



***Ecuador Yasuni ITT
Trust Fund:
Terms of Reference***

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Table of Content

Introduction.....	3
Purpose, Principles and Structure of the Yasuni Fund	5
Administration of the Yasuni Fund and Legal Instruments	8
Contributions to the Yasuni Fund	10
Yasuni Guarantee Certificates (CGY)	12
Governance Structure	13
The Yasuni Fund Steering Committee	14
The Yasuni Fund Technical Secretariat.....	16
The Government Coordinating Entity	17
Project Identification and Review	18
Reporting, Transparency and Accountability	20
Public Disclosure	21
Other Matters.....	22
Ownership of Equipment, Supplies and Other Property.....	22
Audit	22
Evaluation and Independent Lessons Learned Review	22
Termination of the Yasuni Fund	22

The Ecuador Yasuni ITT Trust Fund Terms of Reference

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 have been dramatic; however this situation is changing due to government policies in effect since 2007.

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-Taromenane, 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 within the Yasuni National Park, in order to put social and environmental values first, and to explore 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 underground, becoming the first contributor to this Initiative.

3. The Ecuadorian initiative proposes non-exploitation of the Yasuni-ITT field, one of the most important oil reserves in the country, located in the Yasuni National Park. 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 pioneer proposal, unprecedented in the history of an oil-dependent country, has been received favorably by several 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 sustainable development, which in Ecuador is conceived as *sumak kawsay* or life at its fullest.

5. As part of Ecuador’s commitment to indefinitely refrain from extracting the 846 million barrels of heavy crude oil reserves in the ITT field, within the Yasuni National Park,

currently estimated at US\$ 7.2 billion, and prevent the emission of 407 million metric tons of Carbon Dioxide (CO₂) which would result from burning these fossil fuels, it has established the Yasuni ITT Trust Fund (hereafter referred to as “Yasuni Fund”), to enable the international community to channel financial contributions towards reduction of CO₂ emissions, preservation of cultural and biological diversity and poverty reduction – part of the key development objectives of the internationally agreed Millennium Development Goals. 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 tidal power plants.

6. 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 trust funds. It will be governed and overseen by a Steering Committee led by the Government, with the participation of representatives from Contributors, Ecuadorian civil society, and development partners. Contributors to the Yasuni Fund include Governments, Private and Public entities, including Intergovernmental and Non-Governmental Organizations, and individuals (hereinafter referred to as “Contributors”).

7. The Government 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 to the Ecuadorian 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 laws, regulations, rules, directives and procedures, and accountability framework of Ecuador (hereinafter referred to as the “National Regulatory Framework”) and the development and approval of the Yasuni Fund portfolio of activities, in accordance with Paragraph 25;
- (e) Participation of the Yasuni Fund Contributors 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

8. 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 programmes, within the guidelines of the Ecuadorian National Development Plan:

a) Effectively prevent deforestation and conserve ecosystems, particularly the national system of natural protected areas, including its buffer zones. The total surface area currently under State's protection amounts approximately 20% of Ecuador's territory, one of the highest percentages in the world. Properly conserving the Yasuni National Park would also allow the Tagaeri and Taromenane indigenous peoples to remain in voluntary isolation.

b) Reforestation, afforestation, natural regeneration and appropriate management of one million hectares of forest owned by small and medium 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. This program includes watershed management.

c) Renewable energy and increase of national energy efficiency and energy savings, including investment in environmentally friendly and socially inclusive renewable energy plants: Hydro, geothermal, solar, wind, biomass, and tidal. 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, protection of ecosystems' services and agro-forestry.

e) Support research, science, technology and innovation with programs that enhance: a) the generation of goods and services based on bio-knowledge, b) integrated river basin

management, and c) change in the energy matrix, prioritized in the Ecuadorian National Development Plan.

