



Environmental Foundation of Jamaica

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**AGREEMENT BETWEEN
THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND
THE GOVERNMENT OF JAMAICA
CONCERNING AN ENTERPRISE FOR THE AMERICAS FOUNDATION**

The Government of the United States of America and the Government of Jamaica (“the Parties”),

Seeking to implement the Enterprise for the Americas Initiative,

Desiring to enhance the friendship and spirit of cooperation between the Parties,

Desiring to promote environmentally sound and sustainable economic development, including the encouragement of child survival and child development,

Recognizing that environmental protection, conservation, and sustainable natural resource management are key elements in building an ecologically and economically sound future for all countries in the Western Hemisphere,

Recognizing that a country’s children are among its greatest resources, represent its future, deserve a sound natural resource base for a good quality of life, and deserve protection from the health hazards of environmental pollution and degradation,

Recognizing that child survival and child development are frequently linked to environmental conservation and can often be addressed effectively in tandem.

Wishing to follow upon the Agreement between the Parties regarding the reduction of certain debts owed to the United States Government and its Agencies (“Debt Reduction Agreement 1”) of August 23, 1991, and the Agreement between the Parties regarding the reduction of certain debts related to foreign assistance owed to the United States Government and its Agencies (“Debt Reduction Agreement 2”) of January 13 and 15, 1993, which reduce certain debt owed by the Government of Jamaica to the Government of the United States of America, have agreed as follows:

ARTICLE I: PURPOSE

The purpose of this Agreement is to provide, among other things, for the creation of an Americas Fund and for the expansion of the scope and capacities of the Environmental Foundation of Jamaica (the “Foundation”), which was established pursuant to the

Agreement between the Government of the United States of America and the Government of Jamaica concerning the establishment of an Enterprise for the Americas Environmental Foundation of November 26, 1991 (“the 1991 Agreement”). The objectives of the Foundation shall be:

- To promote and implement activities designed to conserve and manage the natural resources and environment of Jamaica in the interest of sustainable development; and
- To encourage the improvement of child survival and child development in Jamaica.

ARTICLE II: THE FOUNDATION

1. The Parties agree to consult with each other and with the members of the Foundation on amendments to the Articles and Memorandum of Association of the Foundation to reflect the terms of this Agreement prior to the submission of any such amendments to the members of the Foundation for the members’ approval.

2. No disbursements from Account 2 pursuant to Article VII.1 shall be made prior to the approval of the amended Articles and Memorandum of Association referred to in paragraph 1 above.

3. The procedures for the operations of the Foundation other than those set forth in the Companies Act of Jamaica and the Articles of Association shall be adopted by the Board by a majority vote, provided that the majority includes the affirmative votes of the representatives of the Parties appointed in accordance with Article IV.1. A and IV.1.B

ARTICLE III: THE AMERICAS FUND

1. The Government of Jamaica shall create an Americas Fund (“the fund”) which shall be administered by the Foundation. Any monies deposited in the Fund, including interest or accruals therefrom, or grants made from the Fund, or assets of the Foundation acquired from resources of the Fund, shall be free from any taxation, levies, fees, or other charges imposed by the Parties to the extent permissible by law.

2.

a. The Fund shall have two accounts, Account 1 and Account 2, funds in which shall not be comingled.

b. Subject to Article IV of Debt Reduction Agreement 1, the Government of Jamaica shall ensure that the entire amount of interest owed pursuant to Debt Reduction Agreement 1 falling due

on or after the date of entry into force of this Agreement, is deposited in local currency in Account 1 in accordance with the payment schedule at Appendix B of Debt Reduction Agreement 1. Monies paid prior to the date of entry into force of this Agreement into the environmental fund established under Article III of the 1991 Agreement shall be deemed deposits into Account 1.

c. Subject to Article IV of Debt Reduction Agreement 2, the Government of Jamaica shall ensure that the entire amount of interest owed pursuant to Debt Reduction Agreement 2 falling due on or after the date of entry into force of this Agreement, is deposited in local currency in Account 2 in accordance with the payment schedule at Appendix B of Debt Reduction Agreement 2. Any interest which becomes due pursuant to Debt Reduction Agreement 2 prior to the date of entry into force of this Agreement shall not be deposited into the Fund, but shall be deposited in U.S. dollars in the appropriate U.S. Government account.

d. Any interest which becomes due pursuant to Debt Reduction Agreement 1 or Debt Reduction Agreement 2 subsequent to the termination of this Agreement pursuant to Article X shall not be deposited in the Fund, but shall be deposited in U.S. dollars in the appropriate U.S. Government account.

