the issuance of the annual report the Trust present the highlights of its annual report in a national newspaper of each of the recipient nations. Preferably the highlights should appear in that newspaper's issue which represents its largest traditional circulation for that week. Dissemination of highlights could also be done through each nation's national radio system. Presenting the annual report highlights in this manner serves to demonstrate that the Trust is interested in reaching the widest audience throughout the region and that this reflects one important aim of the Trust - transparency in its operations.

68. Quarterly meetings provide the Board with a regular schedule which requires that Board members be kept current on

the Trust's affairs, which in turn means they can more effectively fulfill their obligations to the Trust. However, it is not recommended that in lieu of regularly scheduled meetings the Board be allowed to call meetings only when it believes necessary. This regular schedule has several important effects. First and foremost, it provides for the appearance of transparency that is expected of all Trust related activities. Second, with a fixed schedule (e.g., four meetings a year) the public and interested parties are better served since they know well beforehand when a Board meeting will be held, the general business to be conducted at that meeting, and can therefore adequately prepare for that meeting. And third, regularly scheduled meetings also allow for easier and reduced budgeting and scheduling, and at the same time demonstrate the Board's ability to take its responsibilities seriously.

69. The Director will be responsible for assuring that each Board member and alternate receive all information and material necessary for and sufficiently in advance of all Board meetings. The by-laws would specify how extraordinary meetings are to be called and attended.

#### Board Attendance

70. Since travel and per diem can be expensive and adds up quickly for five or more people, the use of telephone conference calls in lieu of personal attendance at a meeting should be considered as a cost effective measure while still allowing the Board to adequately conduct its normal business. The Expert Team should evaluate this option.

71. The Expert Team will also address the issue of how to rectify the situation where a Board member has missed too many meetings and what that number of missed meetings should be. Even where the member may have legitimate reasons for missing too many meetings, if that person cannot fulfill the obligation to attend Board meetings then that person should either resign or be replaced.

### Board Responsibilities

72. It is not the purpose of this Paper to enumerate all of the Board's responsibilities; rather it is to address those issues relevant to the proposed Trust framework. The Expert Team should thereby more fully address in the by-laws issues such as: the Board's duties and responsibilities; Board accountability; the reasons and procedures for the removal or succession of Board members; the selection, term and responsibilities of the Board chairperson; etc..

73. Some but not all of the responsibilities of the Board include:

- approval of the annual work program;
- approval of all grants;
- determine the total amount and allocation of annual grant funds, based on the estimated amount to be available for grants in a given year as reported by the Trust's asset manager;
- prioritizing the annual goals that proposals are to address;
- proposing criteria for the Trustees and asset manager, as enumerated within the by-laws, for investment of the Trust's assets and the regular review of those assets;
- approving any formal agreement between the Trust and any organization;
- selection of a Director;
- setting staffing requirements on the recommendation of the Director;
- selection of the Trust's asset manager and firm;
- approval of the Trust's annual operating budget; and
- setting policy and program guidance.

### Board Advisors and Advisory Groups

74. The Board would have the authority to retain advisors or create advisory groups in order to assure that it has access to the expertise required to conduct its ongoing business and

fulfill its responsibilities. The Expert Team shall establish the guidelines for securing the services of these advisors and the relevant payment schedules.

75. The retention of advisors or advisory groups does not necessarily impose a substantial financial burden on the Fund's overhead. While some advisors may have to be fully funded for their work, others can be utilized through memoranda of agreement or understanding with NGOs, government agencies, institutes, academia, and bi-lateral aid where the consultant's services may be offered to the Board on a pro bono basis, with reduced or no cost to the Trust.

#### Board Accountability

76. Board members must also be held accountable for their actions. One way to assess whether the members are fulfilling their duties and responsibilities is by having a periodic (e.g. every two or three years) outside review of Trust's activities including those of the Board. The scope of this review could cover all of the Trust's primary activities and address issues including: how the Board is functioning (i.e. carrying out its duties and responsibilities); how proposals are reviewed; how funds are dispersed both to the Board and by the Board; how funds are invested; success in monitoring and evaluation of funded projects; etc.. After the review has been finalized, copies should be made available to the public on request; this again addresses the issue of transparency. The review should be performed with an overt view towards objectivity; perhaps by the Donors or their designees.

77. This type of review may also be a requirement of major Donors as part of their agreeing to fund the Trust. The actual frequency and scope of these reviews would be determined by the Expert Team, major Donors and other participating parties.

78. Where it is found that one or more Board members have not fulfilled their obligations, then appropriate procedures for addressing the issue or issues should be included within the Trust by-laws. These procedures can specify the means for a Board member's removal or how and when the trustees should

cease funding until the situation is corrected. Specifying the appropriate procedures should be done by the Expert Team.