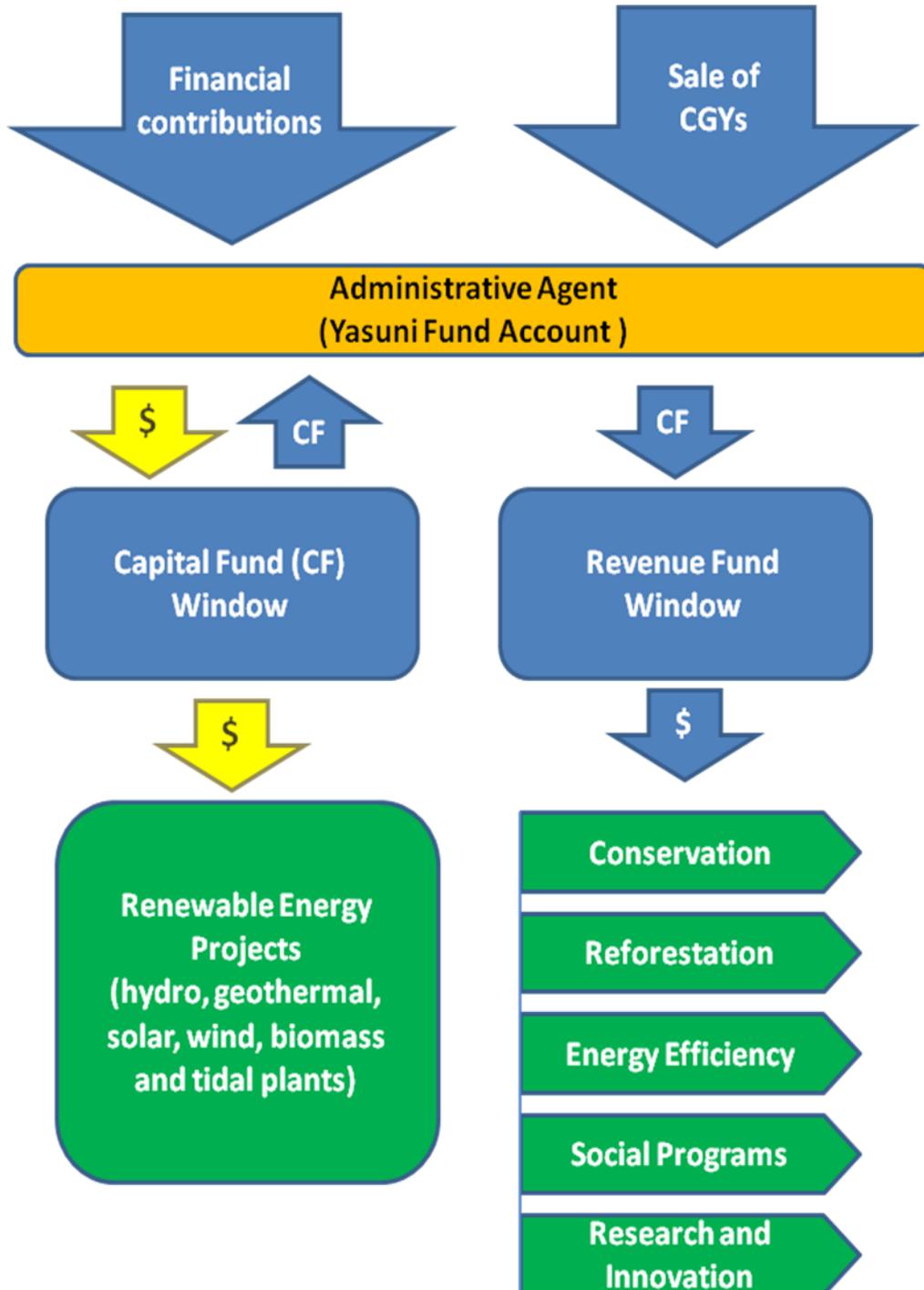
9. The following entities are involved in the Yasuni Fund:

- (a) **The Ministry of Heritage through the Yasuni ITT Coordination Office has been designated as the Government Coordinating Entity** 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, ensure the exercise of oversight, accountability and transparency in relation to the portfolio implemented. The Yasuni ITT Coordination Office will work closely with the Ministry of Finance to coordinate all financial activities related to the Yasuni ITT. Annually the Ministry of Finance will incorporate the projected Capital and Revenue Fund resources as part of the National Budget.
- (b) **Recipient Organizations**, national institutions responsible for the implementation of projects funded by 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; and
- (d) **The Administrative Agent** entrusted with fund administration functions for the Yasuni Fund.

