

The Ecuador Yasuni ITT Trust Fund

Terms of Reference (draft 24 November)

Introduction

1. Ecuador is one of the most biologically diverse countries in the world, and is also noted for the richness and variety of its indigenous cultures. In 1972 the country became an oil exporter, and since then this product has been the centerpiece of the national economy. The environmental and social impacts of the oil industry, however, have been dramatic.
2. In light of the recent confirmation of large deposits of heavy crude oil in the Ishpingo Tambococha Tiputini (ITT) field, which is located in the Yasuni National Park, one of the most important and diverse biological reserves in the world and home to the Tagaeri-Taromenani, indigenous peoples living in voluntary isolation, President Rafael Correa announced to the United Nations that Ecuador had decided to maintain the crude oil in the ITT field indefinitely underground, in order to put social and environmental values first, and was exploring other ways to benefit the country economically. If the international community cooperates with Ecuador by contributing at least half of the revenue that the Government of Ecuador (hereinafter referred to as “the Government”) would receive by extracting the oil, the Government would initially assume up to half of the opportunity cost of keeping the oil in the ground.
3. The Ecuadorian initiative proposes to not exploit the ITT oil field, one of the most important oil reserves in the country, located in Yasuni National Park. Yasuni is one of the most biodiverse areas on the planet. In this way, Ecuador will forgo close to one billion barrels of heavy crude reserves, and in turn become the first developing country to propose an effective, quantifiable, and verifiable carbon abatement model.
4. President Rafael Correa’s vision of this pioneering proposal, unprecedented in the history of an oil-dependent country, has been received favorably by various governments and organizations around the world. The initiative also proposes a new cooperative model between developed and developing countries. It is an opportunity for the world to consider more just and equitable paradigms of economic growth.
5. As part of Ecuador commitment to indefinitely refrain from extracting the 846 million barrels of oil reserves in the ITT field, within the Yasuni National Park, it has established the Yasuni ITT Trust Fund (hereafter referred to as “Yasuni Fund”), to

enable the international community to help provide financial contribution towards this initiative. The Yasuni Fund will enable the Government to address climate change and sustainable development challenges by changing the energy matrix of the country, through investment in environmentally friendly and socially inclusive renewable energy projects such as hydro, geothermal, solar, wind, biomass and tide plants. The Yasuni Fund will be administered by the United Nations Development Programme (UNDP), an international organization with experience and a demonstrated record in the administration of multi-donor trust funds and would be governed and overseen by a Steering Committee led by the Government, with the participation of donors, development partners and stakeholders.

6. The Government of Ecuador has taken the initiative to establish a comprehensive governance and management structure for the Yasuni Fund, including:

- (a) Administration by UNDP through its Multi-Donor Trust Fund Office (MDTF Office);
- (b) Guarantees for non-exploitation of Yasuni-ITT petroleum reserves, made before Ecuadorean society and the international community;
- (c) Use of international standards and systems for financial oversight, accountability and transparency;
- (d) Governance of the Yasuni Fund activities, including oversight of financial management taking into account the national regulatory framework of Ecuador and the development and approval of the Yasuni Fund portfolio of activities;
- (e) Broad participation of the Yasuni Fund stakeholders in the governance process;
- (f) Assessment of proposed Yasuni Fund activities, based on the technical merits, and the principles of independence and impartiality;
- (g) Government-wide coordination and participation in development of the Yasuni Fund portfolio, for both the Capital Fund Window and the Revenue Fund Window described below; and
- (h) Ongoing monitoring and evaluation of all Yasuni Fund activities.

Purpose, Principles and Structure of the Yasuni Fund

7. The Yasuni Fund, which will have two windows - a **Capital Fund Window** and a **Revenue Fund Window** - is established to assist the Government finance the following strategic sustainable development interventions, within the guidelines of the National Development Plan:

