



**Agreement on the Conservation of Albatrosses and Petrels**

## **Second Meeting of the Parties**

**Christchurch, New Zealand, 13 – 17 November 2006**

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### **Amendments to Financial Regulations**

**Author: Secretariat**



## **Amendments to Financial Regulations**

The financial regulations for the Agreement Secretariat were adopted at the first Meeting of the Parties and are contained in Annex 5 of the report of that meeting.

In the period since the regulations were adopted the Interim Secretariat has found a number of inconsistencies between the operation of these regulations and the Rules of Procedure for the Meeting of Parties. There are also a number of issues where the Interim Secretariat considers further clarification would enable a clearer interpretation and application of the regulations.

To rectify these deficiencies the Interim Secretariat proposes that a number of amendments be made to the financial regulations. These are shown in track change mode in Attachment A and are put forward for consideration by the Meeting of Parties.

An explanation of the rationale for the proposed amendments is provided below.

### **Regulation 3.4**

There are numerous references in the regulations to the management of appropriations; however there is no clear definition of what constitutes an appropriation. It is recommended that this definition be provided in paragraph 3.5 where a description is provided of how the budget is to be presented.

### **Regulation 3.5**

The precise form in which the budget is to be presented is to be prescribed by the Parties. This has not been done to date. A proposed format for the budget is provided for consideration by the Meeting of Parties in Attachment B.

### **Regulation 3.6**

As a decision has been made by the Meeting of Parties to base the Agreement Secretariat in Australia it is recommended that the Agreement budget be presented in Australian currency, where the majority of the budget expenditure will be incurred. The Advisory Committee supports this recommendation.

### **Regulation 3.8**

The current regulations require that in years where there is no session of the Meeting of the Parties that the procedures for intersessional decision making be used for adoption of the budget (Rule 24 of the Meeting of the Parties Rules of Procedure). There are a number of practical considerations that make this approach problematic. These are:

1. Under Rule of Procedure 24 only a Party may submit a proposal for a decision. The Secretariat does not have the authority to submit a proposal; therefore technically, there is no mechanism for the budget to be presented to Parties for their consideration.
2. As Parties must provide their decision on the proposal within 21 days there will only be a limited time for Parties to consult with each other about the merits of the budget.

3. Regulation 3.7 requires that the budget must be adopted by consensus on an annual basis. If one or more Parties rejects the proposal it is possible that it may take many months to reach agreement on the budget.

It is proposed that this regulation be amended to provide that the budget be first considered by the Advisory Committee in those years when there is no Meeting of the Parties. This will provide an opportunity for the Parties to discuss the merits of the budget and to reach agreement. The budget could then be approved by the Parties using the intersessional voting procedure. Alternatively, authority could be given to the Advisory Committee to approve the budget in those years where there is no Meeting of the Parties. MoP Rule of Procedure 24 may require amendment to allow the Secretariat to submit a proposal to Parties for their consideration.

#### **Regulation 4.4**

It is proposed that transfers of up to 10 per cent be allowed between appropriations, instead of between line items. This will provide greatly flexibility for managing the Agreement budget, while having no net effect on the budget bottom line. This flexibility is necessary, particularly in the formative stages of the Agreement and the Secretariat when it is difficult to accurately estimate future expenditure requirements.

As the Meeting of Parties will usually only occur every three years it is suggested that transfers between appropriation items be reported on in the annual financial report, instead of being provided to the next Meeting of the Parties.

#### **Regulation 4.6**

The conditions under which unforeseen and extraordinary expenses may be incurred have not yet been prescribed. It is expected that such expenditure must be from within the budget already approved by the Meeting of Parties, or from a voluntary financial contribution.

It is proposed that the Advisory Committee be given authority for the approval of such expenditure, or the Chair of the Advisory Committee during the intersessional period, and that a report on any such expenditure be included in the annual financial report to Parties.

