

AN EVALUATION OF  
THE TROPICAL FOREST  
CONSERVATION ACT (TFCA)  
FUNDS FOR CHAGRES AND DARIÉN  
NATIONAL PARKS AND OF FUNDACIÓN  
NATURA AS THE FUND ADMINISTRATOR

- PANAMÁ -

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June  
Field Work

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October  
Final Report

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### **Disclaimer**

This is an independent external evaluation. The views expressed are those of the Evaluation Team and do not necessarily represent the views of the Oversight Committee, any individual Committee Member, any Fundación Natura staff, any NGO staff, or the official viewpoint of the Government of the Republic of Panamá or the Government of the United States of America, unless so attributed.

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# I. Executive Summary

This evaluation is one in a series of evaluations of the mechanisms created under the Tropical Forest Conservation Act<sup>1</sup> (TFCA) in participating countries throughout the tropics. This evaluation examines the operation of the two TFCA Funds established in Panamá in 2003 and 2004, the administration of these funds by Fundación Natura<sup>2</sup> (FN), and the accomplishments under these two Funds.

The Fondo para la Conservación del Parque Nacional Chagres (**Chagres Fund**) was established in July of 2003. The Fondo para la Conservación del Parque Nacional de Darién (**Darién Fund**) was established in August of 2004.

The **Chagres Fund** currently has \$1.79 million in its Tropical Forest Conservation Trust fund. The **Darién Fund** currently has \$2.13 million in its trust fund.

Each Fund is governed by a five-member **Oversight Committee (OC)** and in a commendable nod to efficiency, the same members serve on both committees. The OC may call on a five-member **Technical Review Committee (TRC)** for each Fund to advise the OC on specific projects and activities.

The **Trustee** for the trust-fund components of the Funds is the Banco General SA, selected by the OC in a competitive process. Once the amount in each endowment reaches \$1 million, the **Forest Conservation Agreement (FCA)** directs the OC to select an **Asset Manager** to advise the Trustee on investments.

The eligible recipients for funding (designated **Short-Term Grant Recipients** and **Long-Term Grant Recipients**) from the two Funds are Panamanian not-for-profit corporations dedicated to conserving and managing tropical forest land in Panamá.

## Overall Findings

Overall, the Evaluation Team found that the two TFCA Funds were operating responsibly, that Fundación Natura was administering the Funds properly, and that important financial resources were flowing to support the conservation of tropical forests in Panamá. The TFCA mechanism is functioning largely as it was conceived in the establishing documents, but this structure does not appear to suit the institutional and political realities of Panamá.

The TFCA mechanism as originally structured in Panamá appears to assume that there will be some level of co-management (joint administration of a protected area by a government entity in collaboration with a not-for-profit organization) for the two National Parks. This is probably not likely in the case of Darién National Park and not currently practical in the case of Chagres National Park. The result is that even the most

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<sup>1</sup> Tropical Forest Conservation Act of 1998, PL 105-214, Sec 813 as amended.

<sup>2</sup> The legal name is "Fundación para la Conservación de los Recursos Naturales" but the organization is known more widely by its shortened name: Fundación Natura.

exemplary administration of the program would leave some stakeholders dissatisfied with some of the outcomes.

Throughout this Report, the Evaluation Team makes a series of recommendations to improve the functioning of the TFCA Funds in Panamá. Some of the main recommendations have been pulled from the text and highlighted in the “Key Recommendations” sections below. The more fundamental question of the appropriate structure for the TFCA mechanism goes beyond the scope of this Evaluation, so it is treated as an annex to this report. Annex 11: “Possibilities for the Redesign of the TFCA Mechanism” is a comparison of the current design with several potential changes.

## Key Recommendations

This is an exciting time for conservation in Panama because there are a number of challenging questions facing the organizations and institutions dedicated to the long-term management of the nation’s natural heritage. The country is experimenting with new approaches to conservation finance, new institutional arrangements for resource management, and new concepts of collaboration to bring together the necessary people and resources. None of this has been easy, and the people behind these efforts deserve our congratulations for their vision and dedication.

**Clarify the roles and responsibilities of the principal actors.** One obvious approach would be a facilitated workshop (maybe an “encuentro”) to develop a shared vision of what is possible under the TFCA mechanism, and progress toward establishing common goals, objectives, and a strategic plan. (A.1)<sup>3</sup>

For each Fund, the OC should develop a **strategic plan** with a mission or vision statement, goals, and objectives<sup>4</sup>. (C.1)

Continue to **strive for a flexible policy on co-management** that incorporates the differences between the two parks, recognizing that co-management may be a longer process and not an instantly attainable state. (A.2)

Make every effort possible to gain a **commitment from GOP and ANAM to meet the basic salary needs for the two Parks** so that enforcement and essential line staff are ANAM employees. (A.3)

To the extent possible, shift from viewing Fundación Chagres and especially Fundación Panama as mere pass-through mechanisms<sup>5</sup> for procurement purposes, to begin treating them as **partners in the conservation of tropical forests**. (A.4)

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<sup>3</sup> The letter-and-number designation in parentheses following each Key Recommendation indicates the Section of this report where that recommendation is treated in more detail.

<sup>4</sup> The Park Management Plan supplies a framework for each park, but this recommendation is more about the operation of the OC, each TFCA Fund, and its relationships with other organizations.

<sup>5</sup> The Evaluation Team decided to use the term “pass-through mechanism” because it describes the interactions at this stage. These are not really “co-management” or “shared administration” arrangements yet. A fourth suggestion, “service providing” mechanism, was not used because it would require inventing and defining a new term when an adequate term already existed.

The Funds should implement a **more formal training/orientation mechanism for OC and TRC Members**. It should be developed with the current members and then become a standard part of incorporating new members on a regular basis. There needs to be an explanation of the goals of the particular Fund; the roles and responsibilities of OC, TRC, FN, and pass-through NGOs; the current policies and procedures in place; and an introduction to the documents and information stored by the Secretary (FN). (B.3)

The OC needs to get on top of investing the trust funds. **Selection of the Asset Manager** is a vital step that has taken far too long to achieve. (D.1)

The OC should consider expanding its **own capabilities to monitor the performance of the Asset Manager** by arranging informational and educational briefings on investing for the OC members or by adding professional services (volunteer, part-time, by retainer, etc.) of an investment advisor to advise the OC. (D.2 and B.6)

The OC should **explore the concept of “green” or “responsible” investing** to ensure that the invested capital is working hard for the same goals and objectives that the TFCA seeks. A first step could be to add this language to the investment guidelines so that responsible investing becomes part of the contract with the Asset Manager. (D.4)

The OC should **ensure that annual audits and annual reports for the Funds are posted on the web** and made available to the general public. (D.5)

## II. Background and Objectives

### Background

In 2003 and 2004, the Government of the United States of America (**USG**), the Government of the Republic of Panamá (**GOP**), and The Nature Conservancy (**TNC**) signed two sets of agreements to establish two TFCA Funds in Panamá under the aegis of the Tropical Forest Conservation Act of 1998 using a debt-for-nature swap model. A debt-for-nature swap involves a number of carefully planned steps and its description is beyond the scope of this evaluation. Reduced to their fundamentals, these two Panamanian debt-for-nature swaps involved replacing a GOP external debt obligation owed to the USG with a similar debt now owed to a Panamanian trust with some of the USG costs offset by a swap fee contributed from a private-sector source, TNC.

The Fondo para la Conservación del Parque Nacional Chagres (**Chagres Fund**) was established in July of 2003. Under the Chagres Fund agreements, Panamá reduced its debt with the U.S. by \$10 million at a cost to USG of \$5.6 million with an additional \$1.16 million provided by TNC. Through a series of payments over 14 years (2003-2016), GOP will transfer the \$10 million into the Chagres Fund. The Chagres Fund has two components: half of each semi-annual payment goes into a sinking<sup>6</sup> fund for immediate use and half goes into building an endowment that will be allowed to grow until 2016 when the payments end.

The Fondo para la Conservación del Parque Nacional de Darién (the **Darién Fund**) was established in August of 2004. Under the Darién Fund agreements, Panamá reduced its debt with the U.S. by \$10.9 million at a cost to USG of \$6.5 million with an additional \$1.3 million provided by TNC. Through a series of payments over 13 (2004-2016) years, GOP will transfer the \$10.9 million into the Darién Fund. The Darién Fund has two components but differs slightly from the Chagres Fund. In the case of Darién, the split is not 50/50 each year. In the early years, more of each semi-annual payment goes into the endowment to grow the endowment more rapidly. A similarly greater proportion goes into the sinking fund in the later years to compensate for inflation and to allow for a growing project portfolio over time.

The eight fundamental agreements are listed separately in the bibliography (Annex 5: List of Key Documents Reviewed). Specific to each Fund, the agreements include an "Agreement between the Government of the United States of America and the Government of the Republic of Panamá regarding a Debt-for-Nature Swap" (the "debt-for-nature agreement"), a "Swap Fee Contractual Agreement between<sup>7</sup> The Government of the United States of America and The Nature Conservancy (the "swap

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<sup>6</sup> The TFCA Funds have a hybrid nature in which the FCA portion is depleted each year (hence the use of "sinking fund" or perhaps "drawdown") and replenished the following year, but the Tropical Forest Trust Fund portion is steadily building the two endowments.

<sup>7</sup> The title of swap fee agreement for Chagres uses the word "among" while the title of the same agreement for Darién uses the word "between."

fee agreement”), a “Tropical Forest Conservation Trust Agreement” (the “trust fund agreement”), and a “Forest Conservation Agreement” (**FCA**) linking GOP, TNC, and FN.

By the end of 2016, both Funds will make the transition from operating as sinking or drawdown/replenish funds to operating as endowed funds. The trust fund agreements direct the Trustee to preserve the value of the trust fund, including using a portion of the investment income to maintain the real value of the fund (compensating for inflation). A large portion of the remaining annual investment income would be dedicated to tropical forest conservation activities. [See the individual trust fund agreements for details, especially section 5.3 and 6.]

Representing the GOP at the ministerial level is the Ministerio de Economía y Finanzas (“Ministry of Economy and Finance” or **MEF**). Representing the GOP at the technical/implementation level is the Autoridad Nacional del Ambiente (“National Environmental Authority” or **ANAM**).

Each Fund is governed by a five-member **Oversight Committee (OC)** and in a commendable nod to efficiency, the same members serve on both committees. The OC consists of the GOP (MEF) and the two principal donors (USG and TNC) as permanent voting members plus two non-permanent voting members selected by the permanent members from the environmental NGO community. Non-permanent members serve two-year staggered terms. Permanent members serve as long as they hold their position in their institution. FN serves as the non-voting secretariat for the OC.

The OC may also call on a five-member **Technical Review Committee (TRC)** for each Fund consisting of a representative from TNC, ANAM, and FN, plus the relevant National Park director and a member from FN’s own Technical Advisory Committee, (this last member is selected by FN based on the required expertise for the technical matter under consideration). According to this arrangement, ANAM holds two of the five seats on the TRC because the Park Director is also an ANAM employee.

The **Trustee** for the trust-fund components of the Funds is the Banco General SA, selected by the OC in a competitive process. Once the amount in each endowment reaches \$1 million, the FCA directs the OC to select an **Asset Manager** to advise the Trustee on developing a balanced investment portfolio.

The **Chagres Fund** currently has \$1.79 million in its **Tropical Forest Conservation Trust**. The **Darién Fund** currently has \$2.13 million in its trust fund.

The eligible recipients for funding (designated **Short-Term Grant Recipients** and **Long-Term Grant Recipients**<sup>8</sup>) from the two Funds are Panamanian not-for-profit corporations dedicated to conserving and managing tropical forest land in Panamá.

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<sup>8</sup> “Long-Term Grant Recipient” is the label the FCAs use to identify an NGO that assumes specific duties to support ANAM in the management of one of the national parks. In this report, we use the generic term “pass-through” to describe the two NGOs that are handling the procurement of goods and services with TFCA Funds to support ANAM. In the case of Chagres National Park, TNC is helping to groom the new Fundación Chagres for an eventual role in co-management of that park. In the case of Darién National

Each Fund has a narrowly defined geographic focus. Each Fund is restricted to funding tropical forest conservation projects and activities in the designated National Park plus up to five kilometers into the respective buffer zone.