- (a) **Effectively conserving and preventing deforestation in 40 continental protected areas**, totaling 4.8 million hectares, and appropriately administering five million hectares of natural areas that belong to indigenous and Afro-Ecuadorian communities. The total surface area protected would amount to 38% of Ecuador's territory, one of the highest percentages in the world. Properly conserving the Yasuni Park would also allow the Tagaeri and Taromenane peoples to remain in voluntary isolation.
 - (b) **Reforestation, forestation, natural regeneration and appropriate management of one million hectares of forest** owned by small landholders, on land that is currently threatened by soil degradation. Also a substantial reduction in the current rate of deforestation, considered to be one of the highest in South America.
 - (c) **Renewable energy and increase national energy efficiency** and energy savings, including investment in environmentally friendly and socially inclusive renewable energy plants: Hydro, geothermal, solar, wind, biomass, and tide. Also, financial support for energy efficiency in industry and homes is considered.
 - (d) **Promote social development in the Initiative's zones of influence**, with programs that include health, education, training, technical assistance and productive job creation in sustainable activities, such as ecotourism, agriculture and agro-forestry.
8. The following organizations will be involved in the Yasuni Fund:
- (a) **The Ministry of Foreign Affairs through the Yasuni ITT Coordination Office has been designated as the Government Coordinating Organization** with a mandate to coordinate the development and implementation of the Yasuni Fund activities on behalf of the Government, promote Government-wide participation in the Yasuni Fund process, and exercise oversight, accountability and transparency in relation to the portfolio implemented by national entities - Recipient and Implementing Organizations. The Yasuni ITT

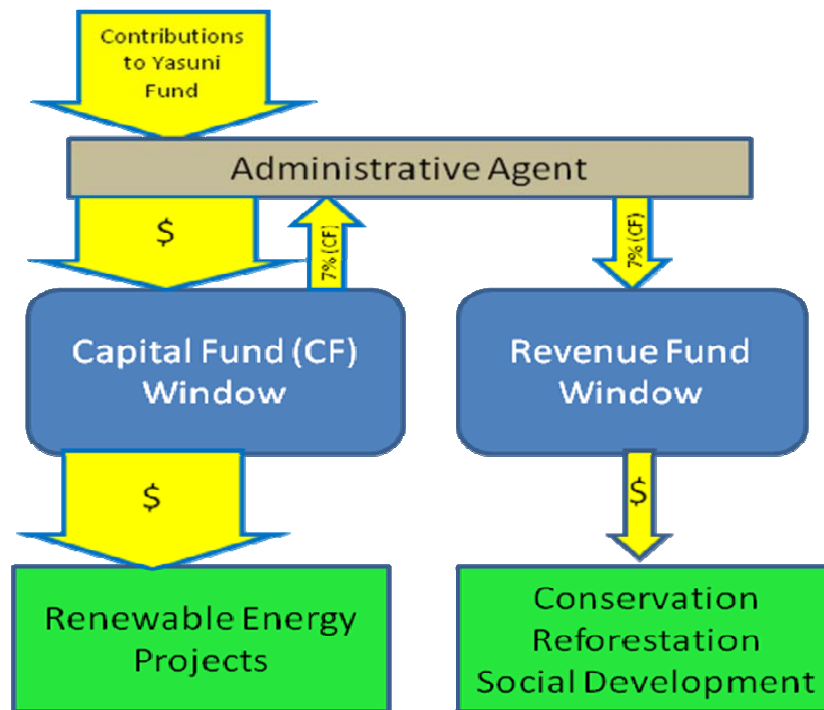
Coordination Office of the Ministry for Foreign Affairs will work closely with the Ministry of Finance to coordinate all activities related to the Yasuni ITT;

- (b) **Recipient Organizations**, national institutions responsible for implementation of projects funded from the Capital Fund Window of the Yasuni Fund;
- (c) **Implementing Organizations**, national institutions responsible for implementation of projects funded from the Revenue Fund Window of the Yasuni Fund;
- (d) **Participating UN Organizations**, if requested by the Government, involved in implementation of projects from the Revenue Fund Window of the Yasuni Fund; and
- (e) **The Administrative Agent** entrusted with fund administration functions for the Yasuni Fund.

9. The funding flow of the Yasuni Fund is described in Graph 1 on page 6. The Capital Fund Window, which will be established through donor contributions to the Yasuni Fund Account, will be used to finance renewable energy projects submitted by Recipient Organizations in the investment areas.

10. The Revenue Fund Window of the Yasuni Fund shall be resourced with mandatory annual revenue payments from the Recipient Organizations, payable to the Government, through the Revenue Fund Window, in the amount (in %) approved by the Steering Committee including the repayment years on the amount disbursed to the Recipient Organization from the Capital Fund Window. The Revenue Fund Window will be used to fund development projects within the framework of the strategic sustainable development interventions described in Paragraph 7 of this TOR. The Revenue Fund Window projects will be implemented primarily by national entities in accordance with Ecuadorian national laws and accountability framework, and where considered appropriate by the Government, by Participating UN Organizations in partnership with national entities.

