

Acuerdos Bilaterales

Clasificación: 78-2004

Fecha de Ingreso: 31 de agosto de 2004

Nombre de Acuerdo: Global Environment Facility Trust Fund Grant Agreement " Building the Inter-American Biodiversity Information Network Project" between the General Secretariat of the Organization of American States and the International Bank for Reconstruction and Development acting as an Implementing Agency of the Global Environment Facility. Global Environment Facility Trust Fund Grant Number TF053526

Materia: Medio Ambiente

Partes: SG/OEA y International Bank for Reconstruction and Development

Referencia: IBRD

Fecha de Firma: 15 de julio de 2004

Fecha de Inicio:

Fecha de Terminación:

Lugar de Firma:

Unidad Encargada:

Persona Encargada:

Original:

Claves:

Cierre del proceso:

GEF TRUST FUND GRANT NUMBER TF053526

Global Environment Facility Trust Fund Grant Agreement

(Building the Inter-American Biodiversity Information Network Project)

between

GENERAL SECRETARIAT OF THE ORGANIZATION OF AMERICAN
STATES

and

INTERNATIONAL BANK FOR RECONSTRUCTION
AND DEVELOPMENT

acting as an Implementing Agency of the Global Environment Facility

Dated July 15, 2004

GLOBAL ENVIRONMENT FACILITY TRUST FUND GRANT AGREEMENT

AGREEMENT, dated July 15, 2004, between the GENERAL SECRETARIAT OF THE ORGANIZATION OF AMERICAN STATES (the Recipient) and INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT (the Bank) acting as an implementing agency of the Global Environment Facility (GEF) in respect of grant funds provided to a fund (the GEF Trust Fund) by certain members of the Bank as participants of the GEF.

WHEREAS (A) the Bank, pursuant to Resolution No. 91-5 of March 14, 1991 of the Executive Directors of the Bank, established the GEF to assist in the protection of the global environment and promote thereby environmentally sound and sustainable economic development;

(B) following the restructuring of the GEF, such arrangements continued in place on the basis set forth in Resolution No. 94-2 of May 24, 1994, of the Executive Directors of the Bank which, *inter alia*, established the GEF Trust Fund and appointed the Bank as trustee of the GEF Trust Fund (Resolution No. 94-2);

(C) the second replenishment of the GEF Trust Fund was approved on the basis set forth in Resolution No. 98-2 of July 14, 1998, of the Executive Directors of the Bank (Resolution No. 98-2);

(D) the Recipient is a duly established international organization and represents that it has the necessary legal capacity and powers to enter into this Agreement and perform its obligations herein set forth;

(E) the Recipient, having satisfied itself as to the feasibility and priority of the project described in Schedule 2 to this Agreement (the Project), has requested assistance from the resources of the GEF Trust Fund for funding the Project, and said request having been approved in accordance with the provisions of the Instrument for the Establishment of the Restructured Global Environment Facility approved under Resolution 94-2, and to be funded from contributions to the GEF Trust Fund under Resolution No. 98-2, which may include funds carried over from the first replenishment of the GEF Trust Fund under Resolution No. 94-2;

(F) the United States of America, through its Geological Survey (established within its Department of Interior), has manifested its intent to provide an in-kind contribution equal to six million three hundred fifty thousand Dollars (\$6,350,000) (the US Co-financing) to finance in part the Project;

(G) the Participating Countries (as defined below), as ultimate beneficiaries of the Project, have agreed to collaborate in the execution of the Project; and

WHEREAS the Bank has agreed, on the basis, *inter alia*, of the foregoing, to extend the grant set forth in Section 2.01 of this Agreement (the GEF Trust Fund Grant) to the Recipient upon the terms and conditions set forth in this Agreement;

NOW THEREFORE, the parties hereto hereby agree as follows:

ARTICLE I

General Conditions; Definitions

Section 1.01 (a) The following provisions of the General Conditions Applicable to Loan and Guarantee Agreements for Single Currency Loans of the Bank, dated May 30, 1995 (as amended through October 6, 1999), with the modifications set forth in paragraph (b) of this Section (the General Conditions) constitute an integral part of this Agreement:

- (i) Article I;
- (ii) Sections 2.01 (1), (2), (3), (4), (5), (7), (8), (14), (15), (16), (18) and (21), 2.02 and 2.03;
- (iii) Section 3.01;
- (iv) the first part of Section 4.01 (until the semicolon); Section 4.06;
- (v) Sections 5.01, 5.02, 5.03, 5.04, 5.05, 5.06, 5.07, 5.08 and 5.09;
- (vi) Sections 6.01, 6.02 (c), (e), (f), (g), (h), (i), (l), (m), (n), (o) and (p), 6.03, 6.04 and 6.06;
- (vii) Section 8.01 (b);
- (viii) Sections 9.01 (a), 9.04, 9.05, 9.06, 9.07, 9.08 and 9.09;
- (ix) the second sentence of Section 10.01, and 10.03;

- (x) Article XI; and
 - (xi) Sections 12.01, 12.02, 12.03 and 12.04.
- (b) The General Conditions shall be modified as follows:
- (i) the term "Bank", wherever used in the General Conditions, other than in Sections 5.01 (a) and 6.02 (f) thereof, means the Bank acting as an implementing agency of the GEF;
 - (ii) the term "Borrower", wherever used in the General Conditions, means the Recipient, except in Sections 6.02 (f) and 8.01 (b), where the term "Borrower" shall mean a Participating Country;
 - (iii) the term "Loan Agreement", wherever used in the General Conditions, means this Agreement;
 - (iv) the term "Loan", wherever used in the General Conditions, means the GEF Trust Fund Grant;
 - (v) the term "Loan Account", wherever used in the General Conditions, means the GEF Trust Fund Grant Account, the account opened by the Bank on its books in the name of the Recipient to which the amount of the GEF Trust Fund Grant is credited;
 - (vi) the phrase "in the territory of, the Borrower or the Guarantor" shall be replaced by the phrase "in the territory of, a Participating Country" in Section 5.08. For purposes of this subparagraph, the term "Participating Country" shall have the same meaning as in Section 1.02 (k) of this Agreement;
 - (vii) the words "and/or the Association, as the case may be," shall be added after the term "Bank" in Section 6.02 (f) (i); and
 - (viii) a new paragraph (q) is added to Section 6.02 of the General Conditions, as follows: "(q) An extraordinary situation shall have arisen in which any further disbursement under the GEF Trust Fund Grant would exceed the resources available for disbursement from the Global Environment Facility."

Section 1.02. Wherever used in this Agreement, unless the context otherwise requires, the several terms defined in the General Conditions and in the Recitals to this Agreement have the respective meanings therein set forth; and the following additional terms have the following meanings:

(a) "Coordinating Institution" means an entity vested with legal personality which will assist the Recipient in the carrying out of Part A.2 of Project;

(b) "Eligible Institution" means an entity vested with legal personality which has been selected by the Recipient to carry out a IABIN Subproject (as defined below);

(c) "FMR" means each financial monitoring report prepared in accordance with Section 4.02 of this Agreement;

(d) "IABIN" means the Inter-American Biodiversity Information Network, an internet-based, decentralized network to provide access to scientifically credible biodiversity information available in selected institutions in North America, Central America, South America and the Caribbean, the creation of which was agreed by the heads of States present at the Recipient's Summit of the Americas on Sustainable Development held in Santa Cruz de la Sierra, Bolivia in December 1996;

(e) "IABIN Executive Committee" means the committee established by the IABIN Council (which council is comprised of a representative of the Recipient, a representative of each officially designated national focal point whose government is a member of the Recipient and a representative of each approved institution which meets the selection criteria to be part of said council) in December 1999;

(f) "IABIN Secretariat" means the secretariat referred to in Section 3.06 (a) (i) of this Agreement;

