



Ecuador Yasuní ITT

Trust Fund:

Operating Procedures

of the Yasuni ITT Trust Fund Steering

Committee

September 2011

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The Yasuni ITT initiative proposed the non-exploitation of Yasuni-ITT field, one of the largest oil reserves in the country, located in Yasuni National Park.

The vision of President Rafael Correa 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 marks an opportunity for the world to see more just and equitable paradigms of sustainable development, which in Ecuador is conceived as *sumak kawsay* or rights of living.

As part of the commitment of Ecuador to refrain indefinitely from extraction of 846 million barrels of heavy oil reserves in the ITT field within the Yasuni National Park, currently estimated at US\$ 7.2 billion, and to prevent the emission of 407 million metric tons of carbon dioxide (CO₂), which would result from burning of these fossil fuels, has established the Yasuni ITT Trust Fund (hereinafter the " Yasuni Fund"), to enable the international community to channel financial contributions towards reducing CO₂ emissions, preservation of cultural and biological diversity and poverty reduction - some key development goals of the internationally agreed Millennium Development Goals (MDGs). The Yasuni Fund will enable the Government to face the challenges of climate change and sustainable development by changing the country's energy matrix, through investment in renewable energy environmentally-friendly projects such as hydroelectric, geothermal, solar, wind, biomass and tidal plants.

The Yasuni Fund, through the Memorandum of Agreement, signed on 3 August 2010 between the Government of Ecuador (GoE) and the United Nations Development Programme (UNDP), for the Administration and other support services related to the Ecuador Fund Yasuni ITT, UNDP being an international organization with experience and a proven track record in managing trust funds. The Trust Fund is governed and overseen by a Steering Committee led by the Government, with the participation of representatives from the contributing countries, the Ecuadorian civil society, and with UNDP as an *ex-officio* member. The Contributors to the Yasuni Fund include governments, public and private entities, including inter-governmental organizations and non-governmental organizations, and individuals (hereinafter the "Contributors").

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

- A. Administration by UNDP through its Multi-Donor Trust Fund Office of (Multi-Partner Trust Fund Office (MPTF Office, previously referred as to MDTF Office);
- B. Guarantees for non-exploitation of oil reserves in the Yasuni-ITT to the Ecuadorian society and the international community (Yasuni Guarantee Certificates - CGYs);
- 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 of the TOR;
- 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;
- H. Ongoing monitoring and evaluation of all Yasuni Fund activities.

The Steering Committee¹ of the Yasuni Fund

The Yasuni Fund is governed by a Steering Committee chaired by the Coordinating Ministry of Heritage of the Republic of Ecuador. The Steering Committee has six full members with responsibility for decision making, each with one vote:

a. Three representatives of the Government, appointed by the President of the Republic by Executive Decree, with right to vote. The committee chairmanship will be assumed by one of these representatives and will have a casting vote.²

b. Two representatives of the Contributor Governments. The Political Committee of the Yasuni ITT³ Trust Fund determined that in the interim, for about a year, the two first countries that contributed to the Yasuni Fund will be serving as representatives of the Contributor Governments.⁴ Henceforth, the criteria and selection procedure of the two representatives of the Contributor Governments is as follows:

- Any country wishing to be representative of the Contributor Governments must be a contributor to the ITT Yasuni.

1 This document has used the terms “Coordinating Ministry of Heritage” and “Government Coordinating Entity” likewise.

2 Through the Executive Decree No. 596 of December 22, 2010, the President of the Republic Rafael Correa appointed "as representatives of the Government of Ecuador to the Yasuni Fund Steering Committee, the Coordinating Minister of Heritage who will preside, the Coordinating Minister for Strategic Industries and the National Secretary of Planning and Development." The composition of the Government's representation can only be changed through another Executive Decree.

3 The Political Committee of the initiative Yasuni ITT is an instance created by the President of the Republic as part of the initiative. It is in charge of general political guidelines to the National Government and the negotiating and technical teams. It is constituted by the Presidency and the Vice-presidency of the Republic which are the chairs, the Coordinating Ministry of Heritage, and the line Ministries of External Relations, Nonrenewable resources and environment, the National Planning Secretariat SENPLADES, and the Institute for the Ecodevelopment of the Amazon, ECORAE.

4 After the abstention of the Government of the Republic of Chile to participate as Contributor Government representative, the Kingdom of Spain and the Republic of Italy were asked to participate as the Steering Committee as representatives, the latter in recognition of its efforts to implement a debt swap for the benefit of the Initiative thus accepting this appointment.