Graph 1: Yasuni Fund - Funding Flow



11. The Yasuni Fund arrangements aim to ensure, in particular, that:
 - (a) Each project approved for funding is part of a Government-approved Yasuni-ITT Initiative priority programme;
 - (b) The activities financed are implemented as much as possible by national implementation partners, under the overall ownership and leadership of the Government, to ensure sustainable local capacities;
 - (c) Funding and implementation are undertaken with full transparency and accountability as well as to prompt delivery and efficient utilization of Yasuni Fund resources.

12. The Yasuni Fund modus of operation will enable the Government of Ecuador to oversee and guide the coordinated implementation of activities in the areas of the Yasuni Fund operations in accordance with its development agenda and ensure transparent fund administration and project implementation in accordance with international standards.

Administration of the Yasuni Fund and Legal Instruments

13. The Yasuni Fund shall be administered by the UNDP through its MDTF Office, as Administrative Agent, providing management and other support services to the Government, in accordance with UNDP's regulations and rules. UNDP will establish a separate bank account for receipt of contributions to the Yasuni Fund.

14. The Yasuni Fund will be established upon the signing of:

- (a) Memorandum of Agreement (MOA) between the Government of Ecuador and the Administrative Agent for Management and Other Support Services related to the Yasuni Fund;
- (b) Memorandum of Understanding between the Government Coordinating Organization that will assume overall accountability on behalf of the Government and the Administrative Agent for funds approved for implementation by the Recipient Organizations of the Capital Fund Window and Implementing Organizations of the Revenue Fund Window¹;
- (c) Standard Administrative Arrangements between the Administrative Agent and the donors contributing to the Yasuni Fund; and
- (d) Where agreed with the Government, Memoranda of Understanding with UN Organizations selected to carry out activities under the Revenue Fund Window.

15. The Government of Ecuador will issue the Yasuni Guarantee Certificates (CGY) to donors contributing to the Yasuni Fund as a guarantee that the oil reserves will remain in the ground for an indefinite time period.

16. The UNDP MDTF Office, as the Administrative Agent of the Yasuni Fund, will:

- (a) Receive financial contributions from donors and deposit those in the Yasuni Fund Account;
- (b) Upon receipt of donor contributions, notify the Government and request it to issue within one month CGYs to donors equivalent to the amount contributed by each donor;

¹ The Government Coordinating Organization will conclude separate agreements with the national Recipient and Implementing Organizations, outlining their respective roles and responsibilities.

- (c) Once the CGYs are issued, have them held at the Bank where contributions to the Yasuni Fund are deposited; The ownership of the CGYs will be in accordance with the provisions of Paragraph 26 of this TOR;
- (d) Administer the funds received, in accordance with UNDP regulations, rules, policies and directives and the Yasuni Fund TOR, including the provisions relating to winding up the Yasuni Fund Account and related matters;
- (e) Subject to availability of funds and following agreements signed between the Government Coordinating Organization and Recipient Organizations, and after instruction from the Government Coordinating Organization, disburse the funds from the Capital Fund Window to each Recipient Organization for the Yasuni Fund projects in accordance with the decisions of the Yasuni Fund Steering Committee, taking into account the budget set out in the approved programmatic document², as amended in writing from time to time by the Steering Committee;
- (f) Receive annual revenue payments from the Recipient Organizations in the amount (in %) approved by the Yasuni Fund Steering Committee from the Capital Fund Window for each Recipient Organization, by initially deducting such amount before disbursement to the Recipient Organization and depositing the payments into the Revenue Fund Window, as the revenue payment for the first year, with subsequent payments falling due on the anniversary of the initial disbursement;
- (g) Subject to availability of funds, and following the agreement signed between the Government Coordinating Organization and the national Implementing Organizations carrying out activities financed from the Revenue Fund Window, disburse the funds from the Revenue Fund Window to the Implementing Organizations, in accordance with the decisions of the Yasuni Fund Steering Committee and the instruction of the Government Coordinating Organization, taking into account the budget set out in the approved programmatic document, as amended in writing from time to time by the Steering Committee;
- (h) In case the Government requests UN Organizations to serve as Participating Organizations, and after signature of the standardized Memorandum of Understanding between the Participating UN Organization and the

² As used in this document, an approved programmatic document refers to projects, programmes which are approved by the Yasuni Fund Steering Committee for fund allocation purposes.