3. Monies from other sources, including public and private creditors of the Government of Jamaica, in the form of local currency or other currencies, may also be deposited into the Fund. Once deposited, these monies shall be subject to the requirements and conditions agreed to between the donor(s) of such monies and the Parties, so long as these terms are consistent with this Agreement.

4. Deposits in the Fund shall be the property of the Government of Jamaica until they are disbursed.

ARTICLE IV: THE BOARD OF THE FOUNDATION

1. The Parties shall ensure that a Board of the Foundation is suitably constituted. It shall consist of the following nine members:

- A. One representative of the Government of Jamaica;
- B. One representative of the Government of the United States of America;
- C. One representative of the University of the West Indies;
- D. One representative from a child survival and child development nongovernmental organization; and

- E. Five representatives from a broad range of Jamaican environmental and local community development, including child survival and child development, nongovernmental organizations, and scientific and academic bodies.
2. The representatives described in subparagraphs 1. D and 1.E above shall constitute a majority of the members of the Board. These representatives shall be appointed by the Government of Jamaica in consultation with nongovernmental organizations.
3. The appointment of the representative described in subparagraph 1.C above shall be made by the Government of Jamaica on the recommendation of the Vice Chancellor of the University of the West Indies.
4. Board members representing each Party shall serve at the discretion of that Party. Board members described in subparagraphs 1.C, 1.D, and 1.E above shall serve for a period of two years and may be removed only to the extent provided by law. Consecutive terms may be permitted.
5. If at any time the Board considers a particular issue involving activities or interests of any organization, a representative of which is a member of the Board, that representative shall present to the Board a statement of such activities or interests. Such representative shall not participate in the discussions or decisions of the Board involving that particular issue, to the extent such participation would present a conflict of interest.
6. The Board of the Foundation shall meet at least once every four months.
7. The quorum for Board meetings shall be five members, of which two shall be representatives of the Parties.
8. The Foundation's Articles of Association, written policies, operating procedures, minutes of meetings, books, records, and reports shall be retained in the files of the Foundation. A permanent record shall also be maintained on the decision criteria used by the Foundation in the award of grants. The above records shall be open for public inspection.

ARTICLE V: FUNCTIONS OF THE FOUNDATION

1. The Board of the Foundation shall be responsible for the management of the program undertaken and oversight of grant activities funded from the resources of the Fund. In this capacity, the Board of the Foundation shall:
 - A. Issue and widely disseminate a public announcement of the call for grant proposals which states the criteria for the selection of projects eligible for grant assistance and the qualifications of organizations eligible to submit proposals for grant awards;
 - B. Receive proposals for grant assistance from entities described in Article VI.3 and VI.4 of this Agreement, and make grants to such entities for the activities enumerated in Article VI.1 and VI.2 of this Agreement; and
 - C. Publicly announce grants awarded by the Foundation.

2. The Board of the Foundation shall have overall responsibility for the Fund and shall establish policies and approve projects.

3. The Board of the Foundation shall appoint one or more investment advisers (the "Investment Adviser(s)") to manage the investment portfolio of the Fund.

A. The Investment Adviser(s) shall be charged with the investment of the monies in the Fund.

B. Deposits in the Fund shall be prudently invested by the Investment Adviser(s). Returns on investment shall be deposited by the Investment Adviser(s) in the Fund.

C. The Investment Adviser(s) shall make every effort to ensure that such investments yield a positive real interest rate as defined in terms of the Jamaican Consumer Price Index. To the extent that prudent investment practices are not accomplishing this goal, the Foundation shall promptly bring this matter to the attention of the Parties for their consideration, with a view toward pursuing appropriate corrective measures.