10. The funding flow of the Yasuni Fund is described in Figure 1 on page 6. The Capital Fund Window, which will be financed by contributions to the Yasuni Fund Account and/or the issuance or sale of Yasuni Guarantee Certificates (CGYs) to private and/or public entities, will be used to finance renewable energy projects submitted by Recipient Organizations.

11. The Revenue Fund Window of the Yasuni Fund shall be replenished with mandatory annual revenue payments received from Recipient Organizations for the use of the funds from the Capital Fund Window. The terms of payment of the Recipient Organizations will be approved by the Steering Committee. The Revenue Fund Window will be used to fund development projects within the framework of the strategic sustainable development programmes described in Paragraph 8 herein. The Revenue Fund Window projects will be implemented by national entities in accordance with the National Development Plan and the National Regulatory Framework.

Figure 1: Yasuni Fund- Funding Flow Chart



12. 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 according to the Ecuadorian National Development Plan;
 - (b) The activities financed are implemented 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, prompt delivery and efficient utilization of Yasuni Fund resources.
13. The Yasuni Fund mode of operation will enable the Government 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

14. 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.
15. The Yasuni Fund will be established upon the signing of:
- (a) Memorandum of Agreement (MOA) between the Government and UNDP, as the Administrative Agent, for Management and Other Support Services related to the Yasuni Fund, including provisions related to the Government Coordinating Entity's overall accountability on behalf of the Government for funds approved for implementation by the Recipient Organizations of the Capital Fund Window and Implementing Organizations of the Revenue Fund Window; and,
 - (b) Standard Administrative Arrangements between the Administrative Agent and the Contributors to the Yasuni Fund, except for contributions under a minimum threshold to be established by the Steering Committee in its Rules of Procedures.

16. The UNDP MDTF Office, as the Administrative Agent of the Yasuni Fund, will:
- (a) Receive financial resources from Contributors and payments from the sale of CGYs and deposit those in the Yasuni Fund Account for transfer to the Capital Fund Account.
 - (b) Upon receipt of financial contributions, notify the Government and request it to issue within 30 days CGYs to Contributors equivalent to the amount contributed by each of them;
 - (c) Receive payments into the Yasuni Fund Account for transfer to the Capital Fund Window Account from the Government's placement and sale of CGYs to private and public entities;
 - (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 Entity and Recipient Organizations, and after instruction from the Government Coordinating Entity, 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 document¹, as amended in writing from time to time by the Steering Committee;
 - (f) Receive annual revenue payments from the Recipient Organizations in the amount 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 Entity and the Implementing Organizations

¹ 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.

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 Steering Committee and the instruction of the Government Coordinating Entity, 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) Consolidate statements and reports, based on submissions provided to the Administrative Agent by the Government Coordinating Entity containing the submissions of each Recipient Organization of the Capital Fund Window and Implementing Organizations of the Revenue Fund Window, as set forth in Paragraph 47 below, and provide these to the Steering Committee and Contributors, through the Technical Secretariat;
- (i) Provide final reporting, including notification that the Yasuni Fund has been operationally completed, in accordance with the Yasuni Fund TOR;
- (j) Disburse funds to the Government Coordinating Entity for any additional costs of the tasks that the Steering Committee may decide to allocate in accordance with the Yasuni Fund TOR.