Administrative Agent, subject to availability of funds, disburse the funds from the Revenue Fund Window to the Participating UN Organization, in accordance with the decisions of the Yasuni Fund Steering Committee, taking into account the budget set out in the approved programmatic document, as amended in writing from time to time by the Yasuni Fund Steering Committee;

- (i) Consolidate statements and reports, based on submissions provided to the Administrative Agent by the Government Coordinating Organization containing the submissions of each Recipient Organization of the Capital Fund Window and national Implementing Organizations of the Revenue Fund Window, as set forth in Paragraph 43 below, and any Participating UN Organization, and provide these to the Steering Committee and contributing donors, through the Technical Secretariat;
- (j) Provide final reporting, including notification that the Yasuni Fund has been operationally completed, in accordance with the Yasuni Fund TOR;
- (k) Disburse funds to the Government Coordinating Organization or a Participating UN Organization for any additional costs of the tasks that the Steering Committee may decide to allocate in accordance with the Yasuni Fund TOR.

17. While UNDP, at the request of the Government, has agreed to provide fund administration services to the Yasuni Fund until there are no further contributions to the Yasuni Fund, it is committed to build and strengthen the capacity of a national entity that will be selected by the Government to perform fund administration and management functions in the future. The Steering Committee will undertake a comprehensive review of the Yasuni operations at a date to be determined by the Steering Committee and decide if UNDP can hand over the fund administration functions to a national successor. If the Steering Committee decides that the fund administration should continue to be provided by an international organization, it will initiate a process to identify and reach agreement with such an organization that will assume all the responsibilities of UNDP as the Yasuni Fund Administrative Agent.

Contributions to the Yasuni Fund

18. Contributions to the Yasuni Fund may be accepted from governments, intergovernmental or non-governmental organizations, private-sector organizations and the public at large in support of the Yasuni-ITT Initiative.

19. Contributions to the Yasuni Fund will be made as unearmarked contributions, utilization of which will subsequently be approved by the Yasuni Fund Steering Committee on the basis of a transparent fund allocation criterion that will be agreed to by the Steering Committee;

20. Contributions to the Yasuni Fund may be accepted in United States dollars or in any other currency that can be readily utilized. Such contributions shall be deposited into the bank account established by the UNDP MDTF Office. Funds received from donors will be received on account of the Government of Ecuador, and not as UNDP resources.

21. The value of a contribution payment, if made in or other than United States dollars, shall be determined by applying the United Nations operational rate of exchange in effect on the date of payment. Gains or losses on currency exchanges shall be recorded in the Yasuni Fund Account established by the Administrative Agent.

22. Resources from the Yasuni Fund will be utilized for the purpose of meeting the direct costs of projects managed by the Yasuni Fund Recipient and Implementing Organizations. Details of such projects, including respective budgets and implementation partners (national entities, NGOs/civil society organizations, intergovernmental organizations) will be set out in the relevant project documents that will be reviewed by the Technical Secretariat and subsequently approved by the Steering Committee.

23. The UNDP MDTF Office as Administrative Agent will charge a one time fee of one per cent³ (1%) for fund administration services specified in Paragraph 16, which will be deducted from the donor contributions to the Yasuni Fund at the time that they are deposited.

24. The Government Organizations through the Yasuni Fund Recipient and Implementing Organizations shall assume full programmatic and financial accountability for the funds disbursed to them by the UNDP MDTF Office as Administrative Agent upon the instruction of the Steering Committee. Such funds shall be administered by each

³ A reduced AA fee will be negotiated if the cumulative donor contributions exceed US\$ 500 million.

Yasuni Fund Recipient and Implementing Organization in accordance with Ecuador's national regulations, rules, directives and procedures, provided that national financial regulations and rules do not contravene the principle of UNDP's Financial Rules and Regulations. Where the Government agrees to utilize Participating UN Organizations to carry out activities under the Revenue Fund Window, such Organizations shall assume full programmatic and financial accountability for the funds disbursed to them.

Yasuni Guarantee Certificates (CGY)

25. In exchange for donor contributions, the Ecuadorian Government will provide a guarantee to maintain the ITT field oil reserves in the ground indefinitely. Upon the receipt by the Administrative Agent of donor contributions and Administrative Agent's subsequent notification to the Government Coordinating Organization of the amount of such contributions, the Government will issue within one month a Yasuni Guarantee Certificate (CGYs) in US dollars equivalent to the face value of the donor contributions. The CGY is an instrument that does not earn interest and does not have an expiration or maturity date. As long as the Government maintains its commitment not to exploit the Yasuni oil reserves, the CGYs which are held in trust at the Bank holding the ITT Fund Account, will remain the property of the Government.