### The Director

79. In order for the Trust to better maintain complete independence from other organizations, it is recommended that the Trust have a Director who will be responsible solely to the Board.

80. Some immediate responsibilities of the Director would be to:

- oversee the day-to-day operation of the Trust;
- ensure compliance with internal regulations and operational guidelines;
- provide the Board with:
  - work plans
  - budget proposals
  - information and material necessary for upcoming Board meetings;
  - identifying personnel needs;
  - outside consultants;
- supervise third party contracts, other services, and operational expenditures;
- prepare the Trust's annual report;
- develop working relationships with each recipient nation's conservation or environmental agency, other national and regional organizations, NGOs and individuals;
- co-ordinate the Trust's activities, according to mutual agreements, with SPREP and other organizations;
- process emergency grant requests and certify that any emergency grant to be approved by the Board includes an acceptable restoration and/or conservation plan and adequate oversight of the funds;
- oversee the entire proposal process; and
- other duties that may be further defined by the Board.



81. The specific duties and responsibilities of the Director will be developed by the Expert Team and included in the by-laws.

### Technical Staff

82. By the nature of its functions the Trust must have some way to address its requirement for technical staff. For example, technical staff are required for the proposal review and selection process, certain project monitoring and evaluation, and providing technical assistance to conservation related organizations (public, private and NGOs) in the region. Solutions to acquiring the expertise needed by the Trust could be through direct hire, contracting, agreements and/or memoranda of understanding with other organizations or individuals. Ideally, the Trust could acquire some of this technical expertise without necessarily paying for all of the expert's full-time services. Two examples: by having an agreement in place with SPREP, the Trust would pay only for the time that the SPREP expert is utilized for Trust related work; or there could be an arrangement with an organization (i.e. a national or state conservation or environmental agency) where the expert's organization continues to pay the expert's salary while the Trust covers other expenses.

83. While one of the explicit elements in formulating the operational aspects of the Trust is that it does not develop a large bureaucracy, it should also be recognized that the work of the Trust cannot be done in the abstract; that certain staff may be necessary for the Trust to fulfill its goals; and that these staff should not be characterized simply as creating a bureaucracy. It should be recalled that in order for the SPBCP to fulfill its mandate, over time it had to hire staff necessary to its operation and hence, have increased its "bureaucracy" - but these staff have also increased the Programme's value by allowing it to fulfill its mandate.

84. It was earlier recommended that the Trust seek some type of formal relationship with SPREP. Prior to any formal

relationship being established a review should be performed to determine how and to what extent SPREP is able to satisfy the Trust's technical and administrative needs. As part of this exercise the Trust must first identify what expertise it requires by discipline, experience and time allocation. This latter exercise should initially be undertaken by the Expert Team, which would also include how this expertise should be acquired and any appropriate terms and conditions. With this in mind, an overriding concern of the Expert Team should be to enable the Trust to fulfill its obligations most efficiently while maintaining its independent identity.

#### Trust Budget Limit

85. To demonstrate that the Trust can maintain budgetary responsibility, it is recommended that the annual operating budget for the Trust be established as a "not to exceed" percentage of the principal or as some absolute number. Since during the Trust's formative years there may be larger than usual expenditures for overhead as a percentage of the capital due to necessary start-up expenses, this should be taken into consideration. The Expert Team should establish the actual procedure (i.e. never to exceed percentage or absolute number).

#### The Expert Team

86. Upon approval by SPREP's Governing Board to proceed with the establishment of a Regional Trust Fund, an Expert Team should be assembled immediately thereafter for this purpose. However, prior to this approval SPREP, working with other participating entities, would have identified the composition of this Expert Team and prepared a shortlist of prospective team members. Also, preliminary discussions should have commenced by SPREP with the GEF Secretariat, World Bank/GEF and UNDP/GEF and other prospective major donors.

87. At a minimum the Expert Team would most likely consist of one lawyer with expertise in trusts and preferably

knowledge of conservation and environmental issues; one financial expert knowledgeable in the managerial, operational and administrative aspects of trusts and its assets; and one expert with specific knowledge of Pacific Island biodiversity conservation and related environmental issues. Other experts may be needed to address specific issues.

88. Whether it becomes the intention that the Trust succeed the SPBCP or even if this succession is not an issue, consideration must be given to: (1) coordinating the timing of SPREP's approval for proceeding with the Trust with the assemblage of the Expert Team; (2) the time needed by the Expert Team to complete its work; and (3) the time needed for the Trust to be registered and up and running to achieve this succession.

89. It would be the responsibility of the Expert Team, presumably working in concert with a similar GEF team, to actually formulate and assist with the registration of the trust instrument. The Expert Team would presumably use as its framework the recommendations contained in the final Concept Paper at the time of SPREP's approval to proceed.

