



United Nations
Environment Programme



Food and Agriculture Organization
of the United Nations

Distr.
GENERAL

UNEP/FAO/PIC/INC.9/13
15 July 2001

ORIGINAL: ENGLISH

INTERGOVERNMENTAL NEGOTIATING COMMITTEE FOR AN
INTERNATIONAL LEGALLY BINDING INSTRUMENT FOR
THE APPLICATION OF THE PRIOR INFORMED CONSENT
PROCEDURE FOR CERTAIN HAZARDOUS CHEMICALS AND
PESTICIDES IN INTERNATIONAL TRADE

Ninth session

Bonn, 30 September - 4 October 2002

Item 5 (a) of the provisional agenda*

PREPARATION FOR THE CONFERENCE OF THE PARTIES

DRAFT FINANCIAL RULES AND PROVISIONS

Note by the secretariat

Introduction

1. Article 18, paragraph 4 of the Rotterdam Convention provides that “The Conference of the Parties shall by consensus agree upon and adopt at its first meeting rules of procedure and financial rules for itself and any subsidiary bodies, as well as financial provisions governing the functioning of the Secretariat.”
2. At its eighth session, the Intergovernmental Negotiating Committee remitted the draft financial rules to its Legal Working Group. Reporting on the discussions in the Legal Working Group, its Chair explained that the Group had studied the precedents in multilateral environmental agreements and that those precedents had given useful guidance. He pointed out that where matters were not specifically provided for by the proposed rules, the Financial Regulations and Rules of the United Nations¹ would apply. The draft financial rules as considered by the Legal Working Group are given in annex I.
3. The Committee noted that there were three main issues still to be resolved: whether the various Trust Funds would be established by the Executive Director of UNEP, by the Director-General of FAO or by the Secretary-General of the United Nations; whether Parties with economies in transition should be assisted from the Special Trust Fund, or only developing country Parties should receive such assistance; and the maximum contribution as a percentage of the total. The Chair expressed confidence that those issues could

* UNEP/FAO/PIC/INC.9/1.

¹ ST/SGB/Financial Rules/1/Rev.3 (1985) and its Amend.1 (1998).

be resolved speedily by the Committee at its ninth session and that the draft financial rules would be ready for adoption by the Conference of the Parties at its first meeting.

4. The Committee decided to re-examine the draft financial rules and provisions at its ninth session with a focus on the outstanding issues. Also, it requested the secretariat to prepare a report on possible modalities for establishing and managing Trust Funds.

5. The secretariat has the honour to submit to the Committee, as annex I to this note, the draft financial rules as considered by the Legal Working Group. The secretariat also has the honour to submit to the Committee short summary notes on the establishment and management of Trust Funds in the United Nations (annex II), in UNEP (annex III) and in FAO (annex IV).

B. Possible action by the Committee

6. The Committee may wish to continue its consideration of this item.

Annex I

DRAFT FINANCIAL RULES FOR THE CONFERENCE OF THE PARTIES TO THE ROTTERDAM
CONVENTION ON THE PRIOR INFORMED CONSENT PROCEDURE FOR
CERTAIN HAZARDOUS CHEMICALS AND PESTICIDES IN
INTERNATIONAL TRADE, ITS SUBSIDIARY BODIES
AND THE CONVENTION SECRETARIAT*

Scope

1. The present rules shall govern the financial administration of the Conference of the Parties to the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, its subsidiary bodies and the Convention secretariat. In respect of matters not specifically provided for by the present rules, the Financial Regulations and Rules of the United Nations shall apply.

Financial period

2. The financial period shall be a biennium, of which the first calendar year shall be an even-numbered year.

Budget

3. The head(s) of the Convention secretariat shall prepare the budget proposal for the following biennium and shall dispatch it to all Parties to the Convention at least 90 days before the opening of the meeting of the Conference of the Parties at which the budget is to be adopted.

4. The Conference of the Parties shall consider the budget proposal and adopt a budget by consensus authorizing expenditures, other than those referred to in paragraphs 9 and 10, prior to the commencement of the financial period that it covers.

5. Adoption of the budget by the Conference of the Parties shall constitute authority to the head(s) of the Convention secretariat to incur obligations and make payments for the purposes for which the appropriations were approved and up to the amounts so approved, provided always that, unless specifically authorized by the Conference of the Parties, commitments are covered by related income.