- Countries that have contributed to the Yasuni ITT Trust Fund and wish to become members of the Steering Committee should send a letter to the Chair of the Steering Committee requesting its membership.
- The contributions of the countries nominated for the Yasuni ITT will be analyzed and representatives of the Contributor countries with the two largest financial contributions for that year will be designated.
- At the end of each year a new call for the election of two new Contributor Governments to serve on the Steering Committee is made. The election procedure is the same as mentioned above.

c. A representative of the Ecuadorian civil society⁵

Thereafter, the criteria and procedures for the appointment of the representative from civil society, is as follows:

The Chair of the Steering Committee shall, through the press, request potential candidates to come forward. The Chair will also make a shortlist to be presented to the Political Committee of the Fund.

The guidelines for the selection of the shortlist are:

- Be Ecuadorian by birth.
- Be of adult age.
- Be a member of the Amazon civil society.
- A potential candidate should be an important social actor representing the Amazon area of Ecuador and that has broad consensus and representativeness.

The representative of Ecuador's civil society is to be part of the Steering Committee for a period of one year, with the option of being re-elected for a second period of equal length.

According to the Terms of Reference of the Yasuni Fund, the UNDP Resident Representative, who also serves as UN Resident Coordinator and the Executive Coordinator of the UNDP MPTF Office, representing UNDP as Administrative Agent of the Yasuni Fund, will participate in the Steering Committee as *ex-officio* members, i.e. without vote.

The Steering Committee may invite other entities, which will not have voting rights, such as those listed below in order to hear their opinions and views concerning the activities funded by the Yasuni Fund:

⁵ For the first period, a Civil Society representative was appointed transiently by the Political Committee through a process developed by the EcoRAE. An alternate representative was selected as well to take the place of the principal representative in his absence.

- (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, in particular organizations and indigenous persons and local communities, without prejudice to the provisions of Section 57, No. 7 of the Constitution and / or
- (c) A national or international entity whose work is of direct relevance to the Yasuni Fund, and where possibilities for collaboration exist.

The Chair of the Steering Committee will consult with the other members prior to scheduling of the Steering Committee regarding suggestions for the participation of observers or guests.

The Principal of the Technical Secretariat shall serve as Secretariat of the Steering Committee, without participation in the decision making process. If the Technical Secretariat has not been created or is without a head, the Steering Committee will define a person / entity to fulfill its role until its creation or appointment of the same.

The Steering Committee will make decisions by majority, seeking consensus. The Chair will have a casting vote.

Steering Committee's Responsibilities

1. Provide overall leadership and setting strategic direction and oversight of the Yasuni Fund; This will be done through the Technical Secretariat or in the absence of this, through the entity that fulfills its functions. The Steering Committee will be kept informed of all activities and coordinate the Initiative necessary support to technical teams, negotiators and policy makers in all relevant actions for the proper development of the Fund.

2. Review and make decisions about the allocation of all activities concerning the Yasuni Fund, both of the Capital Fund Window and the Revenue Fund Window, as recommended by the Government Coordinating Entity and assessed by the Technical Secretariat in accordance with the programs implemented by the Yasuni ITT within the framework of National Development Plan of Ecuador.

The Technical Secretariat or, in its absence the institution undertaking its functions, will prepare every year a portfolio of projects prioritized by the Ecuadorian State, potentially eligible to be financed by the Fund for submission to the Steering Committee, in coordination with relevant government institutions, particularly the Coordinating Ministry of Heritage, the Ministry of Environment, National Planning Secretariat (SENPLADES) and the Ministry of Strategic Resources.

Similarly, it will determine the amounts to be allocated to these projects. In coordination with the SENPLADES, it will prepare the guidelines and criteria for funding of State projects to be financed by the Capital Fund Window and a project submission format to access the funds. These two documents shall be included as Annexes to the present proceedings.

In relation to the Revenue Fund Window, similar documents will be prepared in coordination with the SENPLADES and addressing the issues, with the following institutions of government - the criteria and formulas for both Windows Capital and Revenue will be reviewed each year:

- Support for the National System of Protected Areas and avoided deforestation, with the Ministry of Environment.
- Reforestation with the Ministry of Environment and the National Water SENAGUA
- Energy efficiency programs with the Ministry of Electricity and Renewable Energies, MEER
- Social investment in the Amazon, in EcoRAE, the Coordinating Ministry of Production, the Coordinating Ministry of Social Development and the Ministry of Social Inclusion.
- Science and Technology, the National Secretariat for Research, Science and Technology.