#### **Regulation 5.3**

If the Meeting of Parties agrees to the proposal that the draft budget be presented in Australian dollars (refer Regulation 3.6) it is logical that contributions be paid in Australian currency also, rather than US dollars.

#### **Regulation 5.5**

The current wording of this regulation is confusing. It is proposed to split the first paragraph into two sentences to clarify the intention of this regulation.

#### **Regulation 9.4**

It is proposed to change the dollar amounts in this regulation to Australian dollars, in accordance with the proposed changes to Regulations 3.6 and 5.3. It is also proposed that the amount at which quotations are required be lifted to enable the Secretariat to operate more efficiently. The salary component of the draft Agreement budget for 2007-2009 is predicated on the basis that the administrative requirements of the

Secretariat are kept to a bare minimum, in order that expenditure can be focussed on activities aimed at implementing the Agreement's Action Plan.

**Regulation 10.3**

A proposed format for the financial statements will be provided by the external auditor with their report (refer MoP2 Doc 10) for consideration by the Parties.

**Regulation 10.4, 10.5 and 10.6**

The numbering of these regulations was incorrect when adopted at the first Meeting of Parties. The numbering has been rectified in the amended regulations.

**Regulation 10.4**

It is proposed that all transactions be recorded in Australian dollars.

**Regulation 13**

This regulation was grammatically incorrect. A suggested rewording is provided for the consideration of the Parties.

**Guidelines for Accepting Voluntary Financial Contributions**

**2.1** Reference is made to the Agreement Trust Fund. As the Financial Regulations do not provide for the establishment of a Trust Fund it is recommended that this term be changed to the 'Agreement General Fund'.

[Attachment A](#)

**FINANCIAL REGULATIONS FOR THE AGREEMENT ON THE CONSERVATION OF ALBATROSSES AND PETRELS**

REGULATION 1 – APPLICABILITY

1.1 These regulations shall govern the financial administration of the Secretariat of the Agreement for the Conservation of the Albatrosses and Petrels ('the Secretariat') and the Advisory Committee to the Agreement on the Conservation of Albatrosses and Petrels ('the Advisory Committee') established under Articles VIII (11c) and VIII (11d) of the Agreement on the Conservation of Albatrosses and Petrels ('ACAP'). The Executive Secretary is the head of the Secretariat.

REGULATION 2 – FINANCIAL YEAR

2.1 The financial year shall be for 12 months commencing 1 January and ending 31 December, both dates inclusive.

REGULATION 3 – THE BUDGET

3.1 A draft budget comprising estimates of receipts by the Secretariat and of expenditures by the Secretariat and the Advisory Committee and any subsidiary bodies shall be prepared by the Executive Secretary for the ensuing financial period. This period shall comprise three financial years apportioned into three annual budgets.

3.2 The Executive Secretary shall submit the draft budget to all Parties to the Agreement by the first of September each year or 60 days before a session of the Meeting of Parties in years where such a meeting takes place.

3.3 The draft budget shall include a statement of the significant financial implications for the subsequent financial period in respect of any proposed work programs presented in terms of administrative, recurrent and capital expenditure.

3.4 The draft budget shall be divided by functions into items and, where necessary or appropriate, into sub-items. [Appropriations shall be allocated at the function level.](#)

3.5 The draft budget shall be accompanied by details both of the appropriations made for the previous year and estimated expenditure against those appropriations, together with such information annexes as may be required by Parties to the Agreement or deemed necessary or desirable by the Executive Secretary. [The draft budget shall be presented in the format prescribed in Attachment 1 to these regulations.](#)

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3.6 The draft budget and the forecast budget shall be presented in [Australian](#) dollars.

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3.7 The Parties shall adopt the budget by consensus on an annual basis. This adoption shall comprise approval of the budget for the ensuing financial year and approval in principle for the budget for the following two financial years.