4. The Board of the Foundation shall appoint a fiscal agent to manage the disbursement of monies from the Fund. The terms of appointment of the fiscal agent shall include a provision that requires the fiscal agent to ensure that the Board of the Foundation is promptly notified in writing when the Government of Jamaica makes a deposit in the Fund.

5. The Board of the Foundation shall be empowered to engage staff for the -proper performance of its functions and to engage independent contractors as technical or professional staff as necessary.

6. The Board of the Foundation shall present to the Parties:

A. An annual program, by 1 June 1994, and thereafter on the first of June of each year, covering the following twelve-month period from 1 August through 31 July;

B. An annual report, by 30 October 1994, and thereafter on 30 October of each year, on the activities funded by the Foundation (which shall include on-going, multi-year projects) covering the previous 1 August-31 July period; and

C. An annual audit by an independent auditor, by 30 October 1994, and thereafter on 30 October of each year, covering the previous 1 August-31 July period.

7. Proposed grants from the Fund in excess of U.S. dollars 100,000 over the life of a project shall be presented by the Board of the Foundation to both Parties. If either Party disapproves of such a grant, that Party must notify the Board of its disapproval, in which case the Board may not award the proposed grant. Proposed grants not disapproved by either Party within 45 days of presentation to the Parties' members of the Board shall no longer be subject to either Party's disapproval.

8. The Board of the Foundation shall ensure that performance under grants and other agreements made pursuant to this Agreement is monitored to determine whether time schedules and other performance goals are being achieved. Grant agreements shall

provide for periodic progress reports from the grantee to the Foundation. Such reports shall review all project components essential to the successful achievement of the goals of the project. Such reports should be received from the grantee at least annually.

ARTICLE VI: ELIGIBILITY OF PROJECTS AND ORGANIZATIONS

1. Activities that may be funded from Fund Account 1 under this Agreement are:
 - A. Restoration, protection, or sustainable use of the world's oceans and atmosphere;
 - B. Restoration, protection, or sustainable use of diverse animal and plant species;
 - C. Establishment, restoration, protection, and maintenance of parks and reserves;
 - D. Development and implementation of sound systems of natural resource management;
 - E. Development and support of local conservation programs ;
 - F. Training programs to strengthen conservation institutions and increase scientific, technical, and managerial capabilities of individuals and organizations involved in conservation efforts;
 - G. Efforts to generate knowledge, increase understanding, and enhance public commitment to conservation;
 - H. Design and implementation of sound programs of land and ecosystem management;
 - I. Promotion of regenerative approaches in farming, forestry, fishing, and watershed management;
 - J. Agriculture-related activities, including those that provide for the biological prevention and control of animal and plant pests and diseases, to benefit the environment: and
 - K. Local community initiatives that promote conservation and sustainable use of the environment.
2. Activities that may be funded from Fund Account 2 under this Agreement are:
 - A. Activities, including those listed in Article VI.I, that link the conservation and sustainable use of natural resources with local community development; and
 - B. Activities that promote child survival and other child development activities, especially those that link child survival and child development with sustainable management of natural resources.
3. Organizations which shall be eligible for grants from Fund Account 1 are:

- A. Jamaican nongovernmental environmental, conservation, development, and educational organizations;
 - B. Other appropriate nongovernmental local or regional entities; and
 - C. In exceptional circumstances, and to the extent consistent with the domestic legal requirements of the Parties, the Government of Jamaica, including its subdivisions.
4. Organizations which shall be eligible for grants from Fund Account 2 are:
- A. Jamaican nongovernmental environmental, conservation, child survival and child development, and development organizations;
 - B. Other appropriate nongovernmental local or regional entities; and
 - C. In exceptional circumstances, and to the extent permissible under the domestic legal requirements of the Parties, the Government of Jamaica, including its subdivisions.
5. Grants shall be awarded to organizations strictly on the merits of proposals presented to the Board of the Foundation without regard to whether the proposing organization does or does not have representation on the Board.
6. The Board of the Foundation shall give priority to projects that are managed by nongovernmental organizations and that involve local communities in their planning and execution.