The Coordinating Ministry of Heritage will develop, in coordination with other relevant government agencies, criteria and guidelines to qualify for public, private or community entities wishing to access funds from the Revenue Fund Window, in accordance with the guidelines that will be defined to such effect.

In the month of August each year the Coordinating Ministry of Heritage shall, via the country's leading newspapers, hold a public appeal for qualified organizations to submit projects to be financed by the Yasuni Fund for the following year. Upon receipt of the project, the Technical Secretariat, or its substitute, will make a first review/screening based on the criteria and priorities of the State and will submit for consideration by the Steering Committee a list of prioritized projects for consideration and approval.

Government Coordinating Entity, through the Recipient and Implementing Organizations of the Yasuni Fund shall assume full programmatic and financial accountability for funds disbursed to them by the UNDP MPTF Office as Administrative Agent following the instruction from the Steering Committee.

The development and approval of the Yasuni Fund Projects should follow the following steps:

- (A) **Development of a Project Proposal:** Development of a Project Proposal will be approved by the Governmental Coordination Entity. The process and criteria for determining the composition of the portfolio and the authorization of the development of individual projects will be determined by the Government in accordance with the policy, priorities and procedures established by the Yasuni Fund and the national procedures for investment. Project Proposals will use a Standard Project Application Form under the General Guidelines for Foreign Investment and Cooperation developed by SENPLADES. The Recipient and Implementing Organization ensure that each project proposal of the Yasuni Fund is supported by appropriate studies of performance, impact and capacity, as outlined in the Standard Project Template. If appropriate, the Recipient and Implementing Organizations should participate in public consultation processes and include these results in the proposal;

- (B) **Submission of Project Proposals for assessment by the Technical Secretariat:** Project Proposals coming from the Capital and Revenue Fund Windows shall be submitted to the Technical Secretariat for evaluation, attaching all relevant supporting documentation. Project Proposals must be submitted through the Government Coordinating Entity, which will provide its recommendation on the allocation of funding. The Technical Secretariat shall carry out a comprehensive independent and impartial technical evaluation of individual Project Proposals of the Yasuni Fund on the basis of criteria developed in collaboration with the Government Coordinating Entity and approved by the Steering Committee. The evaluation should include a review of the financial aspects, technical performance and business studies, social and environmental impact, as well as an assessment of the institutional capacity of the Recipient or Implementing Organization to ensure that the organization has the means to implement the project, among other things. The Technical Evaluation will be carried out directly by the staff of the Technical Secretariat. Alternately, the Technical Secretariat may engage the services of a competent national or international entity.
- (C) **Decision on the allocation of funding by the Steering Committee:** The Technical Secretariat will present its Technical Appraisal findings of a project to the Steering Committee, together with all relevant project documentation and the recommendation of the Governmental Coordinating Entity. During its regular meetings, the Steering Committee will issue a decision on funding allocations to each project proposal, taking into account the recommendations of the Government Coordinating Entity and the findings of the assessment by the Technical Secretariat. The Steering Committee will also receive comments from other parties when they are of direct relevance to the proposed project under consideration. The Steering Committee will have access to all information it deems relevant in their decision making. If the Steering Committee should reject a project or whether they require further study, it shall communicate its decision or request to the Government Coordinating Entity, and instruct the Technical Secretariat to take appropriate follow-up action;
- (D) **Release of funds:** Following the funding allocation decisions and project approval, the Steering Committee shall authorize the Administrative Agent to promptly disburse funding from Yasuni Fund Account to the Recipient and Implementing Organizations. Transfer of funds to 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 shall verify the precise use of resources in the previous quarter and authorize the following allocation of funds.

Continuous Monitoring and Evaluation: After having taken the decision to grant funding, the Recipient and Implementing Organizations, working with the Government Coordinating Entity and the Technical Secretariat of the Yasuni Fund, shall ensure that each activity is subject to rules and standard procedures of accountability and transparency, including overall performance monitoring, evaluation and financial and programmatic reporting, in accordance with internationally accepted standards.

3. Authorize the Administrative Agent to release funds to the Recipient and Implementing Organizations, Further to the funding allocation decisions and approval of the project according to the previous paragraph, the Steering Committee will authorize the Administrative Agent the timely disbursement of funds from the account of the Yasuni ITT to the Recipient and Implementing Organizations.