(g) "IABIN Subproject" means any of the investments under Part B (2) of the Project;

(h) "IABIN Subproject Agreement" means any of the agreements referred to in Section 3.05 (a) of this Agreement;

(i) "Operating Account" means the account referred to in Section 2.02 (b) of this Agreement; and

(j) "Operational Manual" means the manual referred to in Section 3.04 (a) of this Agreement; and

(k) "Participating Countries" means any of the countries listed in Schedule 5 to this Agreement which have manifested, in writing, their intention to participate in the Project and are eligible to receive GEF funding under the Project through the GEF Trust Fund, as well as any other country (acceptable to the Bank) which shall manifest, in writing, its intention to participate in the Project and is also eligible to receive said GEF funding.

ARTICLE II

The GEF Trust Fund Grant

Section 2.01. The Bank agrees to make available to the Recipient, on the terms and conditions set forth or referred to in this Agreement, the GEF Trust Fund Grant in an amount equal to six million Dollars (\$6,000,000).

Section 2.02. (a) The amount of the GEF Trust Fund Grant may be withdrawn from the GEF Trust Fund Grant Account in accordance with the provisions of Schedule 1 to this Agreement for expenditures made (or, if the Bank shall so agree, to be made) in respect of the reasonable cost of goods and services required for carrying out the Project and to be financed out of the proceeds of the GEF Trust Fund Grant.

(b) The Recipient may, for the purposes of the Project, maintain in Dollars an operating account in a commercial bank on terms and conditions satisfactory to the Bank, including appropriate protection against set off, seizure or attachment. Deposits into, and payments out of, the Operating Account shall be made in accordance with the provisions of Schedule 4 to this Agreement.

Section 2.03. The Closing Date shall be June 30, 2010 or such later date as the Bank shall establish. The Bank shall promptly notify the Recipient of such later date.

ARTICLE III

Execution of the Project

Section 3.01. The Recipient declares its commitment to the objectives of the Project as set forth in Schedule 2 to this Agreement and, to this end, shall:

(a) carry out Parts A; B (1); C and D of the Project with the assistance of the IABIN Executive Committee, the Participating Countries and the designated Coordinating Institutions (as the case may be), all with due diligence and efficiency and in conformity with appropriate administrative, technical, financial and procurement

practices and with due regard to biodiversity, ecological and environmental factors, and shall provide or cause to be provided, promptly as needed, the funds, facilities, services and other resources required for said Parts of the Project; and

(b) cause the Eligible Institutions (pursuant to the terms of the pertinent IABIN Subproject Agreement) to carry out their corresponding IABIN Subprojects with due diligence and efficiency and in conformity with appropriate administrative, technical, financial and procurement practices, and with due regard to biodiversity, ecological and environmental factors, shall take and cause to be taken all action, including the provision of funds, facilities, services and other resources, necessary or appropriate to enable said Eligible Institutions to carry out their pertinent IABIN Subproject, and shall not take or permit to be taken any action which would prevent or interfere with the carrying out of any IABIN Subproject.

Section 3.02. Except as the Bank shall otherwise agree, procurement of the goods, non-consultant technical services and consultants' services required for the Project and to be financed out of the proceeds of the GEF Trust Fund Grant shall be governed by the provisions of Schedule 3 to this Agreement.

Section 3.03. For the purposes of Section 9.07 of the General Conditions and without limitation thereto, the Recipient shall:

(a) prepare, on the basis of guidelines acceptable to the Bank, and furnish to the Bank not later than six months after the Closing Date or such later date as may be agreed for this purpose between the Recipient and the Bank, a plan designed to ensure the sustainability of the Project; and

(b) afford the Bank a reasonable opportunity to exchange views with the Recipient on said plan.