17. At the request of the Government, UNDP has agreed to provide fund administration services to the Yasuni Fund until there are no further contributions to the Yasuni Fund, as specified in Paragraph 22. 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 or maintain UNDP or select another international organization as the fund administrator. If the Steering Committee decides that the fund administration should continue to be provided by another international organization, it will initiate a process, in consultation with the Government and the Contributors to the Yasuni Fund, 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, as compensation for Ecuador's commitments to indefinitely refrain from extracting the 846 million barrels of heavy crude oil reserves in the ITT field located in the Yasuni National Park and preventing CO₂ emission of 407 million metric tons will be accepted from three main sources:

- (a) contributions from Governments, Intergovernmental Entities, Non-Governmental Organizations, Private Foundations, Private-Sector Organizations, and individuals;
- (b) contributions from the public at large, through public fund-raising events following the prior approval of the Steering Committee, and
- (c) Income from the sale of CGYs by the Government to private and public entities in return for mitigating greenhouse gas emissions through avoidance of oil and gas extractions from the Yasuni area that is socially and environmentally sensitive, in accordance with Paragraph 27 herein.

19. Contributions to the Yasuni Fund will be made as unearmarked contributions. Their use 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, in accordance with Paragraph 8 above.

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 Contributors will be received on account of the Government, and not as UNDP resources.

21. The value of a contribution payment, if made in a currency 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. Contributions to the Yasuni Fund will be received until the CGYs have been issued or sold for 407 million metric tons of CO₂, amounting to the maximum of the total avoided emissions, as stated in Paragraph 5.

23. 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.

24. To cover the cost of the UNDP MDTF Office fund administration services specified in Paragraph 16, UNDP will submit an annual estimated cost of services to the Yasuni Fund Steering Committee, through the Technical Secretariat in the third quarter of the year, for

services to be provided in the following year. The annual estimated costs will be reviewed and approved by the Yasuni Fund Steering Committee and payment will be made to UNDP out of the Yasuni Fund Account prior to the commencement of the fund administration services. Until such time that the Yasuni Fund Account has sufficient funds to cover the Administrative Agent's services, the Government will provide such funds directly to UNDP, following the signature of the Memorandum of Agreement (MOA) between the Government and UNDP specified in Paragraph 15(a). As soon as the Yasuni Fund Account has received sufficient funds, the Government will be reimbursed the cost it has paid to UNDP for the Administrative Agent's services, following approval of the Steering Committee.

25. The Government Coordinating Entity 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 Yasuni Fund Recipient and Implementing Organization in accordance with the National Regulatory Framework, provided that national financial regulations and rules do not contravene the principle of UNDP's Financial Regulations and Rules.

Yasuni Guarantee Certificates (CGY)

26. In exchange for contributions, the Government will provide a guarantee to maintain the Yasuni ITT field oil reserves underground indefinitely. Where the contribution is below the minimum threshold, established by the Steering Committee in its Rules of Procedure, it shall constitute a donation to the Yasuni Fund and will not entitle the Contributor to Yasuni Guarantee Certificates (CGYs). Upon receipt of contributions by the Administrative Agent and its subsequent notice to the Government Coordinating Entity of the amount of such contributions, the Government will issue within 30 days CGYs in US dollars equivalent to the face value of each contribution. The CGYs will also include the metric tons of CO₂ avoided according to the price, at that date, of the European Union Allowances (EUAs) in the Leipzig Carbon Market. 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 ITT oil reserves.

27. In addition, if in the future the world carbon market accepts the CGYs as equivalents of Emission Permits, the Government will issue CGYs for sale to private and/or public entities in mitigating greenhouse gas emissions through avoidance of oil and gas

extractions from megabiodiverse areas that are highly socially and environmentally sensitive.

28. Consistent with Paragraph 22, the maximum total amount of CGYs issued by the Government will be equivalent to the value of a total of 407 million metric tons of CO₂ not emitted as a result of preserving the Yasuni ITT oil reserves.