6. The head(s) of the Convention secretariat may make transfers within each of the main appropriation lines of the approved budget. The head(s) of the Convention secretariat may also make transfers between such appropriation lines up to limits that the Conference of the Parties may set as appropriate.

Funds

7. A General Trust Fund for the Convention shall be established by the [Executive Director of the United Nations Environment Programme (UNEP)] [Director-General of the Food and Agriculture Organization of the United Nations (FAO)] and managed by the head(s) of the Convention secretariat. Contributions made pursuant to paragraph 12 (a), (b) and (c), with the exception of the earmarked funds referred to in paragraph 9, shall be credited to this fund. All budget expenditures that are made pursuant to paragraph 5 above shall be charged to the General Trust Fund.

* Published as annex IV to the report of the eighth session of the Intergovernmental Negotiating Committee (document UNEP/FAO/PIC/INC.8/19).

8. Within the General Trust Fund there shall be maintained a working capital reserve at a level to be determined from time to time by the Conference of the Parties by consensus. The purpose of the working capital reserve shall be to ensure continuity of operations in the event of a temporary shortfall of cash. Drawdowns from the working capital reserve shall be restored from contributions as soon as possible.

9. A Special Trust Fund shall be established by the [Executive Director of UNEP] [Director-General of FAO] and managed by the head(s) of the Convention secretariat. This fund shall receive contributions pursuant to paragraphs 12 (b) and (c) that have been earmarked to support the participation of representatives of developing country Parties and Parties with economies in transition in the meetings of the Conference of the Parties and its subsidiary bodies.

10. Subject to the approval of the Conference of the Parties, the [Executive Director of UNEP] [Director-General of FAO] may establish other trust funds, provided that they are consistent with the objectives of the Convention.

11. In the event that the Conference of the Parties decides to terminate a Trust Fund established pursuant to the present rules, it shall so advise the [Executive Director of UNEP] [Director-General of FAO] at least six months before the date of termination so decided. The Conference of the parties shall decide, in consultation with the [Executive Director of UNEP] [Director-General of FAO], on the distribution of any uncommitted balances after all liquidation expenses have been met.

Contributions

12. The resources of the Conference of the Parties shall comprise:

(a) Contributions made each year by Parties on the basis of an indicative scale adopted by consensus by the Conference of the Parties, and based on such a scale of assessments of the United Nations as may be adopted from time to time by the General Assembly, adjusted so as to ensure that no Party contributes less than 0.01 per cent of the total, that no one contribution exceeds [] per cent of the total and that no contribution from a least developed country Party exceeds 0.01 per cent of the total;

(b) Contributions made by Parties in addition to those made pursuant to paragraph (a), including those made by the Government(s) hosting the Convention secretariat;

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

(d) The uncommitted balance of appropriations from previous financial periods;

(e) Miscellaneous income.

13. The Conference of the Parties shall, in adopting the indicative scale of contributions referred to in paragraph 12 (a), make adjustments to take account of contributions of Parties which are not members of the United Nations, as well as those regional economic integration organizations that are Parties.

14. In respect of contributions made pursuant to paragraph 12 (a):

(a) Contributions for each calendar year are due on 1 January of that year;

(b) Each Party shall, as far in advance as possible of the date due for the contribution, inform the head(s) of the Convention secretariat of the contribution it intends to make and of the projected timing of that contribution.

15. Contributions made pursuant to paragraph 12 (b) and (c) shall be used in accordance with such terms and conditions, consistent with the objectives of the Convention and the Financial Regulations and Rules of the United Nations, as may be agreed between the head(s) of the Convention secretariat and the contributor.

16. Contributions made pursuant to paragraph 12 (a) from States and regional economic integration organizations that become Parties to the Convention after the beginning of a financial period shall be made pro rata temporis for the balance of that financial period. Consequential adjustments shall be made at the end of each financial period for other Parties.

17. All contributions shall be paid in United States dollars or the equivalent in a convertible currency into a bank account to be designated by the [Executive Director of UNEP] [Director-General of FAO], in consultation with the head(s) of the Convention secretariat.