Section 3.04. (a) Without limitation to the provisions of Section 3.01 of this Agreement, the Recipient shall: (i) carry out Parts A, B (1), C and D of the Project; and (ii) cause each Eligible Institution to carry out its corresponding IABIN Subproject, all in accordance with a manual (the Operational Manual), satisfactory to the Bank, which shall contain, *inter alia*, the criteria for selecting and approving IABIN Subprojects, the criteria for selecting Eligible Institutions, the Recipient's operating procedures; internal controls and accounting and reporting functions, the Project financial management, disbursement and procurement procedures, the IABIN Secretariat's organizational structure, functions and responsibilities and the indicators to be used in the monitoring and evaluation of the Project.

(b) In case of any conflict between the terms of the Operational Manual and those of this Agreement, the terms of this Agreement shall prevail.

Section 3.05. (a) Upon approval of a IABIN Subproject, the Recipient shall transfer, on a grant basis, a portion of the GEF Trust Fund Grant proceeds allocated to Category (4) (set forth in the table in paragraph 1 of Schedule 1 to this Agreement) to the pertinent Eligible Institution pursuant to an agreement (the IABIN Subproject Agreement) to be entered into between the Recipient and said Eligible Institution on terms and conditions acceptable to the Bank, including, *inter alia*:

- (i) the obligation of the Eligible Institution:
 - (A) to procure the goods and/or consultants' services (as the case may be) in accordance with the provisions set forth in Schedule 3 to this Agreement;
 - (B) to carry out the IABIN Subproject in accordance with the pertinent provisions of the Operational Manual;
 - (C) to maintain adequate records and accounts, and make available such documentation to the Recipient, and any other information that the Recipient may request in order to comply with its obligations under Article IV of this Agreement;
 - (D) to provide the counterpart funding for those inputs not financed with the GEF Trust Fund Grant proceeds necessary to carry out said IABIN Subproject; and
 - (E) to permit the staff of the Recipient and the Bank to supervise the pertinent IABIN Subproject; and
- (ii) without limitation to the provisions of paragraph (b) (ii) of this Section, the obligation of the Recipient to suspend in whole or in part the portion of the GEF Trust Fund Grant allocated to finance a given IABIN Subproject, in case the Eligible Institution has failed to comply with any of its obligations under the corresponding IABIN Subproject Agreement and/or terminate the IABIN Subproject Agreement (as the case may be).

- (b) (i) The Recipient shall exercise its rights and carry out its obligations under each IABIN Subproject Agreement in such manner as to protect the interests of the Recipient and the Bank and to accomplish the purposes of the GEF Trust Fund Grant; and
- (ii) except as the Bank shall otherwise agree, the Recipient shall not assign, amend, abrogate, repeal, terminate, waive or fail to enforce any IABIN Subproject Agreement or any provision thereof.

Section 3.06. For purposes of Project monitoring and supervision, the Recipient shall ensure:

(a) that a secretariat (the IABIN Secretariat) is established, and thereafter is operated and maintained, at least during Project implementation, with a structure, functions and responsibilities acceptable to the Bank (as set forth in the Operational Manual); and

(b) that the IABIN Secretariat is, at all times during Project implementation, headed by a Director, and assisted by other adequate professional and administrative staff, all with qualifications and experience acceptable to the Bank.

Section 3.07. Without limitation to the provisions of Section 3.01 of this Agreement, the Recipient shall:

(a) not later than November 30 of each year of Project implementation, starting in the year 2004, prepare and furnish to the Bank an annual work program, acceptable to the Bank, containing the Project activities to be carried out during the calendar year following the date of presentation of said program to the Bank, and a timetable for the completion of said Project activities during the year in question;

(b) thereafter carry out or cause to be carried out said program in accordance with its terms, and in a manner acceptable to the Bank, and

(c) carry out or cause to be carried out the annual work program for the year 2004 as approved by the Bank prior to the date of this Agreement.