29. In the event that the Government defaults on its commitment and decides to initiate oil prospecting in the Yasuni ITT oil fields, the CGYs will entitle the holders to be reimbursed by the Government the equivalent to the face value of the CGYs in US dollars², in such form as shall be agreed between the Government and the Contributor. In that event, the uncommitted balance of the Capital Fund Window shall be used by the Government towards the reimbursement to the Contributors of the face value of the CGYs. To this end, the uncommitted balance of the Capital Fund Window, if any, shall be returned to the Contributors in the proportion of their contribution. Once the Government notifies the Steering Committee and the Administrative Agent of its decision to initiate oil prospecting in the Yasuni ITT oil fields, the Yasuni Fund accounts will thereafter be wound up so as to permit the orderly closure of the Yasuni Fund, including settlement of claims on issued CGYs.

30. The contributions to the Yasuni Fund must reach a minimum threshold of US\$ 100 million by the end of 2011. The Yasuni Fund will be assessed every two years regarding the contributions obtained according to the present value and considering the expected minimum amount of US\$ 3.6 billion in 13 years. In the case that the Yasuni Fund does not receive US\$ 100 million by December 2011, the Government will refund the Contributors with the exception of those that have explicitly expressed their interest in donating these resources for the activities described in Paragraph 8.

Governance Structure

31. The overall governance structure of the Yasuni Fund is depicted in Figure 2.

² If the contribution is received in currency other than US dollars, in the event repayments have to be made by the Government of Ecuador to the contributors, the repayments will be made applying the original United Nations operational rate of exchange used by the Administrative Agent to record the contribution.

The Yasuni Fund Steering Committee

32. The Yasuní Fund shall be governed by a Steering Committee chaired by a representative of the Government. The Steering Committee will have six full members, each one with a vote: (i) three representatives of the Government, including the Chairperson with casting vote; (ii) two representatives from the Contributor Governments; and (iii) one Ecuadorian civil society representative. After the launch of the Yasuni Fund, the Government will establish the Steering Committee as soon as possible, and thereafter the Steering Committee will establish its Rules of Procedure.

33. The UNDP Resident Representative, who also serves as the UN Resident Coordinator, and the Executive Coordinator of the UNDP MDTF Office, representing UNDP as the Administrative Agent of the Yasuni Fund, will participate in the Steering Committee as *ex officio* members.

34. The Steering Committee may invite other entities, such as those listed below, to hear their views and perspectives on the Yasuni Fund financed activities:

- (a) An entity that is involved in an activity financed by the Yasuni Fund;
- (b) An entity that is affected by the impact of a Yasuni Fund-financed activity, noting in particular organizations and indigenous persons and local communities, and/or
- (c) A national or international entity whose work is of direct relevance to the Yasuni Fund, and where possibilities for collaboration exist.

35. The Head of the Technical Secretariat will act as Steering Committee Secretariat without participation in the decision making process.

36. The Steering Committee shall make decisions by majority, aiming to consensus. In the case of no consensus, the Chairperson will have the casting vote.

37. 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 Entity and appraised by the Technical Secretariat

and in accordance to the programs set by the Yasuni-ITT Initiative within the framework of the Ecuadorian National Development Plan;

- (c) Authorize the Administrative Agent to release funds to the Recipient and Implementing Organizations;
- (d) Review and approve the *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 Entity, in collaboration with the Technical Secretariat;
- (e) Review and approve the annual estimated costs submitted by the Administrative Agent to cover its fund administration services and ensure that payments are made to the Administrative Agent prior to the commencement of the fund administration services.
- (f) Review and approve the *Annual Yasuni Fund Consolidated Report* that will be submitted by the Administrative Agent, for further submission to Contributors and public dissemination. 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 Entity;
- (g) Review and approve, as applicable, 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 for further submission to Contributors and public dissemination;
- (h) Maintain oversight of financial management of the Yasuni Fund, including through requesting third party financial audits of Recipient and Participating Organizations, as required;
- (i) Oversee effective monitoring and evaluation of all Yasuni Fund activities to ensure fund-wide success and transparency, including receiving and approving the *Annual Monitoring and Evaluation Report* from the Technical Secretariat, including commissioning independent performance evaluations and “lessons learned” exercises;

- (j) Ensure the implementation of an effective communication strategy; and,
- (k) 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 related to the United Nations Framework Convention on Climate Change (UNFCCC), the UN Convention on Biological Diversity (CDB), the UN Convention to Combat Desertification (UNCCD), the UN Permanent Forum on Indigenous Issues, the UN Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (UN REDD), and other international and regional organizations and coalitions.