18. The head(s) of the Convention secretariat shall acknowledge promptly the receipt of all pledges and contributions and shall inform the Parties, twice a year, of the status of pledges and payments of contributions.

19. Contributions not immediately required shall be invested at the discretion of the [Executive Director of UNEP] [Director-General of FAO], in consultation with the head(s) of the Convention secretariat. The resulting income shall be credited to the appropriate fund.

Accounts and audit

20. The accounts and financial management of all funds governed by the present rules shall be subject to the internal and external audit process of the United Nations.

21. An interim statement of accounts for the first year of the financial period shall be provided to the Conference of the Parties during the second year of the period, and a final audited statement of accounts for the full financial period shall be provided to the Conference of the Parties as soon as possible after the accounts for the financial period are closed.

Administrative support costs

22. The Conference of the Parties shall reimburse [UNEP][FAO] for the services provided to the Conference of the Parties, its subsidiary bodies and the Convention secretariat from the funds referred to in paragraphs 7, 9 and 10 under such terms as may from time to time be agreed upon between the Conference of the Parties and [UNEP][FAO] or, in the absence of such agreement, in accordance with the general policy of the United Nations.

Amendments

23. Any amendment to the present rules shall be adopted by the Conference of the Parties by consensus.

Annex II

ESTABLISHMENT AND MANAGEMENT OF TRUST FUNDS IN THE UNITED NATIONS*

1. The establishment and management of trust funds are governed by the United Nations Financial Regulations and Rules and require observance of the United Nations Staff Regulations and Rules and other policies or procedures promulgated by the Secretary-General. Operations financed from such trust funds must be consistent with the objectives, policies and procedures of the United Nations. Detailed guidance was issued by the Secretary-General in document ST/SGB/188.
2. Trust Funds may be established by the General Assembly or by the Secretary-General. Proposed trust funds are reviewed by the Budget Division, which issues a recommendation on whether they should be approved.
3. The purpose and limits of each trust must be as defined by the appropriate authority. Such funds and accounts must be administered in accordance with the Financial Regulations and Rules unless otherwise provided for by the General Assembly.
4. The Assistant Secretary-General for Financial Services designates an implementing office for each trust fund and also the bank in which the resources for the trust fund must be kept.
5. The development of a cost plan is a prerequisite for the commencement of operations and all cost plans for trust funds must include provision for support costs. The implementing office is responsible for the development of a detailed cost plan to be submitted to the Budget Division.
6. No commitments, obligations or disbursements against any funds may be incurred without the written authorization of the Assistant Secretary-General for Financial Services or his authorized delegate.
7. Reports must be made by the implementing office. Procedures for such reports are set forth in the relevant United Nations administrative instructions.
8. All United Nations trust funds are subject to audit by the Board of Auditors and the Internal Audit Division. No other additional or special audit arrangements may be made with donors.
9. Reimbursement for programme support costs must be provided for in respect of all activities financed from the trust fund. The amount of reimbursement must be calculated in accordance with the standard percentage rule approved by the General Assembly.
10. Financial statements for trust funds showing income, expenditure, assets and liabilities must be prepared by the Accounts Division on a semi-annual and a biennial basis.

* Based on information in the following documents: "Establishment and management of Trust Funds", ST/SBG/188 (1 March 1982); "General Trust Funds", ST/AI/284 (1 March 1982); "Financial Regulations and Rules of the United Nations", ST/SGB/Financial Rules/1/Rev.3 (1985).