26. In the event that the Government defaults on its commitment and decides to exploit the oil in the Yasuni-ITT field, the CGYs will be transferred to the Yasuni Fund contributors. Once Government decides to initiate oil prospecting in the Yasuni oil fields, it shall notify the Steering Committee and the Administrative Agent. The Yasuni Fund accounts will thereafter be wound up so as to permit the orderly closure of the Yasuni Fund. The Administrative Agent will ensure that the CGYs issued by the Government and held in trust at the Bank holding the ITT Fund Account are transferred to the contributing donors. As specified in the CGYs, the ownership of the CGYs will entitle donors to receive the face value of the original donor contribution in US dollars⁴.

27. The CGYs issued against contributions of private individuals and Non-Governmental Organizations will be transferred to the National Environment Fund and entitle the National Environment Fund to receive directly annual revenue payments from the renewable energy projects that the Yasuni Capital Fund Window has funded.

⁴ If the contribution is received in currency other than United States dollars, in the event repayments have to be made by the Government of Ecuador to the contributing donors, the repayments will be made applying the United Nations operational rate of exchange used by the Administrative Agent to effect the donor deposits.

Governance Structure

28. The overall governance structure of the Yasuni Fund is depicted in Figure 1.

The Yasuni Fund Steering Committee

29. The Yasuni Fund shall be governed by a Steering Committee, co-chaired by a representative of the Government of Ecuador and the UNDP Resident Representative, who also serves as the United Nations Resident Coordinator for Ecuador. Membership on the Steering Committee shall include: (i) two other representatives of the Government of Ecuador; (ii) two representatives of the Donor community; and (iii) two representatives of Ecuadorean civil society, including one from Indigenous Groups. The Government shall nominate an Eminent Person as an *ex officio* member to the Yasuni Fund Steering Committee. This would be a nationally respected and politically independent figure, able to address national development aspirations and the objectives of the Yasuni Fund. The Director of the UNDP Energy and Environment Group, who brings in international expertise on climate and environmental issues will be serving as an *ex officio* member to the Steering Committee. The Steering Committee shall also include as an *ex officio* member the Yasuni Fund Administrative Agent (UNDP MDTF Office).

30. The Steering Committee may invite other entities as full or *ex officio* members, or as observers, based on two criteria:

- (a) The entity is involved in an activity financed by the Yasuni Fund; and/or
- (b) Is affected by the impact of a Yasuni Fund-financed activity, noting in particular organizations and indigenous persons and local communities.

31. The Steering Committee may also invite as an observer, on a full time or occasional basis, national or international entities whose work is of direct relevance to the Yasuni Fund, and where possibilities for collaboration exist.

32. The Steering Committee shall undertake the following responsibilities:

- (a) Provide overall leadership and set the strategic direction and oversight of the Yasuni Fund;
- (b) Review and make fund allocation decisions on all Yasuni Fund activities, from both the Capital Fund and the Revenue Fund, as recommended by the Government Coordinating Organization and appraised by the Technical Secretariat;

- (c) Authorize the Administrative Agent to release funds to the Recipient and Implementing Organizations, and to any Participating UN Organizations, if utilized upon request by the Government;
- (d) Review and approve a *Yasuni Fund Annual Strategic Plan*, which shall include the proposed budget framework and programme priorities for the Capital Fund and Revenue Fund, the Technical Secretariat and other Yasuni Fund entities as relevant. The *Annual Strategic Plan* shall be prepared by the Government Coordinating Organization, in collaboration with the Technical Secretariat;
- (e) Review and approve the *Annual Yasuni Fund Consolidated Report* that will be submitted by the Administrative Agent, for further submission to donors. Among other information, the *Annual Yasuni Fund Consolidated Report* shall include the annual consolidated narrative and financial reports of the Yasuni Fund projects, as implemented by the Recipient and Implementing Organizations and compiled and submitted to the Administrative Agent by the Government Coordinating Organization, and the narrative and financial reports of any Participating UN Organizations;
- (f) Review and approve the *Final Consolidated Reports* of the Yasuni Fund activities, which shall include the final consolidated narrative and financial reports of the Yasuni Fund projects, implemented by the Recipient and Implementing Organizations, and any Participating UN Organization for further submission to donors;
- (g) Maintain oversight of financial management of the Yasuni Fund, including through requesting third party financial audits of Recipient and Participating Organizations, as required;
- (h) Oversee effective monitoring and evaluation of all Yasuni Fund activities with a view to ensuring fund-wide success and transparency, including through receiving and approving the *Annual Monitoring and Evaluation Report* from the Technical Secretariat, including commissioning independent performance evaluations and “lessons learned” exercises;
- (i) Ensure the implementation of an effective external communication strategy; and,
- (j) Ensure coherence and/or collaboration between the Yasuni Fund and national programmes, maintaining close collaboration with national