Section 3.08. The Recipient shall:

(a) maintain or cause to be maintained policies and procedures adequate to enable it to monitor and evaluate on an ongoing basis, in accordance with the indicators set forth in the Operational Manual, the carrying out of the Project and the achievement of the objectives thereof;

(b) prepare with the assistance of the IABIN Secretariat and the Coordinating Institutions, under terms of reference satisfactory to the Bank, and furnish to the Bank: (i) not later than 45 days after the end of the first calendar semester after the Effective Date a report integrating the results of the monitoring and evaluation of the Project activities performed pursuant to paragraph (a) of this Section, on the progress achieved in the carrying out of the Project during the six-month period preceding the date of presentation of said report and setting out the measures recommended to ensure the efficient carrying out of the Project and the achievement of the objectives thereof during the following six-month period; and (ii) not later than 45 days after each subsequent calendar semester, a report, which report shall contain the same type of information requested under the report mentioned in said subparagraph; and

(c) not later than thirty calendar days after the date of presentation of each report mentioned in paragraph (b) above or such later date as the Bank shall request, review with the Bank and the Coordinating Institutions the pertinent report referred to in paragraph (b) of this Section, and, thereafter, take, and/or cause to be taken, all measures required to ensure the efficient completion of the Project and the achievement of the objectives thereof, based on the conclusions and recommendations of said reports and the Bank's views on the matter.

ARTICLE IV

Financial Covenants

Section 4.01. (a) The Recipient shall maintain a financial management system, including records and accounts, and prepare financial statements in accordance with consistently applied accounting standards acceptable to the Bank, adequate to reflect its operations and financial condition and to register separately the operations, resources and expenditures related to the Project.

(b) Upon the Bank's request, the Recipient shall:

(i) have its financial statements (balance sheets, statements of income and expenses and related statements), audited, for the period indicated in the Bank's request, in accordance with auditing standards acceptable to the Bank, by independent auditors acceptable to the Bank;

- (ii) furnish to the Bank as soon as available, but in any case not later than six months after the date of the Bank's request for such audit: (A) certified copies of the financial statements referred to in paragraph (a) of this Section for such period as so audited; and (B) an opinion on such statements, by said auditors, in scope and detail satisfactory to the Bank; and
- (iii) furnish to the Bank such other information concerning such records and accounts, and the audit of such financial statements, and concerning said auditors, as the Bank may from time to time reasonably request.

(c) For all expenditures with respect to which withdrawals from the GEF Trust Fund Account were made on the basis of statements of expenditure, the Borrower shall:

- (i) retain, until at least one year after the end of the fiscal year in which the last withdrawal from the GEF Trust Fund Grant Account was made, all records (contracts, orders, invoices, bills, receipts and other documents) evidencing such expenditures;
- (ii) enable the Bank's representatives to examine such records; and
- (iii) ensure that such statements of expenditure are included in any audit that the Bank may have requested pursuant to paragraph (b) of this Section.

Section 4.02. (a) Without limitation upon the Recipient's progress reporting obligations set forth in Section 3.08 of this Agreement, the Recipient shall prepare and furnish to the Bank a financial monitoring report, in form and substance satisfactory to the Bank, which:

- (i) sets forth sources and uses of funds for the Project, both cumulatively and for the period covered by said report, showing separately funds provided under the GEF Trust Fund Grant, and explains variances between the actual and planned uses of such funds;
- (ii) describes physical progress in Project implementation, both cumulatively and for the period covered by said report, and explains variances between the actual and planned Project implementation; and

(iii) sets forth the status of procurement under the Project, as at the end of the period covered by said report.

(b) The first FMR shall be furnished to the Bank not later than 45 days after the end of the first calendar semester after the Effective Date, and shall cover the period from the incurrence of the first expenditure under the Project through the end of such first calendar semester; thereafter, each FMR shall be furnished to the Bank not later than 45 days after each subsequent calendar semester, and shall cover such calendar semester.

ARTICLE V

Remedies of the Bank

Section 5.01. Pursuant to Section 6.02 (p) of the General Conditions, the following additional events are specified:

(a) Any Participating Country shall have failed to provide, promptly as needed, the funds, facilities, services and other resources required for the carrying out of Project activities within its territory.

