
AGREEMENT ON THE CONSERVATION OF ALBATROSSES AND PETRELS

Resolution 2.4

Amendments to the Financial Regulations

Adopted by the Second Session of the Meeting of the Parties, Christchurch, 13 – 17 November 2006

Recalling that, in accordance with Article VIII(11)(b) of the Agreement, the first Session of the Meeting of the Parties developed financial regulations for the Agreement Secretariat, contained in Annex 5 of the report of that Session; and

Recognising that there are inconsistencies between the Financial Regulations and the Rules of Procedure for the Meeting of the Parties;

The Meeting of the Parties to the Agreement on the Conservation of Albatrosses and Petrels

Agrees:

1. to adopt the revised version of the Financial Regulations in Appendix A.

Appendix 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 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 programmes 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 triennium. Details of expenditure for the first two years of the triennium and estimated expenditure for the final year against these appropriations should also be provided 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.
- 3.6 The draft budget shall be presented in Australian dollars (AUD).
- 3.7 The Parties shall adopt the budget by consensus at each ordinary Session of the Meeting of the Parties.

- 3.8 The budget shall retain a working capital provision (Contingency Fund) at [20%] of estimated annual expenditure or [an amount], whichever is higher.

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.
- 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 after consultation with the Parties during the intersessional period. All approvals must be reported to meetings of the Advisory Committee and Meeting of the Parties.

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 (AUD).
- 5.4 When a new Party joins the Agreement, the contribution of that Party will be added to the Special Fund..

- 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.
- 5.6 Contributions shall be due for payment on the first day of the financial year and shall be paid not later than 90 days after that date. The Meeting of the Parties may permit an extension 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.
- 5.7 The Executive Secretary shall issues invoices for contributions between 30 and 90 days before the start of the Financial Year.
- 5.8 In accordance with Rule 20(2) of the Rules of Procedure, a Party that is one year or more 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 the Meeting of the Parties is satisfied that the delay in payment arises from exceptional and unavoidable circumstances.
- 5.9 One hundred and fifty days after the beginning of the financial year, the Executive Secretary shall report to the Parties on any arrears and any actions taken in response to them.

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 Meeting of the Parties that the purposes of the contribution are consistent with the policies, aims and activities of the Agreement. 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.]

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

REGULATION 8 – MONETARY CUSTODY

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 monies not needed for the immediate requirements of the Agreement. Such investments shall be restricted to securities and other investments in Institutions or Government bodies of the country in which the Secretariat is located with current rating, 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 monies 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 monies were lodged with the Secretariat. Such investments shall be restricted to securities and other investments issued by Institutions or Government bodies of the country in which the Secretariat is located and 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 monies, 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, including those of the 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, including those of the Advisory Committee.

- 9.2 No obligations shall be incurred until the triennial budget has been approved, unless the Meeting of the Parties has otherwise approved.
- 9.3 The Executive Secretary may propose to the Meeting of Parties the writing off of losses of assets and bad debts, provided that the external auditor so recommends. Such losses shall be included in the annual accounts.
- 9.4 For purchases or contracts exceeding AUD 10,000, 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 AUD 5000, but less than AUD 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:
- (a) where it has been ascertained that only a single supplier exists and that fact is so certified by the Executive Secretary;
 - (b) where voluntary contributions have been provided, specifying a particular project and/or supplier;
 - (c) where, on the advice of the Advisory Committee or the Chair of the Advisory Committee, there are determined to be exceptional circumstances that require such deviation;
 - (d) 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.
- 9.5 The Executive Secretary shall report in writing the circumstances of exceptions under 9.4 to the Parties on at least 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 of the Advisory Committee and shall do all things necessary to ensure that all payments out of the Agreement's monies 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 by 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) 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, including those related to the Advisory Committee;
 - (d) details of investments;
 - (e) losses of assets and the writing off of bad debts 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 Meeting of 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 (AUD).
- 10.5 Appropriate separate accounts shall be kept for all Special Funds.
- 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.

REGULATION 11 – EXTERNAL AUDIT

- 11.1 An external auditor shall be appointed at each ordinary Session of the Meeting of the Parties. The Secretariat will:
- (a) respect the external auditor's independence from the Secretariat, the Advisory Committee, their subsidiary bodies and the Secretariat's staff;
 - (b) establish the terms of contract;
 - (c) arrange for the payment of the external auditor; and
 - (d) provide them with the facilities and documentation that they may require for the purposes of the audit.
- 11.2 The Executive Secretary may consult an external auditor on the possible need for an introduction or amendment of any financial regulations or detailed accounting methods as well as on all matters affecting auditing procedures.
- 11.3 The Executive Secretary shall provide to the Meeting of the Parties a copy of any audit report and the audited financial statements within 60 days of their receipt. The Executive Secretary 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 shall ensure suitable insurances with a reputable financial institution against normal risks to the assets of the Agreement Secretariat and Advisory Committee are in place.

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 of the Parties.
- 14.2 Where the Meeting of the Parties or the Advisory Committee is considering matters which may lead to a decision which has financial or administrative implications, it may seek advice from the Executive Secretary.