## **Objectives of this Evaluation**

This evaluation is one in a series of periodic evaluations of the group of similar Funds established under the aegis of either the Tropical Forest Conservation Act or the earlier Enterprise for the Americas Initiative in the past dozen years.

The purpose of this evaluation was (1) to assess whether the legal and procedural requirements for each of the TFCA Accounts were being followed, and (2) to assess FN's performance as the Fund Administrator with regard to its effectiveness and efficiency.

The Evaluation Team focused on conducting an institutional evaluation of FN limited to its role as the Fund Administrator for the two TFCA accounts and the relatively complex inter-institutional environment in which the Funds operate. This is **not** an evaluation of Fundación Natura as an institution because its mandate and functions go well beyond the two TFCA Funds. FN is the administrator for a variety of funds simultaneously, each with a different donor, purpose, process, rules of operation, eligible projects, and eligible grantees. While this evaluation does look at FN's ability to juggle all of these differing requirements, the primary focus is FN's role as Fund Administrator for the TFCA Funds.

The Evaluation Team chose to use as a guide the format of the evaluation conducted in 2005 of the Fund of the Americas and TFCA Accounts in El Salvador, which in turn was based on prior evaluations of Enterprise for the Americas Initiative (EAI) funds in Jamaica, Colombia, and Perú.

This evaluation is intended to be useful to the Government of the Republic of Panamá, the United States Government, and The Nature Conservancy as the principals responsible for the creation of the TFCA Funds. It is also intended to aid the Oversight Committee of the two Funds and the Board of Directors of FN as they consider steps to adapt and improve the effectiveness of the Funds and the operations of FN as the Fund Administrator. In addition, this evaluation may serve as a reference for other funds and foundations, and for the designers of new funds and foundations created under the Tropical Forest Conservation Act.

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Park, the Fundación Panama is the pass-through NGO on an interim basis in part because ANAM has not endorsed a co-management approach for Darién and/or Fundación Panamá as the candidate.

### III. Methods

USAID contracted the Office of International Programs of the US Forest Service to conduct an independent evaluation of the Tropical Forest Conservation Act accounts in Panamá and their administration by FN. Periodic evaluations are required by the TFCA legislation. The US Forest Service used the services of Management and Engineering Technologies International, Inc (METI) to handle the logistical steps in fielding a team. METI contracted an international consultant and a Panamanian consultant as the core evaluation team. The director of the TFCA Secretariat from USAID/Washington participated on the team during the first part of the work in Panamá as an interviewer and as an observer providing oversight for the process.

To collect information for the evaluation, the Evaluation Team used a combination of key informant interviews, site visits, and background documentation. The key informant interviews provided a 360-degree view of the TFCA mechanism and FN administration. The team interviewed board members, senior staff, program staff, and administrative staff of FN plus key staff in partner organizations. Panamá is a relatively small country, so many of the interviewees have worked for more than one of the stakeholder organizations and worn several different hats during their careers.

The core Evaluation Team dedicated two weeks to interviews, office visits, and site visits to collect information and documentation, conduct interviews, and develop a preliminary analysis. Additional time was dedicated to preparing a draft report for circulation, tracking down additional information, collecting and analyzing comments from reviewers, and preparing a final version of this report.

# IV. Findings, Conclusions, and Recommendations

## A. Roles and Responsibilities

### Findings

#### 1. Cooperating Institutions

The TFCA Funds are a celebration of cooperation and collaboration. A number of different institutions and organizations are directly involved. USG and TNC are the patrons of the whole process because they provided the funds that enabled the debt swap to take place. MEF signed onto the agreements on behalf of GOP. USAID and TNC then became the permanent members of the OC as donors, with MEF a permanent member as the entity making the scheduled payments into the TFCA Funds. Fundación Natura became the Fund Administrator and the Secretary (without vote) of the OC. Two Panamanian environmental NGOs joined the OC as term members.

Some organizations are asked to wear different hats at different times. GOP is represented at the OC level by MEF but at the Technical Review Committee level by ANAM. ANAM is in fact represented twice on the TRC: once by ANAM and once by the Director of either Chagres or Darién National Park. USAID and TNC are together as permanent OC members and were also collaborating in the Parks in Peril program. In both roles, they oversee resources flowing to Chagres National Park. There is nothing inappropriate in wearing more than one hat but rather it highlights the complex web of relationships among the interested parties and stakeholders.

It appears that some of the relationships are new and still being worked out. In an appropriate demonstration of adaptive management, FN adjusted the qualifying threshold for grant recipients and more recently reduced the reporting requirements for some grantees from monthly to quarterly.

Some of the organizations themselves are new. Fundación Chagres is arguably the newest entity to appear. It has been developing with the help and assistance of TNC as it acquired its legal identity ("personería jurídica"), constituted a board of directors, and inaugurated its new offices.

All of these organizations expressed their commitment to working together to enhance tropical forest conservation in Chagres and Darién National Parks.

#### 2. Conceptual Model

To aid in constructing a conceptual model of the TFCA Funds in Panamá, the Evaluation Team used a "question & answer" technique from journalism to describe the Funds.

## Description of the TFCA Funds using a Question & Answer Format

Question	Answer
What?	Grants “to conserve, maintain, and restore tropical forest land in Panamá.”
Where?	Chagres National Park, Darien National Park, and extending up to five kilometers into each park’s buffer zone.
Why?	To protect tropical forests and the high levels of biodiversity they contain.
Who?	Grants are restricted to not-for-profit entities dedicated to conserving and managing tropical forest land in Panamá.
When?	Beginning in 2003 (Chagres) and 2004 (Darién) and continuing until 2016 and beyond.
How?	“Short-Term” (up to three years) and “Long-Term” (greater than three years) grants to not-for-profits to implement projects and activities in the two parks and buffer zones.

Sources: Summarized from the specific FCA and the broader TFCA legislation.

The “How” above is the real sticking point. The TFCA Funds are designed to provide financial resources to NGOs for projects in and around the two national parks. Administration and control of the two parks and legal responsibility for their management, however, rests with ANAM. Implicit in this model is some sort of a public sector – private sector collaboration (ANAM – NGO), but the form and scope of that collaboration is not defined in any of the TFCA documents.

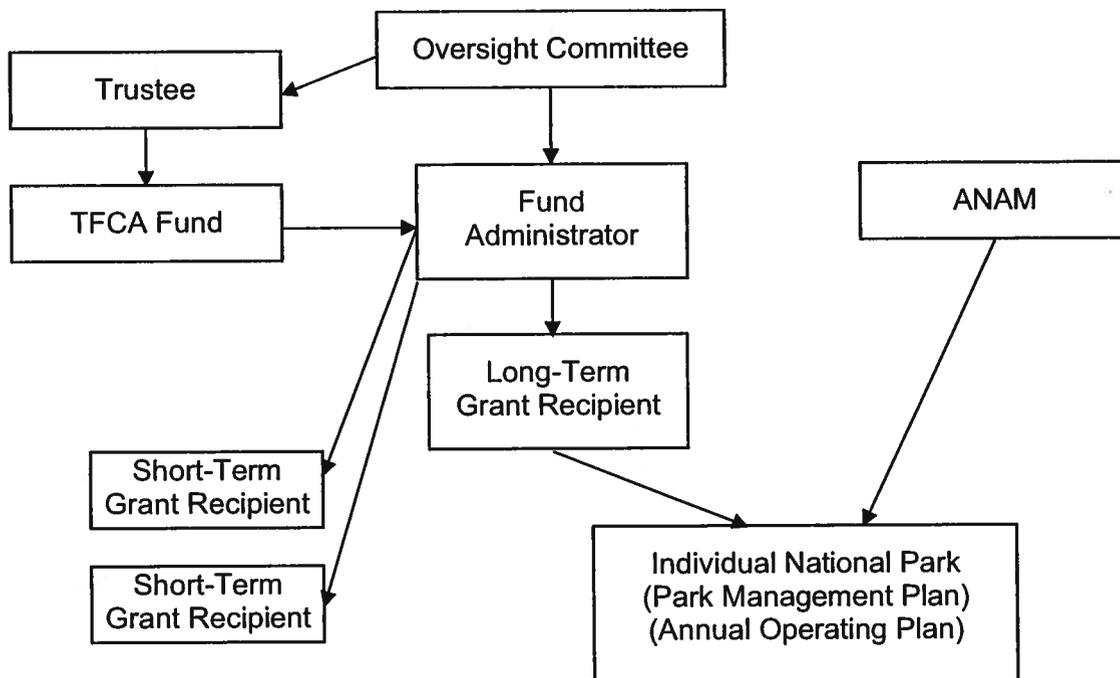
In Article V, “Additional Representations, Warranties, Covenants, and Undertakings,” the Chagres FCA contains the following:

**5.2 Additional Covenants and Undertakings of GOP.** GOP recognizes that one of the most important goals of this Agreement is the implementation of a public-private co-management mechanism for the long term conservation and protection of the Forest Land. To that end, GOP agrees to make reasonable efforts, in accordance with applicable substantive and procedural Panamanian laws and regulations, to undertake measures necessary to implement the co-management mechanism agreed upon by GOP and TNC in conjunction with the Parks in Peril program. For the avoidance of doubt, a breach of any of the covenants of this Section 5.2 shall be deemed a material breach of this Agreement by GOP.

The Section 5.2 “public-private co-management” paragraph from the Chagres FCA is completely absent from the Darién FCA, yet all of the other elements (short-term and long-term grant recipients, etc.) are still intact. Neither FCA explicitly describes a model

of how the inter-institutional relationships should function, but there is enough information implicit in the Agreements to diagram a conceptual model.

**Conceptual Model  
(Generalized from Agreements)**



This diagram is a simplified model based primarily on the flow of approvals and funding (the solid arrows). There are a number of consultative arrows that could be shown, for example linking ANAM with the Oversight Committee, the Fund Administrator, and all of the Grant Recipients.

In general, the Long-Term Grant Recipient is intended to use financial resources from the TFCF Fund, flowing through the Fund Administrator, to support and complement the activities of ANAM in the particular national park, using the Park Management Plan and the Annual Operating Plan as a framework.

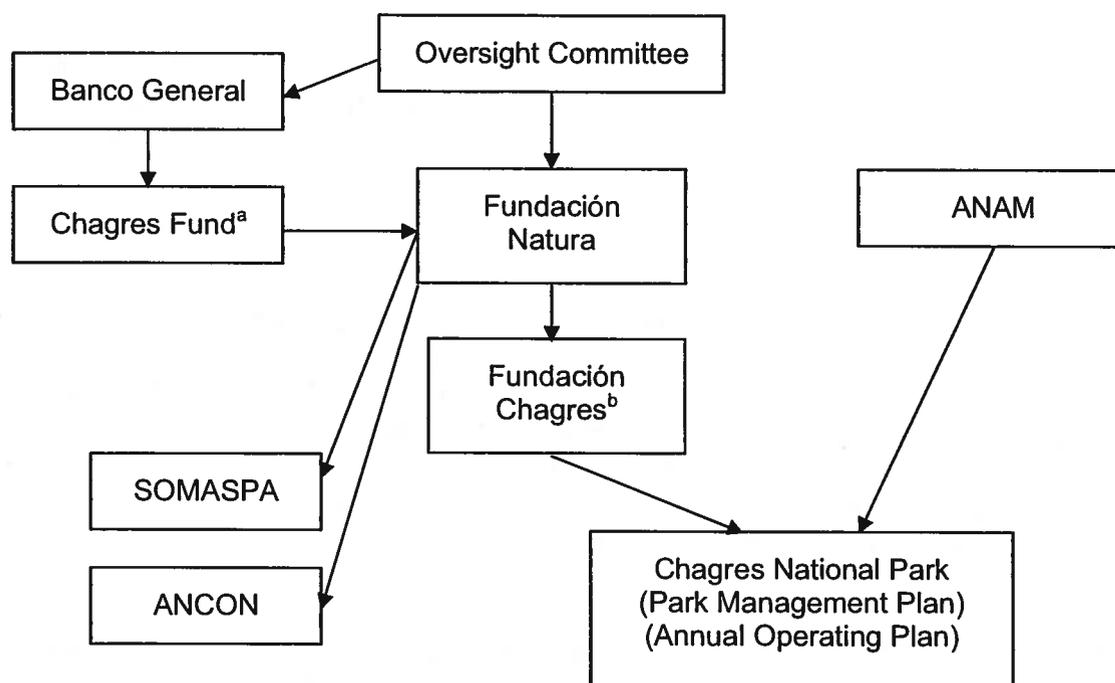
In a similar fashion, the Short-Term Grant Recipients would receive financial resources through the Fund Administrator for specific activities in the particular park and buffer zone, again in accordance with the Park Management Plan and the Annual Operating Plan.