(b) Any Coordinating Institution shall have failed to provide, promptly as needed, the funds, facilities, services and other resources required for the carrying out of any activity under Part A.2 of the Project, provided, however, that the provisions of this paragraph shall not apply if the Recipient establishes to the satisfaction of the Bank that the relevant Coordinating Institution has been promptly replaced by another Coordinating Institution in a manner acceptable to the Bank.

(c) The United States of America, through its Geological Survey, shall have failed to provide the US Co-financing, provided, however, that the provisions of this paragraph shall not apply if the Recipient establishes to the satisfaction of the Bank that adequate funds for the Project are available from other sources on terms and conditions consistent with the obligations of the Recipient under this Agreement.

(d) Any Participating Country, or any other authority having jurisdiction, shall have taken any action, including the enactment or issuance of legislation or regulations, which, in the opinion of the Bank, may adversely affect the carrying out of the Project.

(e) Any Participating Country shall have failed to afford a reasonable opportunity for representatives of the Bank to visit any part of its territory for purposes related to the Project.

ARTICLE VI

Arbitration

Section 6.01. Any dispute arising out of or relating to this Agreement which is not settled by agreement of the parties shall be finally settled by arbitration in accordance with the UNCITRAL Arbitration Rules in force on the date of this Agreement. The place of arbitration shall be Washington, D.C. In the event of a conflict between the UNCITRAL Arbitration Rules and the terms of this Agreement, the terms of this Agreement shall govern.

ARTICLE VII

Effectiveness; Termination

Section 7.01. The following events are specified as additional conditions of this Agreement within the meaning of Section 12.01 (c) of the General Conditions:

- (a) the Operational Manual has been approved by the Recipient; and
- (b) the IABIN Secretariat has been established as provided in Section 3.06 of this Agreement.

Section 7.02. The date October 13, 2004, is hereby specified for the purposes of Section 12.04 of the General Conditions.

Section 7.03. This Agreement shall continue in effect until the GEF Trust Fund Grant has been fully disbursed and the parties to this Agreement have fulfilled their obligations hereunder.

ARTICLE VIII

Representative of the Recipient; Addresses

Section 8.01. The Secretary General (*Secretario General*) of the Recipient is designated as representative of the Recipient for the purposes of Section 11.03 of the General Conditions.

Section 8.02. The following addresses are specified for the purposes of Section 11.01 of the General Conditions:

For the Recipient:

General Secretariat of the Organization of American States
Unit of Sustainable Development and Environment
1889 F Street, N.W.
Washington, D.C. 20006
United States of America

Cable address:	Telex:	Facsimile:
OAS	64128	202-458-3560

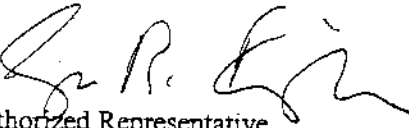
For the Bank:

International Bank for Reconstruction and Development
1818 H Street, N.W.
Washington, D.C. 20433
United States of America

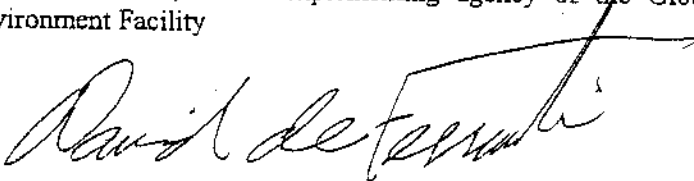
Cable address:	Telex:
INTBAFRAD Washington, D.C.	248423 (MCI) 64145 (MCI)

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized representatives, have caused this Agreement to be signed in their respective names in the District of Columbia, United States of America, as of the day and year first above written.

GENERAL SECRETARIAT OF THE ORGANIZATION OF
AMERICAN STATES

By 
Authorized Representative
Assistant Secretary General

INTERNATIONAL BANK FOR RECONSTRUCTION AND
DEVELOPMENT, as an implementing agency of the Global
Environment Facility

By 
Regional Vice President
Latin America and the Caribbean