ARTICLE VII: DISBURSEMENTS FROM THE FUND

1. The Board of the Foundation shall disburse grants from the Fund to organizations eligible under Article VI.3 or VI.4 when the Board approves a proposal eligible under Article VI.1 or VI.2. All grant disbursements shall be made pursuant to a grant agreement and be made promptly.
2. The Board of the Foundation shall draw sums necessary to pay for the Foundation's administrative expenses, including the fiscal audit required pursuant to Article V.6. Except as the Parties may otherwise agree by exchange of notes, these sums may not exceed 15 percent of: the annual payments into the Fund made by the Government of Jamaica pursuant to the Debt Reduction Agreements; and the annual investment income.

ARTICLE VIII: CONSULTATION AND REVIEW

1. Upon the request of either Party, the Parties shall consult concerning the implementation or interpretation of this Agreement. These consultations shall take place within 60 days after the request for consultations is received in writing from the other Party.
2. Either Party may request consultations with the Foundation and the other Party after reviewing the Foundation's reports and audits presented pursuant to Article V.6. These consultations shall take place within 60 days after the request for consultations is received in writing from the other Party.

3. The Parties shall meet to review the operation of this Agreement three years from the date of its entry into force.

ARTICLE IX: SUSPENSION OF DISBURSEMENTS

1. If at any time either of the Parties determines that issues requiring consultation under Article VIII have not been satisfactorily resolved, such Party may notify the other in writing.

2. Upon receipt of such written notification from the Government of the United States of America, the Government of Jamaica shall immediately instruct the Board of the Foundation to suspend disbursements which may be made under Article VII.1 of this Agreement.

3. Upon providing such written notification to the Government of the United States of America, the Government of Jamaica may immediately instruct the Board of the Foundation to suspend disbursements which may be made under Article VII.1 of this Agreement.

4. Suspension of disbursements shall mean that:

A. no further approval of grants shall be undertaken until the Parties agree to resume such activity;

B. disbursements pursuant to already approved grant agreements shall proceed unless the specific grant agreement has been suspended pursuant to that grant agreement; and

C. notwithstanding subparagraph 4 .B above, should the Parties jointly certify in writing to the Board that the manner in which the grant agreement was approved was inconsistent with Article IV.5 or the Articles of Association of the Foundation, the Parties may require the Board to suspend disbursements pursuant to that grant agreement.

5. If the Government of Jamaica fails to suspend disbursements which may be made under Article VII.1 of the Agreement within 14 days of receiving written notification from the Government of the United States of America ("the notification period"), the Government of the United States of America may, at its discretion, require that interest payments pursuant to Debt Reduction Agreement 1 and/or Debt Reduction Agreement 2 falling due subsequent to the notification period be made in U.S. dollars and be deposited in the appropriate U.S. Government account(s).

ARTICLE X: TERMINATION

1. Either Party may terminate this Agreement upon six months' written notice to the other Party.

2. No disbursements from the fund shall occur after a Party has given notice to terminate the Agreement, unless the Parties agree to permit disbursements. The

termination of this Agreement shall not prevent expenditures of funds disbursed before notice to terminate is given.

3. Upon termination of this Agreement amounts remaining in the fund shall, at the discretion of the Government of the United States of America, be converted into U.S. dollars and deposited into the appropriate U.S. Government account(s).

ARTICLE XI: ENTRY INTO FORCE, AMENDMENT AND OTHER ARRANGEMENTS

1. This Agreement shall enter into force upon signature and shall remain in force unless terminated by the Parties in accordance with Article X.

2. This Agreement may be amended by written agreement of the Parties.

3. Nothing in this Agreement shall prejudice other arrangements between the Parties concerning debt reduction or cooperation and assistance for environmental, conservation, or child survival or child development purposes.

4. Upon entry into force, this Agreement shall supersede the 1991 Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Agreement.

Done at Kingston, this 27th day of September 1993, in duplicate.

For the Government of
The United States of
America

For the Government of
Jamaica