#### Proposals

90. In accordance with guidelines and criteria contained in the by-laws, the Board and the Director shall establish and/or implement procedures for the submission, review, selection, funding and oversight of proposals submitted to the Trust. The detail to which this responsibility is specifically articulated within the Trust by-laws or left to the Board's discretion will be determined by the Expert Team.

#### Dates

91. Each year the Board and/or the Director shall establish dates for the submission of proposals and the announcement of which proposals have been selected to receive Trust grants, and the amount provided. These dates will be strictly adhered to. In determining the dates, the Board and the Director will

take into consideration factors such as:

- providing sufficient time for the dissemination of the announcement for submission of proposals prior to the final submission date; and
- providing sufficient time between the final submission date and the announcement date of finalists for the thorough and professional review of the proposals.

A suggested schedule could be:

December 15	-	public announcement Requesting proposals (announcements should be widely distributed within each beneficiary nation); and the following
February 15	-	cut-off date for accepting proposals; and
June 15	-	announcement of proposals to Be funded.

92. This schedule could coincide with several of the Board's quarterly meetings. For example, the Board would establish at its December meeting it would establish any special criteria or subject area for the upcoming year's proposal submissions, i.e., emphasis on habitat sustainability, marine/aquatic related projects, community-based projects, etc.. The Board would also determine how much money would be allocated for grant funding for the upcoming year's proposals based on information it received from the Trust asset manager. This information would then become part of the public announcement requesting proposals that is distributed region-wide on December 15th, just after that Board meeting.

93. By May 31 the Director and his/her staff would have reviewed with the necessary expert support all proposals submitted, and subsequently prioritize those proposals eligible for funding. About a week prior to the June Board meeting the Director would provide the Board with a summary

containing the total number of proposals that met the Trust's initial criteria for funding consideration; the total number of proposals that have met final consideration for funding; brief abstracts of these final consideration proposals; a breakdown of these latter proposals by type (i.e., marine, terrestrial, community-based, type of specie or habitat, etc., location); NGO submissions according to the criteria or subject area earlier set by the Board; prioritization of these proposals as recommended by the technical and expert review; the total amount required for funding all final proposals; etc.. This is critical information for the Board since it will now know if the funds that were expected to be available for the current year are sufficient to fund all of the current projects and the prospective distribution of funds for the coming year. For example, if the Board knows that all final proposals combined require less funding than the annual amount available that year for grants, then the Board does not have to obligate the entire annual amount and could alert the Trust's Asset Manager to reinvest the surplus amount.

94. The Board would then vote at its June meeting as to which proposals should receive funding, giving due respect to the recommendations made by the technical and expert reviews.

#### Who Can Submit a Proposal?

95. Submission of proposals is open to all public and private organizations and individuals from within the recipient nations. In this way the Trust will receive the widest possible submission of ideas from within the region (that appear to) address Fund issues.

#### A Positive Approach

96. The Board and the Director shall assure that a positive approach is taken in securing and reviewing proposals. For example, the Director should develop good working relationships with at least one or two organizations (public, NGO or private) within each recipient nation. This provides both the Director (and consequently the Board) and each nation with a better understanding of what is going on in that

nation, with the Trust and within the region; and it can provide the means to better assist a community or organization in the adequate preparation of a proposal. Also, after a proposal is submitted and if it is found during the review process that the proposal requires strengthening, these same in-country organizations could assist with this effort.

97. The Trust may have to assist with providing for technical assistance and/or funding to strengthen this effort at the local level, but concurrently the Trust should not be considered or become a major source of funding for any of these organizations.

#### Proposal Selection

98. Immediately after the submission date, proposals would be initially reviewed to see if each meets the Trust's objectives and other basic requirements for the submission of a proposal, such as:

- Is there adequate management and financial controls in place for the project?
- Have proposal costs been clearly defined?
- Is the proposal adequately funded?
- If follow-up funding is required, has it been addressed?
- Are there assurances in place that there is no monetary gain for the grantee? etc.

99. Once a proposal has passed the initial review, it will then be reviewed by experts in their respective fields, under the direction of the Trust's Programme Officer. The responsibility of the expert reviewer is to see if the proposal makes sense as good science. The Trust's own staff will then review the proposal to see that it makes sense with respect to its overall approach including addressing other funding sources, training, management, etc., and to assess if the funding requested makes sense with respect to the level and duration of effort being addressed by the proposal. And finally, the proposals would be ranked against other proposals in the same category. In line with its positive approach, at any time during the review process the expert review team

should encourage the applicant, when and where appropriate, to further explain or clarify issues that arise.