The diagram below illustrates the particular case of Chagres National Park. Specific names of the actual entities replace the generic names appearing in the diagram above. Technically a Long-Term Grant Recipient has never been designated because no contract yet awarded has been longer than three years. Nevertheless, Fundación

Chagres is the current candidate for this role<sup>9</sup>, which is the role of the private sector co-manager for Chagres National Park.

Only two of the Short-Term Grant Recipients are shown: the Mastozoological Society of Panamá (SOMASPA) and the National Association for the Conservation of Nature (ANCON) as examples. A dozen other NGOs have also received short-term grants.

### Chagres National Park Model



#### Notes:

<sup>a</sup> Here “Chagres Fund” includes both the Tropical Forest Conservation Trust for Chagres National Park and the Forest Conservation Account for Chagres.

<sup>b</sup> “Fundación Chagres” is the candidate for Long-Term Grant Recipient that could eventually be the co-management NGO for Chagres National Park.

The diagram for the Darién model would be the same, with a few important name changes. In the case of Darién, the Long-Term Grant Recipient role is played by Fundación Panamá and some of the Short-Term Grant Recipients are different NGOs. (Of course, Darién Fund and Darién National Park are also added.)

<sup>9</sup> During the start-up phase of the Chagres Fund, the responsibility for purchases of goods and services for Chagres National Park defaulted temporarily to Fundación Natura. CACPYMER (“Cooperativa de Ahorro y Crédito de la Unión Nacional de la Pequeña y Mediana Empresa”), a business cooperative, was initially contracted to provide these services but the contract had to be canceled when FN discovered that CACPYMER had violated the conditions of the contract and commingled funds. Fundación Chagres was being constituted during this period and is now acting as the *de facto* Long-Term Grant Recipient in the case of the Chagres Fund.

The looming questions are whether co-management is feasible for these two national parks and whether there is institutional commitment<sup>10</sup> within ANAM and GOP to support it. The feasibility aspect hinges on whether mechanisms can be found to bring adequate financial and human resources to each park. A critical issue is the hiring of park staff with private-sector resources. This is discussed more fully later in this report.

The commitment aspect hinges on the GOP's fundamental willingness to enter into shared administration. Chagres National Park is a priority component of the Canal Watershed and thereby receives an extra amount of attention and resources. While highly visible in a political and media sense, Chagres is also a complex environment with many interests and stakeholders – a promising environment for a shared-administration scheme. Darién National Park is quite different. It is geographically and politically remote; access is challenging; national interests are high because it is a frontier park; and security is a problem due to the presence of bandits, para-militaries, and drug-trafficking in the area.

### **3. Clarifying Roles and Responsibilities**

For the most part, each of the entities in this complex web of relationships is an established organization and functioning adequately for the purposes of the TFCA Funds (details follow later in this Evaluation Report). Within each box in the diagram, the internal operations usually present no problems (although Fundación Chagres continues to struggle during its start-up phase). The external relationships, on the other hand, are not as smooth. Based on the diagram above, one could say that the boxes generally are fine; the problem is with the arrows.

One way to characterize the agreements (especially the FCAs) that establish the TFCA Funds is that they are legally precise but conceptually vague. One might liken them to a toy (Legos, TinkerToys, or an Erector Set) in which the available pieces can be connected in different ways to produce different outcomes. In the case of the TFCA mechanism, the legal agreements define the pieces but do not prescribe in any great detail how they will fit together in a conceptual model. In particular, the agreements do not define the articulations of the model – how the relationships will function where one institution interacts with others.

To the Evaluation Team, this appears to be a case where the roles and responsibilities of the various actors and institutions are not defined. It could be that an institution has not defined them internally (example: ANAM does not yet have an established co-management policy). It could be that an institution has not expressed or projected its own perception of its roles and responsibilities (example: FN envisions itself as a promoter of sustainable development initiatives that generate changes in values, attitudes, and behaviors). It could be that an institution has not recognized or accepted another institution's expressed roles and responsibilities (example: Fundación Chagres and Fundación Panama aspire to be co-management entities, but so far they are viewed by others as pass-through NGOs and utilized simply as procurement services).

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<sup>10</sup> ANAM and IUCN co-published a status report on co-management in 2006 entitled "Estado de la Gestión Compartida de Areas Protegidas en Panamá: Resumen" and ANAM is reported to be circulating a draft co-management policy internally.

What appears to be lacking is a broadly shared vision regarding the TFCA Funds mechanism. There is not a common vision of the future. There is not a jointly held set of goals and objectives. All of the actors and stakeholders appear to share a commitment to the conservation of tropical forests in Panamá, but there does not appear to be agreement on how to achieve this.

One issue that surfaced during the draft review process is a dissatisfaction on the part of some members of the OC with the overall handling of the TFCA Funds by FN. This also may have its roots in the loosely defined roles and responsibilities of the actors. The OC has never stated explicitly what it expects of its Fund Administrator. A first step, therefore, might be a workshop or retreat for the OC Members without the Secretary (FN) so that the Members can discuss and agree on what they want the TFCA Funds to accomplish. The second step would be to widen the group to include FN, the pass-through NGOs, the short-term NGOs, and other stakeholders in a broader discussion of the TFCA Funds' goals, objectives, and eventual strategic plans.

### Public Sector, Private Sector, and the Law

One area that is not well defined is how the public sector and private sector (primarily NGOs) will collaborate under the TFCA Fund mechanism. There is broad national support for the National Environmental Strategy (ANAM 1999) and the Biodiversity Strategy (ANAM 2000). There is general support for the Park Management Plan and the current Annual Operating Plan for each park. Some uncertainty arises at the level of sorting out who will fund each activity or line item in a park's annual budget and the corresponding supervision of those expenditures. What are the lines of authority and reporting, and how should the decisionmaking proceed?

Another area of some confusion and overlap is the parallel-employment situation created when some of the staff in a given park are ANAM employees and others are NGO employees. Public employees and private employees have dramatically different rights and work rules. Where public employees might receive compensatory time for extra hours or weekend or holiday work, private employees have a statutory right to overtime pay<sup>11</sup>. Weekends and holidays are often the times of the most visitation to national parks and therefore the time when full staffing is needed; this is precisely the times when private employees would be prohibitively expensive. Take-home pay for ostensibly the same work would be radically different, creating tensions in the work force.

An even greater potential problem rests in the intent to have some NGO employees assume the role of park rangers. Under the law, they have none of the powers nor protections of the ANAM employees. They are essentially private citizens wearing park uniforms.

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<sup>11</sup> Panamanian Labor Law sets overtime pay at 1.5x for evening and weekends, and 2.5x for holidays. After the formal field work for this Evaluation and while the draft report was being circulated for comments, the Evaluation Team learned that at least one employee hired by an NGO to work in a park had presented a formal complaint to the Ministry of Labor regarding the failure to pay overtime.

One respondent noted that there is a lack of clarity at the legal level concerning who has the authority to enforce resource protection laws in the Protected Areas. Which infractions are the responsibility of ANAM? Of the police? Of the Corregiduría (local government)? Some of the laws do not have complete regulations so there is a lack of common standards to apply in judging infractions. One long-term goal would be to define the role of the State, of the local government, and the responsibilities of the various authorities.

#### **4. Smorgasbord of Funding and Support**

One benefit of being a national park on the priority list for national and international attention is that resources and support come from many different sources. The two TFCA Funds are not expected to be the sole supporters of projects and activities, but play a crucial role in support of ANAM efforts. In theory, the various sources of support can be aggregated in a complementary fashion. The challenge is coordinating the resource flows and offers of support to achieve maximum conservation impact.

Chagres National Park, as perhaps the keystone piece of real estate in the Panamá Canal watershed, has been a recipient of considerable support recently. The "Parks In Peril" project (USAID-TNC) has supported Chagres in a number of ways, including the significant revisions and updating of the Park Management Plan to provide the basis for the Chagres Fund expenditures. TNC funded a study to identify options to move forward with co-management in Chagres (Fernando Bermudez Acuña, 2003). Parks in Peril allocated funds for strengthening Fundación Chagres as the future co-management NGO for Chagres National Park.

Fundación Natura has made use of the "Measures of Success" activity (USAID, under the PROARCA Project) to incorporate biological diversity indicators into its monitoring and evaluation efforts, benefiting both Chagres and Darién National Parks. FN used TNC's "Panamá Partnership Project" to fund a strategic plan and implement the Balanced Scorecard® system (Pacífico Plata, Remasa Corporation, 2006). In a separate effort, FN benefited from a study of direct and indirect cost accounting by TNC's José María Quintero – also using "Panamá Partnership Project" funds. USAID is financing the development of the on-line information system for FN (see Section E.4 of this report for more details).

A new USAID project for the Panamá Canal Watershed is getting started under the name Conservation of the Biodiversity in the Canal Watershed (CBC). This effort, led by a consortium of consulting firms IRG and TetraTech, has offered to assist the TFCA program by organizing workshops in the Chagres area to clarify roles, responsibilities and functions of the parties and stakeholders in any co-management schemes.

IUCN (the World Conservation Union) and ANAM collaborated on a report on the status of co-management (but using the term "shared administration" preferred by ANAM) in Panamá. The report notes that 15 of 65 declared protected areas in Panamá have some sort of co-management scheme in place (ANAM-IUCN 2006).

In summary, efforts have been made and are currently underway to strengthen the activities in the two Parks and to strengthen the functions of FN as the Fund

Administrator. The financing made available under the TFCA Funds is parallel to the efforts of these other organizations.

During the decade of the 1990's, trust funds became widespread across much of the developing world as a popular mechanism to channel resources to selected development issues such as poverty reduction, agriculture, small and medium-size enterprise promotion, and environmental management. Panamá participated in this growth and expansion and FN currently manages several of the major funds of this general type, including three funds with endowments: the two TFCA Funds plus FIDECO. The total amount of development aid flowing through all these mechanisms in the country totals a few millions of dollars annually. While not a huge number when compared to larger countries, the amount is significant for Panamá.

The Chagres Fund and the Darién Fund are somewhat unusual in that each focuses exclusively on a particular priority protected area and its buffer zone. Most of the other national environmental funds do not have this tight geographic focus. Many of the funds in the country do seem to have restrictions on the kinds of activities or expenditures that can or cannot be supported by each fund. It requires a special level of administrative agility and juggling to find ways to finance a broad program using pieces of support from the buffet of narrow funding sources. The Director of PN Darién explained that the total annual budget for programs in his area is an amalgam of funding from ANAM, the Darién Fund, FIDECO, and one or two other funds<sup>12</sup>.

## 5. Outsourcing

At the moment, neither Chagres National Park nor Darién National Park has reached a level of what could be called shared management or co-administration of the park by ANAM and another entity. Instead, the model might best be described as outsourcing, wherein a third party (not ANAM and not FN) is contracted to provide goods and services to be utilized in each park. The NGO (Fundación Chagres or Fundación Panama) is acting as a pass-through mechanism to funnel the needed goods and services to each park.

Outsourcing the provision of goods and services can be effective and efficient so it is widespread in the business world. In our daily lives, we outsource deliveries to the national postal service and to FedEx, DHL, and UPS instead of maintaining our own team of people to deliver letters and packages. The hiring of an Asset Manager to advise the Funds on investing the endowment trust funds is a form of outsourcing the investment house expertise. Outsourcing is not necessarily the solution to every business problem. One consideration is that the contractor will have to charge administrative expenses to the contract, which may be more costly. Another consideration is that the expertise and the lessons learned from the outsourced operations will now reside with the contractor, not with the original institution.

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<sup>12</sup> Other projects offering funding for activities in the Darién include the Inter-American Development Bank's "Sustainable Development of the Darién Program" and the United National Development Programme's "Conservation of Biodiversity in the Darién" project.