3.8 In years where a session of the Meeting of the Parties takes place, the budget shall be adopted at the meeting. In years where there is no session of the Meeting of the Parties, the [budget shall first be considered by the Advisory Committee and its recommendations shall be forwarded to Parties for their agreement using the](#)

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[procedures for intersessional decision making \(Rule 24 of the Rules of Procedure for the Meeting of Parties\).](#)

#### REGULATION 4 – APPROPRIATIONS

4.1 The appropriations adopted by the Parties shall constitute an authorisation for the Executive Secretary to incur obligations and make payments for the purposes for which the appropriations were adopted.

4.2 Unless the Parties decide to restrict this power, the Executive Secretary may also incur obligations against future years before appropriations are adopted when such obligations are necessary for the continued effective functioning of the Agreement, provided such obligations are restricted to administrative requirements of a continuing nature not exceeding the scale of such requirements as authorised in the budget of the current financial year. In other circumstances the Executive Secretary may incur obligations against future years only as authorised by the Parties.

4.3 Appropriations shall be available for the financial year to which they relate. At the end of the financial year all appropriations for that financial year shall lapse. Commitments remaining undischarged against previous appropriations at the end of a financial year shall be carried over and be included in the budget for the next financial year, unless the Parties decide otherwise.

4.4 The Executive Secretary may make transfers of up to 10 per cent [between](#) appropriations. All transfers must be reported by the Executive Secretary [in the](#) annual [financial report provided to](#) Parties.

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4.5 Should the Executive Secretary anticipate a shortfall in resources over the financial period as a whole, the Executive Secretary shall consult the Parties as to its priorities for expenditure.

4.6 [Unforeseen and extraordinary expenses may be incurred from within existing budget appropriations, or from voluntary contributions. Approval to incur such expenses must be obtained from the Advisory Committee or from the Chair of the Advisory Committee during the intersessional period.](#)

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#### REGULATION 5 – PROVISION OF FUNDS

5.1 Each Party to the Agreement shall contribute to the budget in accordance with the scale of contributions agreed by the Meeting of the Parties.

5.2 On approval of the budget for a financial year, the Executive Secretary shall send a copy thereof to all Parties to the Agreement notifying them of their contributions and requesting them to remit their contributions due.

5.3 All contributions shall be made in [Australian](#) dollars.

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5.4 When a new Party joins the Agreement, a revised scale of contributions for all Parties shall be produced by the Secretariat for agreement by the Parties according to the principles agreed by the Meeting of Parties. This shall be produced by 1 November of the year preceding that to which the new scale of contributions applies.

5.5 A new Party to the Agreement shall be liable to pay annual contributions pro rated in proportion to the time lapsed within the financial year in question. [Payment](#)

shall be made at the beginning of the financial year after the one during which membership becomes effective.

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A new Party may make a voluntary contribution during the financial year in which its membership becomes effective.

5.6 In the first financial year of the Agreement, contributions shall be paid within 90 days of the end of the first Meeting of the Parties, or at such time as a fund for the Agreement is established if this takes longer than 90 days.

5.7 Thereafter contributions shall be due for payment on the first day of the financial year and shall be paid not later than 60 days after that date. The Parties have the authority to permit extensions to the due date of up to 60 days for individual Parties who are unable to comply with this regulation due to the timing of the financial years of their governments.

5.8 A Party to the Agreement that is 1 year behind in paying budget contributions, shall not, during the period of its default, have the right to participate in the taking of decisions of the Parties, unless other Parties to the Agreement are satisfied that the delay in payment arises from exceptional and unavoidable circumstances.

5.9 The Executive Secretary shall report to the Parties on the positions of any arrears and any decisions taken in response to this.

#### REGULATION 6 – FUNDS

6.1(a) A General Fund shall be established for the purpose of accounting for the income and expenditure of the Secretariat and the Advisory Committee and any subsidiary bodies established pursuant to the Agreement;

(b) Contributions paid by Parties under Regulation 5.1 and miscellaneous income to finance general expenditure shall be credited to the General Fund;

6.2 Other Special Funds may be established for the purpose of receiving funds and making payments for purposes not covered by the regular budget of the Secretariat and Advisory Committee.