38. The Steering Committee shall meet on a quarterly basis preferably in Quito. Upon request of a member of the Steering Committee for an extraordinary meeting, such a meeting could be accommodated, provided that there is one-month notice in advance of the meeting. Decisions of Steering Committee meetings will be shared with all Yasuní Fund Contributors through the official website and other means.

The Yasuni Fund Technical Secretariat

39. The Technical Secretariat of the Yasuni Fund is an impartial entity providing administrative, technical and substantive support to the Steering Committee. The Technical Secretariat shall be staffed by the Government, which will request support from UNDP for the Technical Secretariat, as appropriate. The Secretariat shall provide high quality project appraisals, capacity assessment, monitoring and evaluation of project performance and other analysis, as required.

40. The Technical Secretariat shall undertake four functions under one management structure:

- (a) Technical support,
- (b) Project appraisal based on documentation provided by the Government Coordinating Entity,
- (c) Monitoring and evaluation, and
- (d) Administrative support.

41. The Technical Secretariat shall also:

- (a) follow-up on the Steering Committee meetings to ensure that decisions are implemented, and report back to the Steering Committee as required,

- (b) provide liaison and coordination between the Steering Committee, the Government Coordinating Entity and the UNDP MDTF Office; and
- (c) monitor the volume of CGYs issued by the Government to both Contributors to the Yasuni Fund Account and private and public entities that purchase CGYs so as to ensure that the total volume of CGYs issued will not exceed the maximum value of 407 million metric tons of CO₂, and regularly report to the Steering Committee.

The Government Coordinating Entity

42. As the Government designated Government Coordinating Entity, the Ministry of Heritage through the Yasuni ITT Coordination Office, in cooperation with the National Secretary of Planning and Development, as appropriate, 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 Entity shall:

- (a) Instruct the Administrative Agent on the disbursements of the funds approved by the Steering Committee to the Recipient and Implementing Organizations, pursuant to the National Regulatory Framework.
- (b) Assume full programmatic and financial accountability, on behalf of the Government, for activities implemented by the Recipient and Implementing Organizations;
- (c) Promote Government-wide participation, coordination and coherence in the Yasuni Fund;
- (d) Coordinate the design of the overall Yasuni Fund portfolio, including selection of the individual projects that will comprise such portfolio;
- (e) Authorize the development of *Project Proposals* by Recipient and Implementing Organizations;
- (f) Ensure that all *Project Proposals* are relevant to the Yasuni Fund priorities, in accordance with the Ecuadorian National Development Plan, and that all development criteria have been met;
- (g) Submit *Project Proposals* to the Technical Secretariat for appraisal, including follow up as required;

- (h) Ensure the timely issue of CGYs and their issuance to Contributors to the Yasuni Fund Account and their sale to private and public entities, and
- (i) Compile and submit to the Administrative Agent the narrative and financial reports of the Yasuni Fund activities implemented by the Recipient and Implementing Organizations.

43. **The Ministry of Heritage' Yasuni ITT Coordination Office**, in cooperation with the Ministry of Finance, will ensure that funds disbursed by the Administrative Agent to the Recipient and Implementing Organizations, as approved by the Steering Committee, for the purposes of the approved activities under the Yasuni Fund, shall not be co-mingled and are released to the Recipient and Implementing Organizations timely.

44. **National Recipient and Implementing Organizations**, through the Government Coordinating Entity, 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.

45. **The Government Coordinating Entity**, 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 the National Regulatory Framework, including those relating to interest, subject to Paragraph 25 above. This separate ledger account shall be subject exclusively to the internal and external auditing procedures set forth in the National Regulatory Framework, subject to Paragraph 25 herein.