In the case of the TFCA Funds, they essentially outsourced to the pass-through NGOs (Fundación Chagres and Fundación Panama) the hiring of contract employees and the provisioning of goods and services for the two Parks. Through outsourcing, each park acquired a dozen or more additional park rangers, plus a handful of program directors (chief of protection, director of environmental education, director of research, park administrator). Goods and services included transportation such as pickup trucks, quad runners, motorcycles, and motorboats; and uniforms, food, fuel, lubricants, radios, and other equipment.

Unfortunately the restrictive statements in the FCAs -- that grants may only be given to *not-for-profit* organizations dedicated to conserving and managing tropical forest land -- mean that the logical choice for outsourcing these types of goods and services, for-profit companies providing business services, are not eligible.<sup>13</sup> Instead, the Funds are trying to squeeze NGOs into the mold of the business outsource enterprise. It is not a very good match, does not appear to be any more efficient, and achieves no long-term purpose. It is commercial outsourcing, not co-management or co-administration.

## Conclusions

A host of institutions are collaborating directly and indirectly to advance tropical forest conservation in Panamá. The continuing support from USAID and TNC (outside of the TFCA Funds) has been an important contribution to the overall effort.

The TFCA framework (as stated primarily in the FCAs) appears to envision a co-management scheme for tropical forest conservation that is not currently in place and co-management may not be the ANAM-supported option for Chagres and probably is even less supported for Darién.

The roles and responsibilities among the various institutions and particularly the inter-institutional relationships are still in a state of flux. The result is an unfortunate amount of time and effort dedicated to re-negotiating the borders and limits on each institutional interface as it occurs, instead of agreeing a broader framework and clarifying the roles and responsibilities of all parties.

The legal differences between public employees and private employees are significant and probably the best approach is to avoid having the private sector (NGOs) hire employees to work as park rangers. The difference would still exist for research, education, and maintenance employees, but the tensions would be lessened.

## Recommendations

A.1 -- Clarify the roles and responsibilities of the principal actors. One obvious approach would be a facilitated workshop (maybe an "encuentro") to develop a shared vision of what is possible under the TFCA mechanism, and progress toward establishing common goals, objectives, and a strategic plan. A first step might be a retreat for the

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<sup>13</sup> Another logical choice for providing these procurement services would appear to be FN itself, but this is precluded by the current language of the FCAs.

OC Members only, without the Secretary (FN), so that the Members can discuss and agree on what they want the TFCA Funds to accomplish.

A.2 -- Continue to strive for a flexible policy on co-management that incorporates the differences between the two parks, recognizing that co-management may be a longer process and not an instantly attainable state.

A.3 -- Make every effort possible to gain a commitment from GOP and ANAM to meet the basic salary needs for the two Parks so that all enforcement and essential line staff are ANAM employees.

A.4 -- To the extent possible, shift from viewing Fundación Chagres and especially Fundación Panama as mere pass-through instruments for procurement purposes, to begin treating them as co-administrators and partners in the conservation of tropical forests.

A.5 -- If outsourcing of the procurement of goods and services for the Parks is really all that ANAM and the OC expect from the TFCA Funds, then modify the FCAs to allow for-profit businesses to compete for these contracts (or consider allowing FN to do this directly).

## **B. Governance**

### **Findings**

#### **1. Legal And Normative Requirements**

The establishment of each TFCA Fund involved four fundamental legal agreements (collectively “the Agreements”)<sup>14</sup>. For each Fund, all four agreements were signed at or before the official closing ceremony.

The first two agreements (the swap fee agreement and the debt-for-nature swap agreement) deal primarily with the legal and financial aspects to allow each Fund to be established. Although rather complex, these two documents focus primarily on preparing the foundation for the closing. The evidence suggests that the negotiating teams encountered no serious objections or impediments, that the conditions precedent were met, and that the closings were successful in creating the new TFCA Funds in Panamá. The Evaluation Team did not attempt to examine in detail each and every legal step and requirement in the swap fee and debt swap agreements, but rather accepted the creation of the Funds as *prima facie* evidence of compliance with the necessary requirements in the Swap Fee and Debt Swap agreements for each Fund.

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<sup>14</sup> The Swap Fee Agreement guides the process by which TNC contributed a significant amount of capital from the private sector to the USG to retire GOP debt. The Debt-for-Nature Swap Agreement details how the old debt is retired and establishes how the GOP will make payments under the new schedule of obligations. The Tropical Forest Conservation Trust Agreement creates the Trust Fund and assigns a Trustee. The Forest Conservation Agreement details the operations of each Fondo going forward.

The third document is the Tropical Forest Conservation Trust Agreement. It creates the Trust Fund and assigns a Trustee, in this case the Banco General SA.

Once the closings occurred and the Funds were established, the focus shifted to operations. The principal legal basis for the operation of each Fund is the respective **Forest Conservation Agreement (FCA)**. The Chagres FCA and the Darién FCA are very similar, in large part because the language is based on the requirements of the TFCA itself. The Darién FCA was signed in 2004, a year after the Chagres FCA, so there was also a chance to incorporate lessons learned from the Chagres FCA into the Darién version of the FCA.

The analysis of compliance with legal and normative requirements that follows focuses primarily on the terms of the FCA's for Chagres and Darién. Any significant differences between the two documents are examined in more detail as warranted.

In general, the requirements set forth in the FCA for Chagres and Darién are being followed.

## **2. Oversight Committee Participation and Support**

The Permanent Voting Members of the OC are the GOP, USG, and TNC. The permanent voting members of the OC have demonstrated their support for the Funds and their interest in working together. Representatives attend the meetings of the OC and take an active role in deliberations. The permanent voting members often send more than one representative to the OC meetings. Four members constitutes a quorum.

The NGO members of the OC (designated in the FCA as "Term Voting Members") attend the meetings and take an active role in deliberations. Usually only the designated member attends.

### *Domination of the Oversight Committee*

There were no allegations of any one party dominating the OC. Votes are carried by simple majority but the general impression after reading the Actas is that most decisions are unanimous.

## **3. Oversight Committee Structure and Operation**

The OC has only one official committee within its structure -- a finance committee, but the permanent members select the NGO members for two-year staggered terms, so in effect the permanent members also form a de facto nominating committee.

### *Meetings of the Oversight Committees*

The Oversight Committees are directed to meet *at least* twice per year, but they typically meet more often as needed. Most of the Chagres OC meetings have been ordinary meetings and all of the Darién meetings have been ordinary. In addition, the Minutes indicate that e-mail and telephone calls are used to discuss issues, collect comments, and make decisions, so the number of official meetings is actually a minimum count that underestimates the level of participation by Members of the OC.

## Number of Oversight Committee Meetings by Fund and Year

Calendar Year	Chagres Oversight Committee		Darién Oversight Committee
	Ordinary	Extraordinary	Ordinary
2003	2	0	na
2004	6	2	na
2005	6	2 <sup>15</sup>	2
2006	3	0	3
2007	2	0	2
<b>Subtotals</b>	<b>19</b>	<b>4</b>	<b>7</b>
<b>Grand Total</b>	<b>23</b>		<b>7</b>

The Executive Director of Fundación Natura attends OC meetings as Secretary of the OC with a voice but without a vote.

The venue for OC meetings shifts among the offices of its various members.

The FCA states that participation by members in meetings of the OC may be “by means of telephone conference or similar communications equipment by which all persons participating in the meeting can *hear* each other.” (FCA section 7.1.f, emphasis added)

### Ad Honorem Service by Members

No OC voting member receives any payment from the Funds for the time spent preparing for and participating in the OC meetings. In addition, an individual is ineligible to be a term voting member if the candidate’s primary employer has received a Fund grant at any time in the preceding 12 months.

### Oversight Committee and Executive Director

In theory the OC delegates the day-to-day operation of the two Funds to the Executive Director of FN, but on occasions the OC delves into minutiae that might better be left to the Technical Review Committee or the professional staff at FN. One example was having the Director of Chagres National Park walk the OC through the Annual Operating Plan (POA in Spanish) for the park. The OC meetings are long enough already. Circulating the POA in advance, and submitting any questions in advance might have precluded this lengthy session.

### Transparency and NGO Eligibility

The Funds and FN received praise for their transparency and openness in the grant-making process.

Each Fund has a two-pronged grant-making process: (a) unsolicited proposals in an open competition and (b) solicited proposals to implement previously defined activities. Usually the open grant competition attracts more proposals than can be funded so there is adequate quality and real competition in the selection process. Far fewer candidates

<sup>15</sup> What appears as two extraordinary meetings in 2005 is actually one extraordinary meeting and one coordination meeting (where Minutes were kept as an Ayuda Memoria.)

present proposals for the more narrow Request for Proposals (RFP) to implement particular projects or activities identified in the Management Plan and POA. Sometimes no candidate achieves the minimum of 70 points<sup>16</sup> out of 100 in the first round, so the candidates are invited to improve their proposals and submit them for a second round of competition. This improves the quality of the proposals but the number of applicants can be very low.

One limiting factor on NGO eligibility is that the two Funds have a strictly defined geographic focus: the respective national park and outwards up to 5 kilometers into the buffer zone. Any NGO project outside these defined geographic areas is not eligible for financing from the Funds. In most cases, however, these projects could compete for financing under one of the broader funds that FN administers, such as the older Panamanian Ecological Trust (FIDECO).

#### Delegation of Powers

The FCA states that a permanent voting member may designate an alternate with the power to vote (FCA, section 7.1.d). Term voting members “are appointed in their personal capacity, but the organization which they represent may designate an alternate if necessary.” (FCA section 7.1.c.ii) It would therefore appear that voice and vote on the OC can be delegated to a designated alternate.

No mention is made in any of the fundamental documents of whether or not the Chairperson (selected by the OC from among the permanent members) may delegate any of the chair’s specific duties or powers.

#### Standing Committees

The OC operates with only one standing committee: a Finance Committee composed of the three permanent members.

#### Chair of the Oversight Committee

The FCA states that the Chairperson for the Oversight Committee will be selected by the full OC from among the permanent voting members. At the first meeting of the OC, the USAID permanent member suggested that the Chair be selected from the other two permanent members. The TNC representative was selected as the Chairperson and two years later re-selected.

Usually the Evaluation Team favors a rotating chair that either passes to each seat in an assigned order or is elected for a specific period, without the right to consecutive terms. The chair should not, in the opinion of the Evaluation Team and as suggested by the USAID representative, pass to the USG. In the case of Panamá, it is logical to keep the chair among the permanent members, but there might be times when the normal work duties leave the chair with little time for the OC and the Funds. This might be a valid argument for expanding the OC and having a vice-chair selected from among the term voting members.

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<sup>16</sup> Originally the threshold was 80 points but this was reduced to 70 for unsolicited proposals after the experience of the first RFP. It remains 80 for projects such as construction or the procurement of goods and services.

### Orientation for New Members

To facilitate the integration of new members into a board of directors, many organizations develop some type of formal orientation for new members. The orientation typically includes meeting the staff and learning what each department does, reviewing the establishing documents and policies, and an introduction to the other members of the board. Many organizations provide a manual to each board member, outlining the functions and responsibilities that come with board membership, as well as the rationale for standing policies established by previous boards.

The Funds do not provide any formal orientation for new (or current) OC members.

### **Conclusions**

The GOP and the two Donors (USG and TNC) participate actively in the two Funds and have continued to support related activities.

Permanent and Term Members attend the meetings and participate actively in the discussion, dedicating a considerable amount of time to Fund affairs.

The process for selecting replacement OC Term Members has not been tested. The one Term Member whose term was expiring was re-appointed for another two years.

The OC meets at least as often as required by the FCA and has governed the Funds in an acceptable manner. Nevertheless, some items on the OC's list of responsibilities (for example investing the Trust Funds and hiring an Asset Manager) have not received adequate or timely attention.

NGO members of the OC could be compensated for their time, perhaps in training or conference attendance.

In at least one case, an OC Term Member was very careful to recuse herself from discussions and decisions related to a proposal from one organization because a family member (an aunt) was associated with that organization.

### **Recommendations**

B.1 -- Consider moving to shorter but more frequent OC meetings (probably quarterly to coincide with financial reporting from the Trust Funds) with a parallel effort to speed the information processing and reduce the lengths of the meetings by circulating key documents electronically in advance of each meeting. It would help if documents submitted to the OC were concise, to the point, well organized, and easy to understand.