#### REGULATION 7 – OTHER INCOME

7.1 All income other than contributions to the budget under Regulation 5 and that referred to in Regulation 7.3 below, shall be classified as Miscellaneous Income and credited to the General Fund. The use of Miscellaneous Income shall be subject to the same financial controls as activities financed from regular budget appropriations.

7.2 Voluntary contributions above and beyond Parties' budget contributions may be accepted by the Executive Secretary provided that the purposes for which the contributions are made are consistent with the policies, aims and activities of the Parties. Voluntary contributions offered by other bodies may be accepted, subject to agreement by the Parties that the purposes of the contribution are consistent with the policies, aims and activities of the Agreement.

7.3 Voluntary contributions shall be treated as Special Funds under Regulation 6.2.

#### REGULATION 8 – CUSTODY OF FUNDS



8.1 The Executive Secretary shall designate a bank or banks in the country in which the Secretariat is located in which the funds of the Agreement shall be kept and shall report the identity of the bank or banks so designated to the Parties.

8.2(a) The Executive Secretary may make short-term investments of moneys not needed for the immediate requirements of the Agreement. Such investments shall be restricted to securities and other investments issued by "host country" institutions or Government bodies with current ratings, provided by a rating body approved by the auditor, indicating a strong capacity to pay. The details of investment transactions and income derived shall be reported in the documents supporting the budget.

(b) With regard to moneys held in Special Funds for which use is not required for at least 12 months, longer-term investments may be authorised by the Parties provided such action is consistent with the terms under which the moneys were lodged with the Secretariat. Such investments shall be restricted to securities and other investments issued by "host country" institutions or Government bodies with current rating, provided by a rating body approved by the auditor, indicating a strong capacity to pay.

8.3 Income derived from investments shall be credited to the Fund from which the investment was made.

#### REGULATION 9 – INTERNAL CONTROL

9.1 The Executive Secretary shall:

- (a) establish detailed financial rules and procedures after consultation with an external auditor (Regulation 11) to ensure effective financial administration and the exercise of economy in the use of funds;
- (b) cause all payments to be made on the basis of supporting vouchers and other documents which ensure that the goods or services have been received and that payment has not been previously made;
- (c) designate officers who may receive moneys, incur obligations and make payments on behalf of the Secretariat; and
- (d) maintain and be responsible for internal financial control to ensure:
  - (i) the regularity of the receipt, custody and disposal of all funds and other financial resources of the Secretariat and Advisory Committee;
  - (ii) the conformity of obligations and expenditures with the appropriations adopted by the Meeting of Parties; and
  - (iii) the economic use of the resources of the Secretariat and the Advisory Committee.

9.2 No obligations shall be incurred until the annual budget has been approved.

9.3 The Executive Secretary may propose to the Meeting of Parties the writing off of losses of assets, provided that the external auditor so recommends. Such losses shall be included in the annual accounts.

9.4 For purchases or contracts exceeding \$10,000 (Australian dollars), written tenders for equipment, supplies and other requirements shall be invited by advertisement, or by direct requests for quotation from at least three persons or firms able to supply the equipment, supplies, or other requirements, if such exist. For amounts exceeding \$5000, but less than \$10,000, competition shall be obtained either by the above means or by telephone or personal enquiry. The foregoing rules, shall, however, not apply in the following cases:

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- (a) where it has been ascertained that only a single supplier exists and that fact is so certified by the Executive Secretary;
- (b) in case of emergency, or where, for any other reason, these rules would not be in the best financial interests of the Agreement, and that fact is so certified by the Executive Secretary.
- (c) The Executive Secretary shall report in writing the circumstances of such exceptions to the Parties on an annual basis.

#### REGULATION 10 – THE ACCOUNTS

10.1 The Executive Secretary shall ensure that appropriate records and accounts are kept of transactions and affairs of the Secretariat and the Advisory Committee and shall do all things necessary to ensure that all payments out of the Agreement's moneys are correctly made and properly authorised and that adequate control is maintained over the assets of, or in the custody of, the Agreement and over the incurring of liabilities by the Secretariat and the Advisory Committee.