authorities to ensure flexible adaptation of the Yasuni Fund activities to changes in national programmes. It will also ensure coordination with other relevant initiatives such as UN REDD, the United Nations Framework Convention on Climate Change (UNFCCC), the UN Convention on Biological Diversity, the Secretariat of the United Nations Permanent Forum on Indigenous Issues, the Coalition for Rainforest Nations, UN and other international and regional organizations.

33. The Steering Committee shall make decisions by consensus.
34. The Steering Committee shall meet on a quarterly basis preferably in Quito. Minutes of its meetings will be shared with all Yasuni Fund donors.

The Yasuni Fund Technical Secretariat

35. The Technical Secretariat of the Yasuni Fund is an impartial entity providing administrative, technical and substantive support to the Steering Committee. The Secretariat shall provide high quality project appraisals, capacity assessment, monitoring and evaluation of project performance and other analysis, as required.
36. The Technical Secretariat shall undertake five functions under one management structure:
 - (a) administrative support,
 - (b) analytical,
 - (c) project appraisal,
 - (d) monitoring and evaluation, and
 - (e) external communications.
37. The Technical Secretariat shall also (i) follow-up on the Steering Committee meetings to ensure that decisions are implemented, and report back to the Steering Committee as required, and (ii) provide liaison and coordination between the Steering Committee and other Yasuni Fund entities, particularly the Government Coordinating Organization and Administrative Agent.
38. The Yasuni Fund Technical Secretariat will comprise of qualified staff from the Ecuadorian Government and UNDP.

The Government Coordinating Organization

39. As the Government of Ecuador designated Government Coordinating Organization, the Ministry of Foreign Affairs through the Yasuni ITT Coordination Office shall be responsible and accountable for the effective development, implementation and monitoring and evaluation of the Yasuni Fund portfolio implemented by national entities. Among other tasks, the Government Coordinating Organization shall:

- (a) Assume full programmatic and financial accountability, on behalf of the Government, for activities implemented by the Recipient and Implementing Organizations;
- (b) Promote Government-wide participation, coordination and coherence in the Yasuni Fund;
- (c) Coordinate the design of the overall Yasuni Fund portfolio, including selection of the individual projects that will comprise the portfolio;
- (d) Authorize the development of *Project Proposals* by Recipient and Implementing Organizations, or by Participating UN Organizations, as required;
- (e) Ensure that all *Project Proposals* are relevant to the Yasuni Fund priorities, and that all development criteria have been met;
- (f) Submit *Project Proposals* to the Yasuni Fund Technical Secretariat for appraisal, including follow up as required; and
- (g) Compile and submit to the Administrative Agent the narrative and financial reports of the Yasuni Fund activities implemented by the Recipient and Implementing Organizations.

National Recipient and Implementing Organizations and Participating UN Organizations

40. The Recipient and Implementing Organizations, through the Government Coordinating Organization, will prepare proposals for funding and submit them to the Steering Committee for approval after review by the Technical Secretariat. Based on the instructions from the Steering Committee, the Administrative Agent will transfer the

approved funding to the relevant Recipient and Implementing Organizations.

41. The Government Coordinating Organization, through each Recipient and Implementing Organization, shall assume full programmatic and financial accountability for the funds disbursed to them by the Administrative Agent. Each Recipient and Implementing Organization shall establish a separate ledger account under its financial regulations and rules for the receipt and administration of the funds disbursed to it by the Administrative Agent from the Yasuni Fund Account. This separate ledger account shall be administered by each Recipient Organization and Implementing Organization in accordance with Ecuador's national regulations, rules, directives and procedures, including those relating to interest, subject to Paragraph 24 above. This separate ledger account shall be subject exclusively to the internal and external auditing procedures laid down in the national financial regulations, rules, directives and procedures, subject to Paragraph 24 above.