B.2 -- Recognize the time and effort of NGO OC Members by offering job perquisites such as opportunities for training or conference attendance. The OC might want to explore ways to create a greater incentive for the civil society members (or their institutions) to participate as OC members by offering benefits such as board training or RedLAC conference attendance that could serve both the needs of the Fund and the

member's NGO. [This would probably require amending the basic FCA to allow expenditures of funds for this purpose.]

B.3 -- The Funds should implement a more formal training/orientation mechanism for OC and TRC Members. It should be developed with the current members and then become a standard part of incorporating new members on a regular basis. There needs to be an explanation of the goals of the particular Fund; the roles and responsibilities of OC, TRC, FN, and pass-through NGOs; the current policies and procedures in place, and an introduction to the documents and information stored by the Secretary (FN).<sup>17</sup>

B.4 -- There should be a compendium of materials for each OC and TRC member with the current documentation on each Fund and the respective Procedures Manual. It should be organized as a training manual, stressing the rights, duties, and responsibilities of OC and TRC members. These manuals could be held in a three-ring binder so that policy changes voted by the OC could be incorporated and outdated pages removed. Sections should be tabbed and there should be a Table of Contents and an Index for easy reference. Most of these same materials should be available on the web site of the Fund Administrator for interested persons to examine. [This would probably require amending the basic FCA to allow expenditures of funds for this purpose.] A first step would be to distribute to each OC member a CD containing all of the fundamental documents and agreements in word-processing format so the documents could be easily searched.

B.5 -- Although the Oversight Committee model does not require formal bylaws or "estatutos" to govern internal operations, it might be useful to compile a document that describes the OC internal operating procedures as defined in the FCAs, any established policies and procedures the OC has adopted by vote, and the role and functions of the Fund Administrator as Secretary.

B.6 -- At only five members, the OC is relatively small, so the use of Standing Committees might allow some specialization of duties, which would reduce the overall time required for OC business as long as the full OC does not re-examine each Committee proposal in minute detail. Another option would be to expand the OC with new members drawn from a wider spectrum of Panamanian civil society, perhaps to add finance and investment expertise to the OC. With the advent of the Asset Manager and at least quarterly reporting of investment performance, the OC might want to consider creating a Trust Fund Committee. The existing Finance Committee would focus more on budget and expenditures while the Trust Fund Committee would focus on investments and income. It would assume the role of monitoring the investment portfolio and the performance of the Asset Manager. (Section IV.C of this Evaluation expands this idea further.)

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<sup>17</sup> Members of the OC differ on whether this would be useful. In the same week that one OC member stated that members had received an orientation and documents, another OC member contacted the Evaluation Team in search of copies of documents that had been brought to their attention by an early draft of this report.

## C. Vision, Program Strategy, and Project Results

### Findings

#### 1. Legal and Normative Requirements

Both of the Funds use the same language to describe the allowed and the prohibited uses of the funds. The funds:

“shall be only for the purposes related to the conservation, maintenance, and restoration of tropical forest land in Panamá set forth below (items (I) through (vi) collectively, the “Authorized Purposes”):

- (i) the establishment, restoration, protection, and maintenance of parks, protected areas, and reserves;
- (ii) the development and implementation of scientifically sound systems of natural resource management, including land and ecosystem management practices;
- (iii) training programs to increase the scientific, technical and managerial capacities of individuals and organizations involved in conservation efforts;
- (iv) the restoration, protection, or sustainable use of diverse animal and plant species;
- (v) research and identification of medicinal uses of tropical forest plant life to treat human diseases, illnesses, and health-related concerns; or
- (vi) development and support of the livelihoods of individuals living in or near a tropical forest in a manner consistent with protecting such tropical forest.”

(FCA section 4.5.a)

And the FCA continues:

“Prohibited Purposes. Each Panamanian FCA Entity covenants and agrees that no FCA Income shall, directly or indirectly, be (i) used for the purpose of creating or disseminating political propaganda, or otherwise attempting to influence legislation or any government act or decision, (ii) used to participate in any political campaign on behalf of, or in opposition to, any candidate for public office, (iii) used or expended in such a manner that constitutes, or could reasonably be expected to give the appearance of, a Conflict of Interest, or (iv) used or expended in such a manner that violates, or could reasonably be expected to give the appearance of a violation of, the provisions of the Inter-American Convention on Corruption and any implementing national laws or similar applicable statutes or regulations (items (i) through (iv) collectively, the “Prohibited Purposes”). For the avoidance of doubt, the provisions of this Section 4.5(b) shall not restrict a Panamanian FCA Entity from conducting any lawful political or legislative activity, so long as such activity is not conducted with FCA Income.”

(FCA section 4.5.b)

With each Fund focused on a particular national park, the majority of the activities funded via the TFCA mechanism have been under the provisions of section 4.5.a.(i) above. Activities in the buffer zones of the two parks generally fall under the provisions of section 4.5.a.(ii) through 4.5.a.(vi). In no cases have there been allegations that funds were used for any prohibited purposes.<sup>18</sup>

Organizations eligible for funds from the Funds are described as either Long-Term Grant Recipients or Short-Term Grant Recipients. Long-Term Grant Recipient:

“means a not-for-profit corporation organized under the laws of Panamá that (i) is dedicated to conserving and managing tropical forest land in Panamá, (ii) has been given an initial grant of FCA Income by the Oversight Committee for a period of more than three (3) years in accordance with Section 7.1, and (iii) has executed and delivered an Acceptance Instrument and satisfied the other conditions as provided in Section 7.3.” (FCA, section 1.1.aa)

Short-Term Grant Recipient:

“means a not-for-profit corporation organized under the laws of Panamá that (i) is dedicated to conserving and managing tropical forest land in Panamá, and (ii) has been given an initial grant of FCA Income by the Oversight Committee for a period of less than three (3) years in accordance with Section 7.1.” (FCA, section 1.1.nn)

To date, no long-term grants (greater than three years) have been awarded although the design of both Funds suggests that this is the intended mechanism.

## **2. Vision and Program Strategy**

The two TFCA Funds do not have an explicit goal or vision, other than the rather general language “to conserve, maintain, and restore tropical forest land in Panamá” (from the Recitals” section of the FCA). The OC has adopted as its guiding vision the implementation of the official park management plans to benefit the two parks and their bufferzones. While useful in a broad sense, this still does not define a role for the Funds nor indicate how they would monitor their own achievements.

The possible Fund strategy could be an implicit one, derived from the conceptual model that the various agreements create. In broad brushstrokes, the model involves (1) sources of funding, (2) an Oversight Committee, (3) a Fund Administrator, (4) long-term and short-term grant recipients, and (5) a series of collaborating institutions, with ANAM (the government agency with responsibility for protected areas) as the key entity. The implicit strategy could be described as enhancing tropical forest conservation through

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<sup>18</sup> No “Prohibited Purposes” were encountered, but FN did discover that CACPYMER, the first organization contracted to supply the required goods and services to Chagres National Park, was commingling the funds and not following the provisions in the contract. FN immediately halted the contract and eventually was able to recover approximately 97% of the funds.

complementary and supplementary financial inputs via collaborating institutions and partnerships, focused on the two specified national parks.

One reason a shared vision and strategic plan would be useful is in the area of coordinating related activities. The logical framework for a strategic plan might note, for example, that USAID and TNC are supporting the creation of Fundación Chagres through the Parks in Peril program, that TNC is working to encourage ANAM to move ahead with establishing a co-management policy, and therefore these activities would not need to be a part of the Chagres Fund's direct activities because other actors were handling them.

Fundación Natura, by way of contrast, has a formal mission statement:

**"NUESTRA MISIÓN**

Promover la conservación del ambiente y desarrollo sostenible a través de la gestión de recursos para mejorar la calidad de vida."

English translation:

**"Our Mission**

Promote environmental conservation and sustainable development via the management of resources to improve quality of life."

The FN vision statement:

**NUESTRA VISIÓN**

Organización panameña, líder en la conservación de la naturaleza, reconocida por:

- la promoción, identificación y apoyo de iniciativas ambientales de desarrollo sostenible que generan cambios en la actitud, conducta y desempeño de las poblaciones; y
- la gestión de fondos ambientales con transparencia, efectividad y calidad de sus recursos técnicos.

English translation:

**Our Vision**

A Panamanian organization, a leader in nature conservation, recognized for:

- the promotion, identification, and support of environmental initiatives of sustainable development that generate changes in values, attitudes, and behavior in populations;
- the management of environmental funds with transparency, effectiveness, and quality of technical resources.

In the general conceptual model, the two national parks (Chagres and Darién) would be strengthened and supported by supplementary and complementary resource flows coming from the TFCA mechanism through FN and Long-Term Grant Recipients. The FCA envisions Short-Term Grant Recipients with agreements up to three years and Long-Term Grant Recipients with agreements longer than three years. To date, neither

Fund has selected a Long-Term Grant Recipient. In fact the grants thus far have been very short-term, sometimes only 12 months. At the same time, support from the USAID-TNC "Parks in Peril" program has been used in strengthening Fundación Chagres with the hope that it will be the candidate for co-management in Chagres NP.

Fundación Natura<sup>19</sup> has accumulated considerable experience administering a variety of funds and funding mechanisms. When the OC recognized the need to establish formal procedures for the selection of proposals and partners, an obvious model was the Procedures Manual that FN developed for the Panamanian Ecological Trust ("FIDECO" in Spanish) that it administers. Both the Chagres Procedures Manual and the Darién Procedures Manual draw their inspiration from the FN's FIDECO manual.

In the case of FIDECO, the grant-making strategy has been to select the very best proposals that qualify under the parameters set by the parties to that trust agreement (GOP, USAID, and TNC). Proposals must achieve a minimum score (usually at least 80 out of 100 points) to be considered. But this selection process covers activities throughout Panamá. When the same procedures were applied to the strict geographic areas defined for the TFCA Funds, far fewer organizations entered the competition and sometimes no organization achieved the minimum score of 80 (this threshold was reduced to 70 in later competitions).

The Funds operate primarily as grantmaking mechanisms, but they recognize an institution building responsibility as well (FCA, Section 4.5.a.3). A trust fund like the Chagres Fund or the Darién Fund has a variety of roles it can play and processes it can adopt, limited only by its legal mandate (including any restrictions, such as the defined geographic focus), the readiness of the OC and fund administrator, and the broader environment in which it operates. In addition to grantmaking, a trust fund might begin to partner with other organizations to expand the scope of projects or develop programs in organizational effectiveness that seek to strengthen the organizations receiving the grants. A trust fund might add other support mechanisms such as co-financing to its grantmaking. A trust fund might start an initiative as the convener of forums that bring together different sectors or elements in the society to discuss important national issues. A trust fund might seek a role in policy dialogue at the national level. A growing number of national trust funds have found it useful to join one of the regional networks of national funds.

One noteworthy<sup>20</sup> thing about the Funds is that although they are legal entities, they do not have the same "personería jurídica" that we find with a typical NGO, a not-for-profit corporation, or even Fundación Natura. Apparently the Funds gain their legal status from being trusts, which also limits some of their actions. A trust can hold assets (such as hold the rights to intellectual property, or retain title to the vehicles and other equipment purchased for use in the parks) but apparently Panamanian labor law would

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<sup>19</sup> Fundación Natura was established in 1991 and was chosen as the fund administrator for the \$25 million FIDECO trust fund in 1995.

<sup>20</sup> Comparing 12 TFCA funds in various countries, the 7 created through debt swaps use the OC approach without being a legal entity (beyond the trust itself) while the 5 created through debt reduction are governed by a board of directors and have legal status. The OC approach is speedier because setting up the legal entity takes considerable time in most countries.

not allow the trusts to be the direct employer of the extra staff to assist in the national parks.

#### Priority Activities and Geographic Focus

The FCA for each Fund sets the same list of authorized activities for the two Funds and differs only in the geographic focus. Each Fund is limited to the area of its named National Park plus outward up to five kilometers into each park's buffer zone.

#### Grantmaking

As the Fund Administrator for the two Funds, FN's primary role is grant administration. The FN staff is committed to continual improvement in the grant administration process. They readily apply lessons learned from the experience with one fund to the other funds in their portfolio. Their hope is to refine the procedures manual for each Fund in an effort to clarify and streamline the process, reduce the burden on applicants, and shorten the time that elapses between the application for a grant and notification of the results.