10.2 The Executive Secretary shall submit to the Parties to the Agreement, not later than 31 March each year, annual financial statements showing, for the previous financial year:

- (a) the income and expenditure relating to all funds and accounts;
- (b) the situation with regard to budget provisions, including:
  - (i) the original budget provisions;
  - (ii) the approved expenditure in excess of the original budget provisions;
  - (iii) any other income;
  - (iv) the amounts charged against these provisions and other income;
- (c) the financial assets and liabilities of the Secretariat and Advisory Committee;
- (d) details of investments;
- (e) losses of assets proposed in accordance with Regulation 9.3.

10.3 The Executive Secretary shall also give such other information as may be appropriate to indicate the financial position of the Agreement. These financial statements shall be prepared in a form approved by the Parties after consultation with the external auditor.

- | 10.4 The accounting transactions of the Secretariat and Advisory Committee shall be recorded in the currency in which they took place but the annual financial statements shall record all transactions in Australian dollars. Deleted: 3
- | 10.5 Appropriate separate accounts shall be kept for all Special Funds. Deleted: US
- | 10.6 The annual financial statements shall be submitted by the Executive Secretary to the external auditor at the same time as they are submitted to the Parties to the Agreement under paragraph 2 of this Regulation. Deleted: 4
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#### REGULATION 11 – EXTERNAL AUDIT

- | 11.1 The Parties shall appoint an external auditor at each session of the Meeting of the Parties. The Secretariat will ensure respect for the external auditor's independence of the Secretariat, the Advisory Committee, their subsidiary bodies and the Secretariat's staff; fix the terms of contract; appropriate funds to the external auditor; and provide them with the facilities they may require for the purposes of the audit.. Deleted:

11.2 The Executive Secretary may consult an external auditor on the introduction or amendment of any financial regulations or detailed accounting methods as well as on all matters affecting auditing procedures and methodology.

11.3 The Executive Secretary shall provide to the Parties to the Agreement a copy of any audit report and the audited financial statements within 60 days of their receipt. He/she shall also report to the Parties on the outcome of consultations pursued in accordance with regulation 11.2.

#### REGULATION 12 – ACCEPTANCE OF ANNUAL FINANCIAL STATEMENTS

12.1 The Parties shall, following consideration of financial statements and any audit report submitted to the Parties under Regulation 11, and within 60 days signify their acceptance of the annual financial statements and audit report or take such other action as they may consider appropriate.

#### REGULATION 13 – INSURANCE

13.1 The Secretariat should ensure ~~that~~ suitable insurances with a reputable financial institution against normal risks to the assets of the Agreement Secretariat and Advisory Committee ~~are~~ in place.

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#### REGULATION 14 – GENERAL PROVISION

14.1 Subject to the provisions of the Agreement, these Regulations may be amended as required by decisions of the Meeting.

14.2 Where the Meeting of Parties or the Advisory Committee is considering matters which may lead to a decision which has financial or administrative implications, it shall have before it an evaluation of those implications from the Executive Secretary.

#### GUIDELINES FOR ACCEPTING VOLUNTARY FINANCIAL CONTRIBUTIONS

##### 1. General Principle

No voluntary contribution, gift or donation for any specific purpose may be accepted if incompatible with the policies and aims of the Agreement.

##### 2. Acceptance of extraordinary contributions

2.1 No voluntary contributions shall have an immediate or ultimate financial liability for the Agreement ~~General~~ Fund without the prior consent of the Meeting of the Parties or the Secretariat.

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2.2 All monetary contributions shall be paid in freely convertible currency; exceptions may, however, be made for special projects if the currency in question can effectively be used.

2.3 Voluntary contributions in kind may be accepted, provided that they are used to cover activities approved by the Meeting of the Parties. These may include *inter alia*, direct or indirect involvement in a joint project, free office accommodation, equipment, or the secondment of staff.