4. Review and approve the Annual Strategic Plan Yasuni Fund, which will include the framework of the proposed budget and program priorities for the Capital and Revenue Fund Windows, the Technical Secretariat and other entities of the Yasuni Fund, as relevant. This review and approval shall be made at the regular meeting of the Steering Committee in the month of September. Annual Strategic Plan will be prepared by the Government Coordinating Entity in collaboration with the Technical Secretariat. To this end, the Coordinating Ministry of Heritage and the Technical Secretariat will organize one or more planning workshops prior to the regular presentation of investment projects for the coming year to the SENPLADES. The Steering Committee will review and approve fundraising public events.

5. Review and approve the estimated annual costs submitted by the Administrative Agent to cover its fund management services and ensure that payments made to the Administrative Agent prior to the start of fund administration services. Until the Yasuni Fund Account has sufficient financial resources to cover the services of the Administrative Agent, the government would provide such funds directly to the UNDP after the signing of the Memorandum of Agreement (MOA) between the Government and UNDP in accordance with Paragraph 15 (a). As soon as the Yasuni Fund has received sufficient funds, the Government will be reimbursed for the cost it paid to UNDP for services as Administrative Agent, following approval by the Steering Committee. The annual estimate costs will be reviewed and approved by the Steering Committee of the Yasuni ITT, and the payment will be made to UNDP from the Yasuni account before the start of fund administration services.

6. Reviewing and approving the *Consolidated Annual Report of the Yasuni Fund* to be presented by the Administrative Agent, for further presentation to contributors and for public information. Among other information, the *Annual Consolidated Report of the Yasuni Fund* should include annual narrative reports and financial statements of the Yasuni Fund projects implemented by the Recipient and Implementing Organizations, and compiled and presented to the Administrative Agent by the Governmental Coordination Entity. The Administrative Agent shall send such reports to the Steering Committee members for review at least 15 days before the meeting of the Steering Committee.

7. Review and approve, if applicable, the *Final Consolidated Reports of the Fund activities* including the final consolidated narrative and financial reports of the Yasuni Fund projects, implemented by the Recipient and Implementing Organizations for presentation to the contributors and public at large. The Technical Secretariat will send such reports to the Steering Committee for review at least 15 days before the meeting of the Steering Committee.

8. Maintain oversight of financial management of the Yasuni Fund, including through requests for financial audits of the Recipient and Participating Organizations, as requested. To this end, the Chair of the Steering Committee will receive applications from whom might require one or more financial audits.

9. **Oversee the monitoring and assessment of all the Yasuní Fund's activities** to ensure the success and transparency of the entire Fund, including approving the *Annual Monitoring and Evaluation Report* from the Technical Secretariat, managing independent performance evaluations and lessons learned exercises. The Technical Secretariat will send such reports to the Steering Committee members for review at least 15 days before the meeting of the Steering Committee.

10. **Ensure the implementation of an effective communication strategy**, which will be defined by the Technical Secretariat and in its absence, in coordination among the different entities of the Initiative. The strategy will be submitted to the Steering Committee for approval.

11. **Ensure consistency and / or collaboration between the Yasuni Fund and national programmes and other multilateral initiatives**, maintaining a close collaboration with national authorities to ensure a flexible adaptation of the Fund's activities with changes in Yasuni national programs. The Coordinating Ministry of Heritage will inform the Steering Committee of any changes in such programs. In addition to ensuring coordination with other relevant initiatives in relation to the UN Framework Convention on Climate Change (UNFCCC), the United Nations Convention on Biological Diversity (UNCBD), the United Nations Convention to Combat Desertification (UNCCD), the Permanent Forum on Indigenous Issues, the Collaborative Program of the United Nations for Reducing Emissions from Deforestation and Degradation Forests in Developing Countries (UN-REDD) and other international organizations and regional coalitions. To this end, the Technical Secretariat, and in its absence the Government Coordinating Entity or body of government, whether the political committee or committee of Directors, designated focal point of these initiatives, will be invited to relevant meetings of the above entities of the United Nations.