Project Identification and Review

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

- (a) **Development of a *Project Proposal***: The development of a *Project Proposal* shall be authorized by the Government Coordinating Entity. The process and criteria for determining the composition of the portfolio and authorizing development of individual projects shall be determined by the Government, according to the established policy, priorities and procedures of the Yasuni

Fund and the national investment procedures. *Project Proposals* will use a *Standard Project Application Form* in accordance with the General Guidelines for Investment and Foreign Cooperation developed by SENPLADES. 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 Entity, 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 Entity and approved by the Steering Committee. The appraisal shall include a review of the financial, technical and performance elements of the activity, social and environmental impact studies, and assessment of the institutional capacity of the Recipient or Implementing Organization to ensure the organization has the means to implement the project, among other elements. The Technical Appraisal may be conducted directly by Technical Secretariat personnel. Alternatively, the Technical Secretariat may hire 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 Entity. 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 Entity 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. If the Steering Committee rejects a project or if it requests further study or review. It

shall communicate its decision or request to the Government Coordinating Entity, 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 disburse funding promptly from the Yasuni Fund Account to Recipient and Implementing Organizations. The fund transfers to the projects by the Administrative Agent will normally be released quarterly, in accordance with the National Regulatory Framework, in order to avoid interruptions in the ongoing activities due to lack of funds. On a quarterly basis, the Steering Committee will verify the accurate use of the resources for the previous quarter, and will authorize the next fund allocation.
- (e) **On-going Monitoring and Evaluation:** After the funding allocation decision is made, the Recipient and Implementing Organizations, working with the Government Coordinating Entity 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

47. For each project approved for funding from the Yasuni Fund, each Recipient and Implementing Organization through the Government Coordinating Entity 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 (March 31) 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 (April 30) 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

(April 30) 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, as applicable.

- (d) Mid-year progress updates that will allow the Government and the Steering Committee to assess project implementation progress 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, as applicable.

48. In line with the Memorandum of Agreement, the Administrative Agent will prepare consolidated narrative progress and financial reports, based on the reports referred to in Paragraph 47 (a) to (e) above, and will provide those consolidated reports to each Contributor to the Yasuni Fund Account, as well as the Steering Committee, in accordance with the timetable established in the Standard Administrative Arrangement.

49. The Administrative Agent shall also provide to the Contributors 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 (May 31) after the end of the calendar year, as well as a certified financial statement no later than seven months (July 31) of the year following the financial closing of the Fund, as applicable.

Public Disclosure

50. The Steering Committee, Government Coordinating Entity 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 (<http://mdtf.undp.org>). Website postings will include a record of decisions of the Steering Committee, summary sheets of proposed and approved projects, project and fund level financial and progress reports, and external evaluation reports, including relevant information on the Yasuni Fund operations.

51. Each Recipient and Implementing Organization shall take appropriate measures to promote the Yasuni Fund. Information given to the press and to the beneficiaries of the assistance provided through the Yasuni Fund, all related promotional 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

52. Ownership of equipment, supplies and other property financed by the Yasuni Fund shall be vested in the Government.

Audit

53. Project-level auditing shall be subject exclusively to the internal and external auditing procedures provided in the National Regulatory Framework. The activities of the UNDP MDTF Office, as the Administrative Agent shall be subject exclusively to the internal and external auditing procedures provided in the financial regulations, rules and directives of UNDP.

Evaluation and Independent Lessons Learned Review

54. 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.

55. 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 an independent “lessons-learned and review studies” of the entire operation of the Yasuni Fund, as appropriate.

56. The Government Coordinating Entity will ensure the development of a system for evaluation of the Fund’s use of resources and operations in accordance with the National Regulatory Framework.

Termination of the Yasuni Fund

57. Notwithstanding completion of the projects financed from the Yasuni Fund, as applicable, 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.

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

59. 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 herein or a new national or international successor is selected by the Steering Committee in consultation with the Contributors.

Figure 2: Governance Structure of the Yasuni Fund