FN does not escape the criticism that seems to be directed at just about every grantmaker: the grant ceilings are too low, the grant periods are too short, the budget restrictions are too harsh, the applications are too long, the reporting is too frequent, the audits are too strict, and the monitoring is too burdensome. In comparison to other programs, the FN procedures are starting out on the strict side, but should be able to be relaxed as the actors gain experience and confidence with one another. In contrast to a broader nation-wide grant competition like FIDECO, the grantmaking for Chagres and Darien is likely to involve the same limited number of actors every time.

#### Contracts or Partners?

Under the current mode of operations, The Funds and especially FN appear to view grantees essentially as contractors to execute specific orders and contracts. There is not a feeling that all are working together as partners in the process of tropical forest conservation. While it is true that the activities focused on the two protected areas are well defined in the Management Plan and Annual Operating Plan for each park, there still must be incentives for NGOs to be interested in submitting proposals to do this work.

Fundación Natura reports feeling squeezed between the auditors who are demanding stricter contracting and greater supervision of expenditures and the recommendation to embrace the NGOs as partners. Having specific goals and objectives for the TFCA Funds would provide guidance to FN regarding how much supervision is enough and would help frame the relationships.

#### Institutional Strengthening

As part of its broader role as a fund administrator, FN from time to time offers grants and workshops aimed at institutional strengthening for the grassroots organizations and NGOs in the field. Usually these events are funded with resources from FIDECO or other sources (not with TFCA funds).

The TFCA mechanism in place for institutional strengthening or capacity building of the two pass-through NGOs implementing the Fund activities (Fundación Chagres and

Fundación Panamá) is somewhat ad hoc. Fundación Chagres is still under the wing of its mentoring organization (TNC). Fundación Panama, even if it is not the eventual co-management NGO for Darién, would be better able to deliver the good and services needed in Darién National Park if some effort and expenditure were dedicated to capacity building of its pass-through mechanism.

FN has conducted some of its own institutional strengthening via RedLAC exchanges and visits with sister environmental funds from Mexico, Belize, and Brazil. Future exchanges are planned with funds in Perú.

#### Co-Financing, Program-Related Investment, and Other Tools

To date, the Funds have not used co-financing to combine efforts with other public and private institutions on projects, but there is de facto co-financing of the overall park budgets because the park directors are able to draw from several different sources to fund components of the annual budget. In addition, there are projects where other funding sources are supporting a Fund grantee.

Currently there is no program using program-related investment or venture capital funding to invest in income-producing projects that would then return the capital and earned interest to the Funds, which could be a way to add to the trust fund. Sections 4.5(a)(4) and (6) of the FCA would appear to allow this sort of investment in the sustainable utilization of tropical forests. It could certainly be done utilizing a portion of the corpus of the Trust Funds.

#### Regional Networks

FN joined RedLAC (the Network of Environmental Funds for Latin America and the Caribbean) and has participated in a number of RedLAC activities. A number of the other environmental funds in Latin America are also developing and implementing on-line information management systems similar to FN's SiiAP. More could be done to encourage exchanges of personnel and lessons learned at the information systems level.

The Funds are not RedLAC members, but it might be useful to have more OC members (especially new members) interact with their counterparts at RedLAC and TFCA meetings (usually scheduled together to promote these exchanges).

#### Fund Raising

The Funds and the OC are not currently engaged in additional fund raising. Additional fund raising and/or more attention to investing the trust funds would speed the Funds toward the moment [the earlier of either (a) the last payment from GOP or (b) the trust fund reaching \$10 million] when the income from the trust fund would determine the amount available for annual support to the parks and their buffer zones. Except for the three existing contributors (GOP, USG, and TNC), there appears to be little incentive for new donors to contribute to the Darién Fund because the restrictions in the Darién FCA state that any new donor must "agree to follow the policies and procedures established for the administration of the Tropical Forest Conservation Trust." (Darién FCA, section 4.2.e). The corresponding section 4.2.c of the FCA for the Chagres Fund is more accommodating to new donors. One of the goals for Fundación Chagres is additional

fundraising, so the relative attractiveness of the TFCA framework to an outside funder will have a chance to be tested.

### Communications

Fundación Natura has a dedicated communications officer in the office of the executive director. This person is responsible for arranging publicity and media events to announce proposal competitions, introduce the winning grantees, and publicize their accomplishments.

The Funds do not appear to have a written strategic plan or a mission statement.<sup>21</sup> For example, no documents about the Funds themselves are available on the FN web page, just the grant application documents. Lack of a written strategic plan makes it difficult for them to have a cohesive communications strategy. There have been deliberations in the OC concerning the need for a logo specific to each Fund to appear on reports, signs, and vehicles purchased with Fund resources.

Communication with the broader public usually occurs through the institution of one of the OC members or through the Funds' proxy, FN, as Secretary of the OC. This might complicate any future fundraising efforts for the Funds because there is no tangible "TFCA Fund" identity separate from the OC member institutions and separate from FN. In some countries the role of fundraiser representing the TFCA Funds has been assumed by the representative of the national government.

Communications for the Funds would be about advancing the mission of each Fund. Goals for an effective communications program might include increasing public awareness of tropical forest conservation issues; increasing visibility and name recognition of the Funds; opening doors to co-financing or direct fundraising; building the sense of community and partnerships; strengthening relations with current partners and finding new ones; and engaging policy decision-makers.

One essential tool for communicating with the NGOs and civil society in Panamá should be the InterNet. At the moment, the Funds' only presence on the web is their listing among all the funds mentioned on the FN web site. If a strategic plan and communication strategy for the Funds were developed, there might be sufficient justification for the creation of a web site for each Fund or a common website for the two.

For example, the establishing documents that created the Funds are not available on the web site, nor are the financial reports, annual audits, or investment results. Nor is there a full list of current or past projects, OC Members, nor e-mail addresses for contacting the Funds. A successful communications strategy does not have to be expensive, but it would require some time and effort by the OC and then some staff time to assemble the documentation and post it on the web. For practical reasons, this might best be done by FN.

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<sup>21</sup> Members of the OC indicate that these exist, but the Evaluation Team never saw nor had a chance to examine any documents of this nature, nor did there seem to be discussions of these documents in the digital copies of the OC minutes.

The FCA specifically requires that a number of documents and reports be available to the general public:

Each Panamanian FCA Entity shall make the results of such audits (with any redactions thereto as approved by the Oversight Committee in writing) available to the general public in Panamá by means of posting on an Internet website or other ways reasonably calculated to provide access to the general public and in a manner reasonably acceptable to the Oversight Committee. (FCA section 6.1.iii)

This language applies to Fundación Natura, the Trustee, the Long-Term Grant Recipients, and the Short-Term Grant Recipients. The same language applies to annual reports. Although the language cited above does not insist that a website must be used, it is strongly implied. “[W]ebsite” is first in order and is the only type of media specifically mentioned. In addition, it is considered a “best practice” to post this type of information and would certainly advance the level of transparency. While some of these documents can be reviewed by visiting the FN offices, that is not very practical for interested members of the general public in other countries.

[Additional analysis of the FN web site and SiiAP is provided in “Annex 9: Fundación Natura and the InterNet” at the end of this report.]

### **3. Project Results**

Without exception, everyone interviewed regarding the value of the Funds answered that they had been very beneficial and very valuable to Panamá. Everyone recognized the value of the added funding to compensate for inadequate protected area budgets.

Tables 6.5 and 6.7 in Annex 6 (“Financial Highlights”) summarize the expenditures by each Fund by year. The largest portion of project funding has gone to supporting protected area activities using the NGO pass-through mechanism (Fundación Chagres in the case of Chagres National Park, and Fundación Panama in the case of Darién National Park). These funds have hired additional Park Rangers and staff; purchased pickups, motorcycles, 4x4 quad-runners, boats, and canoes; and gone toward operating costs such as food, fuel, lubricants, uniforms, vehicle and engine maintenance, radios, and field equipment.

The Park Directors for Chagres and Darién both commented that an important benefit of the support from the Funds for the parks was the increased institutional presence created by hiring the additional Park Rangers.

Smaller amounts have gone to projects implemented by grassroots organizations and NGOs for specific projects in the park buffer zones. Most of these projects seek to reduce environmental impacts in the buffer zone (latrines and sanitation) or improve the sustainability of agricultural and livestock practices.

Some of the grants have been for defined projects to conduct needed studies for the parks (characterization of local communities and organizations, studies of fauna densities as indicators of resource condition, etc.) A three-year grant from the Chagres

Fund implements the Measures of Success component of the Chagres National Park Management Plan. This includes faunal baseline data that can be monitored over time to indicate changes in species numbers or richness that may be tied to changes in habitat quality.

Calculating a measure of the impact these discrete activities have had on the overall goal of conserving tropical forests in the two parks is a significant challenge, in no small part because the activities undertaken with resources from the Funds are complementary to other activities undertaken with other resources. The net effect may be an improvement in tropical forest conservation, but allocating portions of the credit will always be difficult.

Panamá is one of the countries in Central America that has been very systematic about monitoring the condition and management of its protected areas. ANAM has been applying its PMEMAP<sup>22</sup> approach to monitor management effectiveness in 36 of the 65 protected areas, beginning in 2001. In addition, TNC's Parks in Peril program has been applying the Measures of Success approach in Chagres. Although it may still be too early to expect measurable results in terms of hectares of tropical forest protected due to the Funds, the process is in place to establish reliable baseline data that should eventually lead to measures of management effectiveness and forest conservation in the future.

#### **4. The Funds and the Future**

Both Funds are still in their start-up phases, given that no long-term grant recipients have yet emerged to become the partners of ANAM and capable of co-managing the two parks. The TFCA language suggests that co-management through partnerships with long-term grant recipients is the intended pattern, although the paragraph in the Chagres FCA (section 5.2), which notes that "one of the most important goals of this Agreement is the implementation of the public-private co-management mechanism for the long term conservation and protection of the Forest Land," is completely absent from the later Darién FCA. The permanent voting members of the OC explained that this was intentional, that co-management was part of the Parks in Peril program, and Darién is not currently part of that program. Nevertheless the concept of "long-term grant recipient" suggests that a relationship of a longer duration is intended, in which the long-term grant recipient would acquire considerable experience and skills regarding the activities in the particular national park.

Exactly where Panamá intends to go with the idea of co-management is still up in the air. [Annex 10: "Shared Management in Panamá" provides additional discussion and references.] The recent (2006) ANAM-IUCN publication entitled "Status of Shared Management in Protected Areas in Panama"<sup>23</sup> states that 14 of 65 protected areas in Panamá already have some sort of co-management in place. One might presume that

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<sup>22</sup> PMEMAP is the acronym for Programa de Monitoreo de la Efectividad de Manejo de las Areas Protegidas de Panamá or "Management Effectiveness Monitoring Program for Protected Areas en Panamá."

<sup>23</sup> Spanish title is "Estado de Gestión Compartida de Areas Protegidas en Panamá (full citation in Annex 4: List of Key Documents Reviewed)

the protected areas with external funding directed through NGOs would be the logical candidates. One might also predict that the co-management process would benefit from institutional strengthening for the NGOs and confidence building exercises with ANAM.

Another aspect of planning for the Funds in the future is the eventual transition (on or before the year 2016) from operating as drawdown funds that are replenished each year, to operating as endowments. While the grant-making mechanism remains essentially the same (the Trustee deposits funds in Forest Action Fund and the Fund Administrator disburses the grant monies as directed by the Oversight Committee), there is still much that could be done over the next nine years to improve communication, enhance transparency, shorten delays, reduce bureaucracy, tell the story to the public, and ensure that the financial resources are used optimally to support partners in long-term relationships to conserve tropical forest lands.

## Conclusions

The TFCA Funds have complied with essentially all of the legal and procedural requirements in their operations. One significant lapse is the delay in selecting an Asset Manager and diversifying the investment portfolio of the endowments growing in the two Trust Funds.

There does not seem to be a custom of information sharing at the institutional level. Offices are very gracious in supplying information when asked, but annual reports, audits, and other documents that should be on the web pages and publicly available are not being posted promptly or at all.