100. After all proposals are ranked, the Director will submit them to the entire Board for approval and subsequently announce those proposals being funded, according to the schedule previously set out. It is expected that the Board will rely heavily on the expertise of the review team. The Director and Programme Officer should be in attendance at that Board Meeting to be available to answer questions from the Board. The Expert Team will specify in the by-laws or an operations manual the actual proposal selection process to be followed and the percentage vote required by the Board, i.e., simple majority, two-thirds majority, etc., to approve funding of proposals.

#### Proposal Funding

101. There are a number of issues relating to proposal funding that can be addressed in the Trust by-laws. For example:

- the Board need not expend all of the funds available during any year. This can occur because: there were not a sufficient number of proposals that met the minimum requirements; there were funds left over after funding all acceptable proposals; etc.;
- rather than fund the total amount requested in a proposal at one time, if appropriate to that proposal the Board can decide to fund the proposal over a number of years;
- the Board does not have to fund the entire amount requested in an accepted proposal, i.e. the amount requested is believed to be excessive or co-funding may be available from another source;
- the Board will use its "good office" to assist acceptable proposals in obtaining funding from other sources in addition to or in lieu of Trust funding.

102. In addition, the Trust (primarily through its Director)

must develop and maintain very good lines of communications with all organizations with which it does business. For example, it must work closely with each nation's conservation or environmental agency and NGOs to assure that the Trust and the agency fully understand the proposal(s) put forward from within that nation; that there is no overlapping work between the Trust and other agencies, both donors and recipients; and that the funded proposal is assured the best opportunity for success. In effect, the Trust can provide the motivation and leadership for better communication and coordination amongst all conservation and environmental donors within the region regarding proposals received by each donor and their respective funding of projects.

#### National Trusts, Other Trusts and Organizations

103. As part of its stated purpose the Regional Trust Fund will assist recipient nations in establishing their own national and local conservation trusts. The Trust could also assist with possible transnational trusts. Likewise, within a recipient nation the Trust would be able to assist organizations such as a government conservation or environmental agency, an NGO or a community-based group with capacity building.

104. Where the goals or efforts of national and local trusts or organizations are compatible with those of the Trust and where they also have the capacity to manage some or preferably all of the functions that would otherwise be performed by the Trust within that nation, the Trust should establish a formal arrangement, including appropriate monitoring, whereby the national or local trust or organization takes over those Trust functions (i.e. the selection, review and prioritization of proposals, disbursement and oversight of project funds, providing technical assistance). By having a national or local trust or organization perform these functions on behalf of the Trust, the Trust should be able to meet its obligations more effectively from a management, administrative, personnel and financial perspective.



### Absorptive Capacity

105. The issue may arise where there is a question as to whether the Trust is able to handle and distribute large amounts of capital and/or grants within the region or if beneficiaries can effectively take on this funding or projects.

106. With respect to the first issue, the Trust would presumably not be taking in all of the target corpus (i.e., ±US\$28 million) at one time. Contributions to the Trust would most likely occur over a period of perhaps five to six years. This would mean that there is a gradual build-up of the Trust's principal which would allow for all the elements of the Trust (i.e. Trustees, Asset Manager, Board, Director and staff, etc.) to develop their expertise over this time; that all available funds for grants do not have to be disbursed during each of these early years; and there may be a greater emphasis by the Trust during this period for capacity building within the region.

107. Regarding the second issue, the provision would already be in place in the by-laws that would limit the maximum amount of funding for any one proposal. So if in year three of the Trust there is US\$200,000 available for grants and no one proposal could receive more than ten percent (10%) of this total, then the maximum limit for funding any one proposal that year is US\$20,000.

### A Catalyst

108. As the Board, Director and staff gain knowledge and experience over time, another function they can perform is to act as catalysts for improving communication amongst conservation related aid organizations in the region, particularly with respect to project funding and technical assistance. There are two relevant issues being addressed in this effort: (1) the avoidance of duplicating the funding of

the same project, and (2) the coordination of efforts with respect to a specific project. While this would not be a primary purpose of the Trust, it should occur as part of the Trust's normal course of business.

Grant Follow-up

109. The Board and the Director (in accordance with the by-laws) will implement and/or establish those requirements and procedures for the monitoring, evaluation and action required during an ongoing project and subsequent to the completion of each project. There could be different requirements based on the type of grant, i.e. direct project, supplemental funding, technical assistance, etc.. It is recommended that the Expert Team should this issue and include relevant requirements and procedures in the by-laws or an operations manual. Prior to its quarterly meetings the Director will provide the Board with a summary of the status and all actions taken for each funded proposal during the prior quarter and up to the quarterly Board meeting. This should also be addressed by the Expert Team.

\* \* \* \* \*

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