42. A Participating UN Organization, if requested to undertake activities by the Government, will prepare proposals for funding from the Revenue Fund Window and submit them to the Steering Committee for approval after review by the Technical Secretariat. Based on the instructions from the Steering Committee, the Administrative Agent will transfer the approved funding to the relevant Participating UN Organizations, who shall carry out the activities in accordance with their own regulations, rules, policies and procedures.

Project Identification and Review

43. The development and approval of the Yasuni Fund *Projects* shall follow the following stages:

- (a) **Development of a *Project Proposal*:** The development of the *Project Proposal* shall be authorized by the Government Coordinating Organization. The process and criteria for determining the composition of the portfolio and for authorizing development of individual projects shall be determined by the Government, acting within the established policy, priorities and procedures of the Yasuni Fund. *Project Proposals* will use a *Standard Project Template*, developed in collaboration between the Technical Secretariat, the Government Coordinating Organization and the Administrative Agent. The Recipient and Implementing Organizations shall ensure that each Yasuni Fund *Project Proposal* is supported by the appropriate performance, impact and capacity studies, as outlined in the *Standard Project Template*. Where

appropriate, the Recipient and Implementing Organizations shall engage in processes of public consultation, and include consultation results in the proposal;

- (b) **Submission of *Project Proposals* for appraisal by the Technical Secretariat:** *Project Proposals*, from both the Capital and Revenue Fund Windows, shall be presented to the Technical Secretariat for appraisal, with all relevant supporting documentation. *Project Proposals* shall be presented through the Government Coordinating Organization, which will make its own recommendation on funding allocation. The Technical Secretariat shall conduct a comprehensive, independent and impartial Technical Appraisal of each *Yasuni Fund Project Proposal*, based on criteria developed in collaboration with the Government Coordinating Organization and approved by the Steering Committee. Among other elements, the appraisal shall include a review of the financial, technical and performance elements of the activity, as well as impact studies (environmental and/or social, as required). It will also include an assessment of the institutional capacity of the Recipient or Implementing Organization, to ensure the organization has the means to implement the project. The Technical Appraisal may be conducted directly by Technical Secretariat personnel. Alternatively, the Technical Secretariat may contract the services from a competent national or international entity.
- (c) **Decision on Funding Allocation by the Steering Committee:** The Technical Secretariat will present the findings of its *Technical Appraisal of Project Proposals* to the Steering Committee, along with all relevant project documentation and the recommendation of the Government Coordinating Organization. At its regular meetings, the Steering Committee will render a decision on funding allocations to each *Project Proposal*, taking into account the recommendations of the Government Coordinating Organization and the findings of the Technical Secretariat appraisal. The Steering Committee may also receive submissions from other interested parties, where these are of direct relevance to the *Project Proposal* under consideration. The Steering Committee shall have access to all information it deems relevant in making its decision. Where a project is rejected, or where the Steering Committee determines revision or further study are necessary, the Steering Committee shall communicate its decision or request to the Government Coordinating Organization, and will direct the Technical Secretariat to take the appropriate follow up action;

- (d) **Release of funds:** Following its project approval and funding allocation decisions, the Steering Committee will authorize the Administrative Agent to release funds;
- (e) **On-going Monitoring and Evaluation:** After the funding allocation decision, the Recipient and Implementing Organizations, working with the Government Coordinating Organization and the Yasuni Fund Technical Secretariat, shall ensure that each activity is subject to the required standards and procedures for accountability and transparency, including all financial and programme performance monitoring, evaluation and reporting, in accordance with internationally accepted standards.

Reporting, Transparency and Accountability

44. For each project approved for funding from the Yasuni Fund, each Recipient and Implementing Organization through the Government Coordinating Organization as well as any Participating UN Organization shall provide the Administrative Agent with the following statements and reports prepared in accordance with the reporting procedures of the Yasuni Fund:

- (a) Annual narrative progress reports, to be provided no later than three months (31 March) after the end of the calendar year;
- (b) Annual financial statements and reports as of 31 December with respect to the funds disbursed to it from the Yasuni Fund Account, to be provided no later than four months (30 April) after the end of the calendar year;
- (c) Final narrative reports, after the completion of the activities in the approved programmatic document and including the final year of the activities in the approved programmatic document, to be provided no later than four months (30 April) of the year following the financial closing of the Fund. The final report will give a summary of results and achievements compared to the goals and objectives of the Fund;
- (d) Quarterly progress updates that will allow the Government and the Steering Committee to assess the progress of project implementations on an on-going basis;
- (e) Certified final financial statements and final financial reports after the completion of the activities in the approved programmatic document and

including the final year of the activities in the approved programmatic document, to be provided no later than six months (30 June) of the year following the financial closing of the Fund.