Each TFCA Fund would probably benefit from a strategic planning exercise where the Fund's goals and objectives are stated explicitly along with a description of the path to achieving them. [FN could lead the exercise or outsource it via a grant, but the OC would have to approve the use of funds.]

One inherent problem with operating without a strategic plan for each TFCA Fund (and implicitly failing to view the NGOs as partners) is that FN and the Funds do not have a plan nor mechanism for fostering the development of emerging NGOs as candidates for shared management. Emerging organizations could be organizations that are new or organizations that are developing new skills and procedures. While the FCA states that one of the activities the Funds may fund is "training programs to increase scientific, technical, and managerial capacities of individuals and organizations involved in conservation efforts" (FCA section 4.5.1.iii), FN does not have a capacity-building program to strengthen these NGOs. [FN would be the first to point out that the FCA contemplates no line item to finance this other than a grant to an NGO.]

The Funds should begin thinking about the future. What should "success" look like in 2016? This may be an appropriate time to involve a broader group of stakeholders in the vision and strategy process.

Fundación Natura has undergone several strategic planning exercises and is actively seeking to improve its delivery of services to its clients and stakeholders.

## Recommendations

C.1 -- For each Fund, the OC should develop a strategic plan with a mission or vision statement, goals, and objectives<sup>24</sup>. It should also include a broad description of the Funds (a) from here to 2016 and (b) from 2016 into the future.

C.2 -- Rough "back-of-the-envelope" calculations suggest that a fund administrator needs a total of \$50 million in endowments to sustain a grant-making programs of \$3-5 million with an administrative overhead of \$500,000 per year. FN clearly has this capacity, but the landscape is complicated because its administrative responsibilities are split among at least four major funds (FIDECO, ACP Phase II, Chagres, and Darién). No single fund approaches the \$50 million level. Extra creativity will be needed to keep the administrative costs down while servicing this portfolio of separate and distinct funds, each with its own rules and procedures.

C.3 -- Because lasting change takes time, the OC should consider investing resources in building the institutions and the processes to support change, rather than expecting individual projects to accomplish this in 12 or 24 months. With a clear strategic plan for the TFCA Funds, the OC would be well positioned to develop the Long-Term Grant Recipients and the relationships that this would require. (FN has implemented something similar with a five-year planning process for the FIDECO funds.)

C.4 -- The Fondo Mexicano might be an excellent partner for staff exchanges especially because it includes the Fondo para Areas Naturales Protegidas (FANP) -- a dedicated protected areas fund. ANAM and other members of the OC might find these exchanges useful and benefit from broader discussions with their counterparts in neighboring countries.

C.5 -- FN should continue the work on its intranet and extranet, placing a priority on meeting the needs of its primary customers (such as NGOs, grassroot organizations, and civil society). Ideally all FN and TFCA Fund publications would be available from the web site, especially the establishing documents (agreements, amendments, contracts), summaries of minutes from OC meetings, the current application packages, past and current grantees, past and present projects, past and current RFPs, and all the annual audits and annual reports. (The Evaluation Team recognizes that the SiiAP mechanism may eventually accomplish this in a very elegant way, but the requirement is that this information really should have been there from inception. Greater transparency and openness may help in attracting future donors as well. [More analysis and recommendations regarding the InterNet are in Annex 9.]

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<sup>24</sup> The Park Management Plan supplies a framework for each park, but this recommendation is more about the operation of the OC, the Fund, and its relationships with other organizations.

## D. Asset Management and Fundraising

### Findings

#### 1. Legal and Normative Requirements

The FCAs require that individual Receipt Accounts be set up by the Fund Administrator and that funds not be commingled in any way. Funds, transfers, and investment income are to be exempt from taxes to the extent possible under Panamanian law. All of these initial requirements were met and the Funds have continued to be free from GOP taxes and fees.

Given that the Forest Conservation Agreements for Chagres and Darién are creating permanent endowments expected to be worth a minimum \$10 million each, the two agreements are decidedly vague about asset management and fundraising. The Trust Agreements do go into more detail about the arrangements for investing the Tropical Forest Conservation Trusts (the endowment portion).

Both FCAs state that any funds held in the Forest Action Fund awaiting disbursement “shall be deposited in an interest-bearing account in an investment grade financial institution.” (FCA, section 4.1.d) The Darién FCA adds that surplus funds in the Forest Action Fund not used by the end of a year may be added to the Darién Trust Fund. (Darién FCA, section 4.1.d, last sentence). In practice, any funds not used in one year are rolled over into the budget for the next year.

#### The Trust Funds

The Trusts were set up and the Trustee (Banco General SA) has received punctual payments from GOP and has then distributed the corresponding amounts to the Forest Action Funds managed by FN. In one instance in March of 2006, the Banco General transferred the incorrect amount to FN for the Darién Fund. The bank repeated the 2005 split, which was 75/25, when the correct split for 2006 was 70/30. FN caught the error, notified the Banco General, and the bank promptly corrected the error in March 2006.

#### Trust Fund Investing and the Asset Manager

The Tropical Forest Conservation Trust agreements state that prior to the fund reaching \$1 million, the Trustee will invest the fund as instructed by the OC (Trust Agreement, section 5.1). Once a Trust Fund reaches \$1.0 million, the OC should select an Asset Manager to advise on investing the funds using guidelines to be provided by the OC. (Trust Agreement, section 5.2)

The Oversight Committee appears to have made no effort to direct the Trustee prior to the fund reaching \$1 million and has been very slow about selecting an Asset Manager to advise the Funds on creating an investment portfolio for the Trust Funds once either fund hit \$1 million. Although the trigger date of August 2005 was predictable well in advance, no Asset Manager had been selected when that date arrived. In October 2006 the Banco General sent the OC a letter advising that the trigger amount had been

reached and reminding the OC that the Trust Agreement called for the OC to select an Asset Manager.

At the time of this Evaluation, almost 24 months after each of the Trust Funds reached \$1.0 million, there is still no Asset Manager nor balanced investment portfolio as called for in the Trust Agreements. The OC has left nearly \$4 million languishing in a savings account, earning less than enough to offset the costs of the Trustee's fees and the effects of inflation. By rough calculations, the Trust Funds have earned a mere \$138,000 in interest while they have lost an estimated \$123,000 in purchasing power due to inflation. Trustee fees totaling more than \$62,000 leave the Trust funds with an estimated real net loss of \$52,000 due to the OC's inaction.

The Chairperson of the OC indicated to the Evaluation Team that the Asset Manager has been selected and that a balanced investment portfolio will soon be in place for each Fund. This is positive news, albeit somewhat late in arriving. The selection process should have been begun **before** the Trust Funds reached \$1 million so that the Asset Manager was in place and ready to proceed with assembling the balanced portfolio in August of 2005, not August of 2007.

Now that the Asset Manager will be joining the TFCA Funds team, the OC may wish to consider adding a standing committee for investments (perhaps with a name like "Trust Fund Committee"). Trust Fund Committee members would receive monthly statements from the Asset Manager and the Trustee. Members would meet to review the current bank statements, projections for the next month, and economic variables that may affect the stock market. They would take notice of events on the national scene (upcoming elections, safety and security, withdrawal of foreign investments) that may affect the investments. The committee could also examine alternative investments based on the investment policies set by the OC. With nearly \$4 million to invest, the Funds should attract enough attention from potential Asset Managers to create competition and keep fees low.

The OC has a golden opportunity to incorporate environmentally responsible screens or filters into the portfolio guidelines and asset selection process. This would help to ensure that the invested capital is working in support of the same tropical forest conservation and sustainable use of natural resources that the TFCA seeks.

### Fundraising

No new fundraising has occurred since the original agreements were signed. It is not clear who might conduct any such fundraising (although this is eventually one of the goals for Fundación Chagres). The private-sector members of the OC have fundraising responsibilities for their own institutions. GOP (MEF) and USG might be attractive candidates for contributing their own resources to supplement the Funds, but they are not the ideal candidates to approach private-sector donors. And other bilateral or multilateral donors are not likely to accept the limitations of the Darién FCA, particularly a board with permanent voting members they had no role in selecting.

## **Conclusions**

The GOP and other parties fully complied with the requirement to create the Receipts Accounts and ensure that the payments were made in a timely fashion and not commingled.

The OC responsibility to select an Asset Manager and invest the Trust Fund in a balanced portfolio was not handled in a timely manner and had still not been accomplished at the time of this Evaluation.

FN and other parties have complied with the requirement for annual audits and the external auditors have found the management procedures to be in keeping with generally accepted accounting practice in Panamá. The auditors reports have not been posted to the FN or other web sites or openly made public as called for in the FCA.

## **Recommendations**

D.1 -- The OC needs to get on top of investing the trust funds. Selection of the Asset Manager is a vital step that has taken far too long to achieve.

D.2 -- The OC should consider expanding its own capabilities to monitor the performance of the Asset Manager by arranging informational and educational briefings on investing for the OC members or by adding professional services (volunteer, part-time, by retainer, etc.) of an investment advisor to advise the OC. Some trust fund boards consider this so important that they incorporate a new member specifically to bring this expertise to the board. More common is the hiring of an independent investment advisor to critique the performance of the Asset Manager and Trustee.

D.3 -- The OC should continue to monitor the management fees charged by the Trustee and whatever fees will be charged by the Asset Manager. The OC should periodically (and at least annually) review the competitiveness of the fees and services with other leading financial institutions in Panamá and the United States.

D.4 -- The OC should explore the concept of "green" or "responsible" investing to ensure that the invested capital is working hard for the same goals and objectives that the TFCA seeks. A first step could be to add this language to the investment guidelines so that responsible investing becomes part of the contract with the Asset Manager.

D.5 -- The OC should ensure that annual audits and annual reports for the Funds are posted on the web and openly made available to the general public.

## **E. Administration and Budget Management**

### **Findings**

#### **1. Legal and Normative Requirements**

The FCA establishes general requirements regarding administration and management of each Fund:

- Awarding of long-term grants;
- Competitive selection of short-term grant recipients;
- Annual administrative costs not to exceed 9% in the case of the Chagres Fund and 18% in the case of the Darién Fund;
- FN to keep certain records and make them available for public inspection or post them on the InterNet;

It appears that FN is currently in general compliance with the first three requirements, with some minor exceptions. No long-term grant recipients have ever been designated, so no long-term grants have ever been awarded. The short-term grant recipient selection process has been rigorous. Administrative costs have persistently exceeded the ceilings, but only slightly. Not all records and reports can be found on the FN web site.

## **2. Long-Term and Short-Term Grants**

### Grant Competition

FN is able to call upon its considerable experience with the grant competitions of other funds it manages to create a rigorous and transparent mechanism for selecting grantees. In fact, the Chagres Fund procedures manual is based on the FIDECO procedures manual. The competitions are widely announced and the application materials are posted on the FN web site.

NGOs were satisfied with the application process. While they did note the considerable amount of time required (they reported that it could take two to three months to prepare the application), they also complimented FN on its helpfulness and willingness to explain the process.

### Grant Supervision and Monitoring

FN applies an intensive supervision and monitoring system to track each grantee's progress against each project's operating plan and budget. For each grantee, FN assigns a Projects Officer and a Contracts Officer in the Projects Department who supervise the grant.

NGOs receiving grants from the Funds do experience some very strict rules, but FN has been loosening these over time. Initially the previous period's financial reports must have been accepted by FN before the next period's disbursement would be released to the NGO. This created a cash-flow crisis at the end of every quarter, with payments delayed until as late as the 20th of the next month. Now the NGO must close the books by the 25th of the last month and submit its report, but the report doesn't have to be accepted and approved, just received by FN, in order for the next quarter's disbursement to flow. This has improved the cash flow system, but the first year under the strict system was unnecessarily harsh on their "partners."