12. Other features:

a. The Steering Committee will decide the minimum threshold for issuance of Yasuni Guarantee Certificate (CGY)

b. Likewise conduct a comprehensive review of operations Yasuní on a certain date determined by the Committee, and decide whether UNDP can transfer the funds management functions to a national successor, or keep the functions with the UNDP or even select another international organization as manager of the Fund. If the Steering Committee decided that the Fund's management should be provided by another international organization, it will start a process, in consultation with the Government and Contributors representatives of the Yasuní Fund, to identify and agree with this organization to assume all the responsibilities of UNDP as Administrative Agent of the Fund.

c. On the occurrence of a notification by the Government of Ecuador to the Steering Committee and the Administrative Agent of its decision to start oil exploration in the oil fields of Yasuni ITT Yasuni Fund Account will be wound up to allow orderly shutdown of the Yasuni Fund, including the settlement of CGYs issued.

d. The Steering Committee, the Governmental Coordinating Entity and the Administrative Agent shall cooperate to ensure full transparency and accountability in the operations of the Fund.

e. The Steering Committee will ensure that the Technical Secretariat will develop an appropriate plan of monitoring and evaluation so that all projects supported by the Yasuní Fund carry out the appropriate monitoring and final evaluation, which assesses the relevance and effectiveness of the intervention and measure the development impact of the results achieved on the basis of initial analysis and indicators described at the time of program development. The final evaluation of projects will be taken into account at the time of approval of new projects.

Steering Committee Meetings

Place. The Steering Committee would be able to meet anywhere in the country or abroad, but preferably in the city of Quito.

Types of Steering Committee meetings. There are two kinds of Steering Committee meetings:

- a) Ordinary meetings.- The Committee shall meet on a quarterly basis.
- b) Extraordinary meetings.- These may be convened at the request of a Steering Committee member, provided that there is a one-month in advance notice.

The meetings could be held via videoconferencing.

The decisions reached at the Steering Committee meetings will be shared with all the Yasuni Fund contributors through the Yasuni official website and by other means.

Call for meeting.- The Technical Secretariat, and in its absence the Government Coordinating Entity, will convene the Steering Committee meetings, enclosing a copy of the agenda with the relevant documentation.

The meeting will be convened by written communication, which will be sent, by regular mail, courier, fax or email to each of the Steering Committee members, at least two weeks in advance. A draft agenda that could be modified at the request of any of the Steering Committee member should be enclosed in this communication.

If one hour after the time the Steering Committee was scheduled, the required quorum is not reached, the meeting will not take place. The Secretary will then certify this occurrence and will register the names of those who are present.

For decision-making purposes the quorum will be met when the following members are present:

- At least two government representatives or their delegates;
- At least one representative of the contributors, or his delegate and;
- The civil society representative or his alternate.

The meetings will last no more than five hours, except if two thirds of the members of the Steering Committee agree to extend the meeting.

The voting of the Steering Committee members

Voting will be simple and nominative.

Simple vote: the Committee members cast their vote verbally and give their reasons for such a vote. The Secretary will generally call for simple voting, requesting to raise the arm to those who support the motion.

Nominative vote: the Committee members cast their vote verbally without revealing their reasoning. This voting may be requested by the Secretary or by any other member. The nominative vote will be strictly taken in alphabetical order, and will follow the simple voting provisions for the rest of the procedure.

Steering Committee decisions will preferably be approved by absolute majority. If there is no consensus, the Steering Committee Chairman will have a casting vote.

Once the voting results are reported, any Steering Committee member may ask for reconsideration of any decision, stating the relevant related arguments. The Steering Committee will decide on the relevance of the requested review.

If approved, the reconsideration should be reported to the Steering Committee during the meeting or in the following SC meeting at the latest.

Any member of the Steering Committee may request a rectification of the voting process to ensure the results. For this purpose, the Secretary will ask for the Directors' vote again, following the alphabetical order of their surnames. Only members participating in the first voting would be able to vote in the second round.

Decisions

The Steering Committee decisions shall be recorded in the Steering Committee meeting minutes. Every decision shall contain (i) a preamble stating the arguments discussed by the Steering Committee to adopt the respective decision, and, (ii) the agreement of the Steering Committee.

The SC meeting minutes

The Secretariat, and in its absence, the Government Coordinating Entity, shall prepare the minutes of each meeting emphasizing the resolutions and the commitments.

The minutes shall be produced for every Steering Committee meeting, unless the Steering Committee decides otherwise.

The Steering Committee meeting minutes shall be duly numbered with continuous and sequential numbering. The decisions and the minutes may be read and approved at the ongoing or at the following meeting and shall be signed by all the Steering Committee members.

The Steering Committee Secretary will be the custodian of the meetings' minutes and any supporting documents.

If any comment were requested by email, the response would be expected within 5 business days. If a member does not respond, it is assumed that the member concurs with the decisions taken by the other Steering Committee members.