45. In line with the Memorandum of Understanding, the Administrative Agent will prepare consolidated narrative progress and financial reports, based on the reports referred to in Paragraph 43 (a) to (e) above, and will provide those consolidated reports to each donor that has contributed to the Yasuni Fund Account, as well as the Steering Committee, in accordance with the timetable established in the Standard Administrative Arrangement.

46. The Administrative Agent shall also provide to the donors and the Steering Committee an annual certified financial statement on its activities as Administrative Agent ('Report on Sources and Use of Funds') no later than five months (31 May) after the end of the calendar year, as well as a certified financial statement no later than seven months (31 July) of the year following the financial closing of the Fund.

Public Disclosure

47. The Steering Committee, Government Coordinating Organization and Administrative Agent shall collaborate to ensure full transparency and accountability of the Yasuni Fund operations. The Government and Administrative Agent will ensure that operations of the Yasuni Fund are publicly disclosed on the website of the Yasuni ITT (www.yasuni-itt.gov.ec) as well as on the Administrative Agent's website (www.undp.org/mdtf). Website postings will include a record of decisions of the Steering Committee, summary sheets of pipeline and approved projects, project and fund level financial and progress reports, and external evaluation reports, including relevant information on the Yasuni Fund operations.

48. Each Recipient and Implementing Organization as well as each Participating UN Organization shall take appropriate measures to publicize the Yasuni Fund so as to give due credit to the Government. Information given to the press and to the beneficiaries of the assistance provided through the Yasuni Fund, all related publicity material, official notices, reports and publications shall acknowledge the leading role of the Government. In particular, the Administrative Agent will ensure that full recognition is given to the role of the Government and national partners in all external communications relating to the Yasuni Fund.

Other Matters

Ownership of Equipment, Supplies and Other Property

49. Ownership of equipment, supplies and other property financed from the Yasuni Fund shall vest in the Government of Ecuador, except for such equipment, supplies and other property acquired by a Participating UN Organization, in which case ownership shall be determined in accordance with such Organization's regulations, rules, policies and procedures.

Audit

50. Project-level auditing shall be subject exclusively to the internal and external auditing procedures provided for in the financial regulations, rules and directives of the Government of Ecuador. The activities of the UNDP MDTF Office, as the Administrative Agent, and the Participating UN Organizations shall be subject exclusively to the internal and external auditing procedures provided for in the financial regulations, rules and directives of UNDP and the applicable UN Organization.

Evaluation and Independent Lessons Learned Review

51. The Steering Committee will ensure that the Technical Secretariat develops an appropriate Monitoring and Evaluation Plan so that all projects supported by the Yasuni Fund will undertake proper monitoring and final evaluation which will assess the relevance and effectiveness of the intervention, and measure the development impact of the results achieved, on the basis of the initial analysis and indicators described at the time of programme formulation.

52. In view of the unique features of the Yasuni Fund and its possible relevance and lessons for other similar initiatives of other developing countries, the Steering Committee shall commission periodic independent "lessons-learned and review exercises" of the entire operation of the Yasuni Fund, as appropriate.

53. The Government Coordinating Organization will ensure the development of a system for evaluation of the Fund's use of resources and operations in accordance with the applicable law and regulations of the Republic of Ecuador.

Termination of the Yasuni Fund

54. Notwithstanding the completion of the projects financed from the Yasuni Fund, any unutilized balances shall continue to be held in the Yasuni Fund Account until all commitments and liabilities incurred in the implementation of the projects have been satisfied and project activities have been brought to an orderly conclusion.

55. Any balance remaining in the Yasuni Fund Account or in the individual Recipient, Implementing or Participating UN Organizations' separate ledger accounts upon winding up of the Yasuni Fund will be used for a purpose as decided by the Steering Committee or returned to the Government of Ecuador.

56. The Yasuni Fund has an undetermined termination date since the fund will continue generating revenue payments over the years. However, UNDP's role as the Yasuni Fund Administrative Agent shall be limited until there are no further contributions to the Yasuni Fund , as detailed in paragraph 17 of this TOR. Thereafter an appropriate national entity designated by the Government of Ecuador or another international organization will assume the fund administration functions, from the UNDP MDTF Office, as approved by the Yasuni Fund Steering Committee, including custody of the Yasuni Fund Account and the CGYs held in its bank.

Figure 1: Governance Structure of the Yasuni Fund