Annex III

ESTABLISHMENT AND MANAGEMENT OF TRUST FUNDS IN UNEP*

1. Article V of the General Procedures Governing the Operations of the Fund of the United Nations Environment Programme (UNEP) provides that “Within the framework of the Fund, trust funds may be established by the Executive Director with the approval of the Governing Council for specific purposes consistent with the policies, aims and activities of the Fund. The purpose and limits of each trust fund shall be clearly defined. The Financial Rules shall apply to any trust fund established under this article”.
2. The Financial Rules of the Fund of the United Nations Environment Programme (UNEP) provide that:
 - (a) The financial administration by cooperating agencies and supporting organizations of activities within the Fund Programme supported by allocations issued to them by the Executive Director of the United Nations Environment Programme shall be carried out under their respective financial rules, procedures and practices (Rule 201.2);
 - (b) The financial year shall be the period from 1 January to 31 December, both dates inclusive (Rule 202.1);
 - (c) Income derived from investments of trust funds shall be credited to the respective trust funds, unless otherwise specified (Rule 207.2);
 - (d) Within the Fund account, separate accounts shall be maintained for ... each trust fund established under article V of the general procedures (Rule 208.2);
 - (e) The Executive Director may allocate funds to cover expenditure under trust fund activities (see Rule 211.2);
 - (f) The Executive Director shall maintain such accounts and records as are necessary to enable him to report to the Governing Council and the General Assembly on the Fund Account (Rule 213.1).
3. In its decision 20/35, the Governing Council of UNEP requested the Executive Director to implement appropriate actions directed towards reducing the cost of programme-support services provided to trust funds and related activities with a view to containing such cost within the programme support charge levied. These actions were to include, inter alia, that the full 13 per cent support charge should continue to be levied on all trust-fund expenditure and should be levied also on directly related expenditure financed from voluntary additional contributions, such as counterpart contributions, in support of conventions and other trust-fund activities.

* Based on information in the following documents: “General Procedures Governing the Operations of the Fund of the United Nations Environment Programme”, adopted by the Governing Council on 22 June 1973, as amended by Governing Council decisions 40 (III) of 30 April 1975 and 19/25 of 7 February 1997; “Financial Rules of the Fund of the United Nations Environment Programme”, document ST/SGB/Financial Rules/2, as amended by Governing Council in decisions 14/4 of 18 June 1987 and 19/25 of 7 February 1997.

ESTABLISHMENT AND MANAGEMENT OF TRUST FUNDS IN FAO

1. According to the FAO Basic Texts, Part C: Financial regulations, regulation VI, section 6.7: “Voluntary contributions, whether or not in cash, may be accepted by the Director-General, and Trust and Special Funds may be established by him to cover moneys made available to the Organization for special purposes, provided that the purposes of such contributions and moneys are consistent with the policies, aims and activities of the Organization. The purposes and limits of any Trust and Special Funds shall be clearly defined. The acceptance of any such contributions and moneys which directly or indirectly involves additional financial obligations for Member Nations and Associate Members shall require the consent of the Conference. Trust and Special Funds and voluntary contributions shall be administered in accordance with the Financial Regulations of the Organization, unless otherwise provided for by the Conference. Trust and Special Funds shall be reported to the Finance Committee”.
2. According to the FAO Basic Texts, Part C: Financial regulations, regulation VII, section 7.1: “Interest or other income derived from any Trust or Special Fund accepted by the Organization shall be credited to the Fund to which it relates, unless provided for otherwise by the terms of the applicable Trust or Special Fund agreement”.
3. The Organization has clearly defined rules for accounting for Trust and Special Funds; for such Funds a project account must be established.
4. FAO accounts publicly through its audited financial statements. These are drawn up so that the relevant accounting standards – International Accounting Standards applied with reference to the specific positions adopted by and relevant to United Nations agencies – are met. Accounting for projects follows the same accounting standards as for all other FAO accounts.
5. Project accounting is designed to be consistent with generally accepted accounting principles and requirements, financial record keeping practices and reporting for FAO as a whole. Where accounting or reporting requirements of donors or other interested parties require particular treatment or differences from the usual FAO accounting practices, this is noted in the financial statements or report in question.
6. The financial records of projects are structured to allow accounting and reporting at individual project level. This means that:
 - (a) All income and expenditure relating to a project is separately accounted for and the completeness, proper recording and integrity of the underlying transactions can thus be assured;
 - (b) Project expenditures are matched to the financial provisions of project contracts at equivalent levels of detail. Maintenance of up-to-date and complete records allows the status of funding to be routinely monitored and assured;
 - (c) Commitments and payments can be authorized taking into account the availability of appropriate funding.
7. Financial reports to donors are provided on a semi-annual basis. If required, reports can be provided more frequently, but this may incur an extra charge to the Trust Fund.
8. The established rate for Administrative and Operational Services (AOS) costs is 13 per cent; only in exceptional circumstances – such as when a Trust Fund project represents a special contribution to implement certain aspects of the Organization’s Programme of Work – may there be any justification for reducing, or in rare cases even waiving, AOS costs.
