

**Trust Agreement for Creation, Operation and
Development of the International Research Center for the
El Niño/Southern Oscillation (ENSO) Phenomenon-IRCEN**

TERMS OF REFERENCE AND SPECIFIC MODALITIES

- 1. FUNDS DEFINITION.-** The funds are the monetary or financial values that constitute the assets of the present trust agreement, represented by the amounts of money and the values proceeding from the CONTRIBUTOR (i.e., the Government of Ecuador), in possession of THE TRUSTEE (i.e., the WMO), referred to in the present Agreement, and the proceeds of the said values arising from investments carried out by THE TRUSTEE, less any commissions, withdrawals or pending liabilities and other expenses attributable to the trust funds.

- 2. FUNDS CONSTITUTION.-** The trustor or contributor grants to deposit the amount of THREE HUNDRED EIGHTY-FIVE THOUSAND (US\$385.000) Dollars of the United States of America, into the Trustee' s bank account, as a contribution for the purpose of guaranteeing Ecuador' s disposition to initiate the activities that should lead to the creation and commissioning of the International Research Center for the El Niño/Southern Oscillation Phenomenon-IRCEN. Other values granted by other contributors or donors may be added thereto.

- 3. WMO CONTRIBUTION.-** THE WMO shall assist in the activities concerning the design on the project document and the implementation of the future Center.

- 4. PURPOSE OF THE TRUST AGREEMENT.-** The main purpose of the trust agreement is the administration by THE TRUSTEE of the funds financial resources and the annual proceeds these produce, which shall be destined to finance the activities stipulated in the above paragraph.

- 5. TECHNICAL COMMITTEE.-** A Technical Committee in charge of operational procedures shall be created for the selection process of acquisitions to be financed out of the Funds, as well as for authorization of any payments to be carried out. The Technical Committee shall be composed of representatives of the following institutions: National Institute of Meteorology and Hydrology (INAMHI), Oceanographic Institute of the Navy (INOCAR), National Institute of Fishery (INP), University of Guayaquil, Catholic University of Santiago de Guayaquil and Higher School of Polytechnics of the Coast, who shall all be sufficiently credited. The Technical Committee shall reach its decisions by consent, which shall be communicated to THE TRUSTEE for acquisitions to be effected or specific expenses to be made.

- 6. RIGHTS AND OBLIGATIONS OF THE TECHNICAL COMMITTEE.-** The Technical Committee shall have the following rights and obligations:
 - To keep books of contributions into the Funds.

- To review and approve financial and accounting statements submitted by the trustee on the operations carried out.
- To assess and select all acquisitions and expenses to be financed out of the funds, in conformity with the guidelines and regulations contained in the feasibility study.
- To supervise and control all acquisitions and expenses financed out of the funds.
- To produce and submit statements concerning the funds financial situation and performance.
- To submit statements to the CONTRIBUTOR on the Trust Agreement's management situation.

7. RIGHTS AND OBLIGATIONS OF THE TRUSTEE

The trustee shall have the following rights and obligations:

- To manage the values under this trust agreement as, in its discretion, it deems best convenient for the interests of the trust funds, for which it may carry out, upon previous mandatory authorization by the Technical Committee, secure and profitable investments and reinvestments of high liquidity.
- To submit quarterly financial statements to the Technical Committee.
- To keep the accounting books corresponding to operations carried out in respect of trust values at all times available to the Technical Committee.
- To effect any payments in conformity with these Terms of Reference and Specific Modalities.
- To carry out all other administrative, financial and accounting actions the TRUSTEE considers necessary or desirable in benefit of the trust agreement and which are in conformity with WMO procedures and regulations.
- To assist the Government of Ecuador and the project authorities in the international resource mobilization for the future implementation of the Center.

8. PAYMENTS AGAINST THE FUNDS

The trustee shall manage the funds according to WMO financial regulations.

9. TRUSTEE COMMISSIONS

The TRUSTEE shall be entitled to six percent (6%) of the calculated total of the monthly executed funds, for the administration of the said funds, in accordance with payment instructions by the Technical Committee.

10. CONTRACT PERIOD

The present trust agreement shall have the duration that is necessary for carrying out the purposes for which it was constituted, and may be terminated by canceling or suppressing the creation and implementation of the IRCEN. In this event, the Technical Committee shall immediately notify

the TRUSTEE, so that, in conformity with the Committee' s provisions, it may proceed to distribute the funds in favor of those entitled.

11. WINDING UP OF THE TRUST AGREEMENT

At the end of this trust agreement, the TRUSTEE shall submit the Technical Committee a comprehensive balance of the state of the funds account, which shall be approved by the said Committee within fifteen days following that action. It shall be entitled to make observations or request any corresponding explanations, in which event the said term shall restart upon reception of the new statement. In case there is no explicit approval within the said term, the submitted statements shall tacitly be understood as approved. The approval of the balance and the statements submitted shall conclude the present contract. The TRUSTEE shall submit the Government of Ecuador the trust funds available net balance resulting after deduction of the contributions made and the gross revenues proceeding from any investments in respect of the funds, as well as any expenses, payments, paid or pending commissions, in conformity with the provisions under the present contract.

12. NOTICES

Any notification or communication between the parties on any matter related to the present contract, shall be made in writing and mailed to the following addresses:

- TECHNICAL COMMITTEE: INOCAR, as a Focal Point IRCEN National Address.
- TRUSTEE: **WMO - Technical Cooperation Department**, for all technical aspects, **Administration of Resources Department**, for all financial aspects.

13. DISPUTE SETTLEMENT.- The parts commit themselves to carry out all the necessary efforts to settle any dispute arising in relation to this trust agreement by mutual agreement. In the event a dispute cannot be settled in the said way, a solution shall be sought through the pertinent diplomatic channels.

THEREUPON the World Meteorological Organization and the Government of the Republic of Ecuador hereby agree as follows:

1. Purpose

To strengthen collaboration the Government of Ecuador and the WMO, for the purpose of initiating the activities related to the creation of the center, based on the indications contained in the pleviusly carried out Feasibility Study.

2. Implementation

For this cooperation to take the effect, the Government of Ecuador shall create funds within the WMO accounts under the conditions contained in the annexed "TERMS OF REFERENCE AND SPECIFIC MODALITIES" which constitute an Integral part of this Memorandum. Any modifications to the Memorandum and/or their Annex shall be realized by request of any one of the parties, through exchange of notes and upon agreement between the parties.

In witness where of the undersigned Representatives being duly authorised there to by their respective Governments have signed the Present Agreement in two originals in the English language and two originals in the Spanish language, one of each for each party, and on the date indicated next to the signature.

For the Government of Ecuador

For the World Meteorological Organization

Heinz Moeller Freile
Minister of Foreign Affairs

O. P. Obassi
Secretay General