## **3. Budget and Management Expenses**

The “management expense” ceiling for the Fund Administrator is stated as a percentage of all the payments the Fund Administrator receives from the Trustee from a fund in a particular fiscal year. The Chagres FCA sets the ceiling at 9% in a broad fashion:

(c) Management Expenses. The Fund Administrator shall have the right to expend in any fiscal year up to nine percent (9.0%) of the amounts that it receives from the Trustee during such fiscal year on Management Expenses incurred in the ordinary course. For purposes of this Agreement, “Management Expenses” means such reasonable costs and expenses incurred by the Fund Administrator in the ordinary course in connection with the management, review, technical assistance, oversight and administrative functions (including the administrative functions of the secretariat specified in Section 7.1(h)) and grant administration provided by the Fund Administrator hereunder. (Chagres FCA, section 4.1.c)

The Darién FCA sets the percentage at 18% but is more restrictive:

(c) Management Expenses. At the beginning of each fiscal year, the Oversight Committee shall, in consultation with the Fund Administrator, estimate for the coming fiscal year the costs and expenses that will be incurred by the Fund Administrator in the ordinary course in connection with the management, review, technical assistance, oversight and administrative functions (including the administrative functions of the secretariat specified in Section 7.1(h)) and grant administration (“Management Expenses”). The amounts designated by the Oversight Committee as Management Expenses shall be deducted by the Trustee from funds transferred to the Forest Action Fund during such fiscal year and paid by the Trustee directly to the Fund Administrator (at such account in Panamá as may be designated by the Fund Administrator from time to time). The Management Expenses approved by the Oversight Committee shall adequately compensate the Fund Administrator for the services it provides under this Agreement, but shall not exceed eighteen percent (18%) of the aggregate of all amounts transferred by the Trustee to the Forest Action Fund in a given year. The Fund Administrator shall not be allowed to charge any fees or other amounts to any party or any FCA Grant Recipient, the amounts designated as Management Expenses by the Oversight Committee being compensation in full for services provided by the Fund Administrator pursuant to this Agreement. (Darién FCA, Section 4.1.c)

The Management Expenses have exceeded the amount allowed in the original FCA (9% of annual payments into the Forest Action Fund for Chagres and 18% for Darién) but only slightly. [More discussion of administrative overhead and related points is included in “Annex 6: Financial Highlights”]

#### **4. Organization, Staff, and Facilities**

##### *The Fundación Natura Business Model*

FN is a fund administering/grant-making organization. The organizational structure appropriately matches these functions. Unfortunately, each fund that FN administers

has its own unique rules about how the funds shall be used (and what duties FN is to perform) so that it is difficult to maintain a set of functions optimized for any particular fund's requirements. From a business management perspective, this makes it difficult for FN to select a set of core competencies (and perhaps sub-contract the ones that are not vital to the core mission).

Some management consultants would recommend to FN that they identify their core competencies and shed the other activities. Another approach would be to lobby the fund "owners" to seek a harmonized set of duties and services across all the different funds so that FN could optimize its structure and functions around those agreed duties and services, improving efficiency and meeting customer expectations with an improved product.

The Evaluation Team recognizes the merits in these two very different approaches but doubts that either one is feasible. The third approach is probably more realistic, much in keeping with what FN is currently doing – attempting to be all things to all funds.

### Staff

Fundación Natura currently has a staff of 31, but this is for all FN activities, not just the activities related to administration of the TFCA funds. The primary contacts for Long-Term and Short-Term Grant Recipients is a designated Projects Officer and a designated Contracts Officer. The Projects Officer handles the technical side of a grant, monitoring progress according to the agreed plan. The Contracts Officer monitors the administrative and financial side of the contract. (See "Annex 7: Organizational Structures" for a drawing of the FN structure and the Funds.)

The people of FN generally are professional, well qualified, and extremely focused and dedicated to their work.

### Information Systems

SiiAP stands for Sistema Integrado de Información y Administración de Proyectos ("Integrated System of Information and Project Administration"). SiiAP is an ambitious undertaking by FN with funding from USAID to create an integrated information system that will offer one repository of data with multiple views and multiple levels of access to FN staff and collaborating institutions. Anyone with access to the web will be able to visit <http://siiap.net> to view appropriate portions of the content.

At the fundamental level, the typical user will be able to see the content most relevant to that particular user, on-line, and in real time. At the next higher level, a user will also be able to create content, such as financial and technical reports or grant applications. At the higher levels, a limited number of users will be able to approve the lower-level content for posting to the web site.

According to the Informatics Officer for FN, the design is mostly complete (although new modules could be added as needed). Currently FN is in the process of populating the databases. This involves conversion of existing data to suit the tables of the MySQL database backend. The front end of the system – the part that each user will see – is simply the user's web browser, so there will be a gentler learning curve.

SiiAP is a system for all of FN's administrative duties, so it will benefit the Chagres Fund and the Darién Fund as well as the other funds administered by FN and their stakeholders.

### Facilities

The offices of FN are spread throughout a building designed and constructed as a private residence. The living room has become the reception area, bedrooms are department offices. It is certainly not modern commercial space, nor is the layout particularly efficient, yet many NGOs operate out of similar residences because commercial space is more expensive.

At the current staffing level, the space is marginally adequate. FN is exploring ways to expand and improve this space.

## **Conclusions**

The "business" of FN (with respect to the TFCA Funds) is financing successful tropical forest conservation projects. Given that the business is projects, it makes sense that a primary focus of the fund administrator services would be to strive for efficient and low-cost grant management.

Using a formula to set a ceiling for management expenses has been quite restrictive. FN has persistently exceeded this ceiling slightly. The OC might provide the necessary management expense scrutiny during an annual budget-approval process.

FN has implemented a meticulous process (actually several) for selecting project proposals. The process is fair and transparent, well regarded by the NGO community, and ensures that awards of competitive grants are made strictly on the merits.

The level of grant supervision and monitoring is atypically high. FN has done excellent work to create a rigorous proposal process. Now the staff needs to focus that same level of energy on making the monitoring and supervision more efficient and less intrusive for the NGO partners.

## **Recommendations**

E.1 -- FN should continue the search for ways to reduce its oversight role in supervising grant awards. As currently implemented, the supervision and monitoring program appears to be excessive both in the administrative costs to FN and certainly in the compliance costs to the NGO partner organizations. These NGOs should be viewed as partners in tropical forest conservation instead of general contractors to implement projects. Working with them as partners might help to discover ways to reduce the supervision costs while still maintaining the accountability expected by the auditors. Many of the Solicited Proposals can be treated like contracts especially where the activity is consulting work or construction – but these should be open to bidding from the for-profit sector. [Making for-profit entities eligible for TFCA funding would require an amendment to the FCAs.]

E.2 -- Seek ways to streamline the approval process on pass-through funding to ensure compliance with Fund and FN requirements. One approach might be to develop a pre-approved model project design for predictable project activities that are often replicated (employment contracts, routine goods and services, etc.).

E.3 --The Funds and FN should explore new ways to engage the NGOs and grassroots organizations as partners in tropical forest conservation and be careful to avoid viewing them merely as contractors to implement projects. Steps might include:

- E.3a -- Reducing the supervision/oversight for established partners with a prior record of achievement with FN.
- E.3b --Increasing the capacity-building services FN provides to emerging NGOs and grassroots organizations, including workshops and consulting services -- business planning and financial sustainability would be key components of those services. [This might require amending the FCAs to allow this expenditure.]
- E.3c -- Ensuring that all the partnering organizations share a common understanding of the goals and objectives of the TFCA and related ANAM policies, plans, and strategies. Convening or participating in a series of workshops to encourage harmonization of projects with these guidelines could be a Fund activity. [And would be an additional Fund expense.]

E.4 -- Look for cost savings and greater efficiencies by increasing the size and duration of grants, reducing the supervision requirements, providing a line of credit instead of monthly or quarterly disbursements, and generally reducing the administrative burden on FN and the grant recipient.

E.5 -- FN should be congratulated for its work in developing the integrated information system (SiiAP).

E.6 -- FN should be congratulated on its steps to implement a new system to track direct and indirect costs. This should make it possible to disaggregate and analyze its administrative costs to identify where the greatest expenses occur in operations.

## **F. The TFCA Funds and the Panamanian Context**

### **Findings**

#### **1. Environmental Funds in Panamá**

Environmental funds have a relatively long history in Panamá, in part because of the strong interest at the international level in the country, its biodiversity, and the Canal. Multilateral and bilateral organizations have been active in establishing environmental funds in Panamá. The GEF Small Grants Programme (SGP) in Panamá is indicative of the range of interest and breadth of projects funded.

A number of the environmental funds in Panamá found a home at Fundación Natura. FIDECO began operations in 1995. FOIAMI was created in 1999. The ACP-USAID Fund and the Chagres Fund were both established in 2003. The Darién Fund began in 2004. The latest addition is an extension of the ACP Fund (USAID-ACP Phase II 2007-2009) as a part of the new USAID/Conservation of the Biodiversity in the Canal Watershed Project.

Among the potential Fund Administrators in Panamá there is not a lot of competition. Nor have the supervising entities like the OC set clear indicators against which to assess the performance of Fund Administrators.

## **Conclusions**

FN is a widely respected environmental fund administrator in Panamá and successfully administers an impressive portfolio of environmental funds for various entities. Nevertheless, it is criticized for its heavy-handed approach with grantees and for delays in the timely flow of funds. At the same time, FN faces criticism from its auditors that it should be more strict. If the criticisms balance, FN has probably found the right point.

The Chagres Fund (eventually \$10 million) and the Darién Fund (eventually \$10.9 million) together will be comparable to the Ecological Fund of Panamá (FIDECO) when it was established (\$25 million; currently valued at \$34 million) – and all are ably managed by Fundación Natura.

The past two or three decades have seen an expansion in the number of NGOs working in the environmental and sustainable development areas in Panamá. There is considerable project experience to draw on and well-qualified individuals with NGO board and staff experience to call on to serve on the Oversight Committee.

## **Recommendations**

F.1 -- The OC should establish benchmarks against which to assess the performance of FN as the Fund Administrator.

## **V. Suggested Changes in the Authorizing Documents**

This section provides a brief summary of recommendations that would require changes in the authorizing documents, such as the agreements between GOP and USG regarding debt swaps and payment obligations, or the agreements between TNC, GOP, and FN regarding the FCA. The initiative for these modifications should come from the Oversight Committee as they consider all of the recommendations in this report.

### **A. Changes at the Level of the Two Governments**

With inflation once again becoming a significant concern, all of the TFCA documents should reflect a mandate to invest any significant surplus (whether Forest Action Fund or Tropical Forest Conservation Trust) in a balanced portfolio of investment-grade products with appropriate attention to risk and with an aim to protect the funds from any loss of purchasing power due to inflation (for short-term surpluses, the appropriate investments might be bonds, notes, or even a money-market account). [FN did invest a surplus from the Forest Action Fund in Panamanian Treasury Notes (“Letras del Tesoro de Panamá”).]

With ten more years of semi-annual payments expected from the GOP into both Funds, it might be useful to bring together MEF, USG, TNC, FN, and the pass-through NGOs to discuss the problem of the gap at the start of each calendar year before the first payment arrives. For Chagres, the first payment of the year is in May; for Darién the first payment is in March. Because the OC seeks to use all of the funds every year, this creates an 8-month fiscal “year” for Chagres and a 10-month fiscal “year” for Darién. FN seeks to hold back a “reserve” from the previous year to fund the gap months of the new year, but it would appear to be just as easy to change the payment dates to something more practical such as December 15 and June 15 or whatever the parties to this “gap” analysis decide.

### **B. Changes at the Oversight Committee Level**

Explore options to equalize the work loads on OC members, or at least to allow the Chair to delegate functions as needed to avoid delays and bottlenecks, such as the almost two-year lapse in selecting an Asset Manager.

Consider creating a “trust fund committee” (separate from the finance and budget committee) as a subcommittee of the OC to monitor the Trust Funds, the investment guidelines, and the performance of the Asset Manager.

Consider adding new OC members with investment, finance, and other expertise. The local chamber of commerce could be one source, as would academic and scientific organizations. Whether this new member would replace one of the existing NGO

members or would be an addition to the number on the OC would be an issue for the strategic planning process. [These changes would require amending the Agreements.]

### **C. Changes at the Level of the Pass-Through NGOs**

If the recommendations in this evaluation have an overall theme, it might be a slogan such as “from outsourcing to partnership” to capture the sentiment that all of the inter-institutional relationships and agreements should be seen as a way to build stronger partnerships among organizations with shared goals and objectives. This requires building a shared vision and mission; strengthening the institutions involved; and providing the resources for action but also the space into which these institutions may grow.

For the pass-through NGOs (Fundación Chagres and Fundación Panama), this means removing the straightjacket created by the strict contracts that they signed with FN and replacing them with a more appropriate agreement that offers the space and resources for institutional growth and development.

For example, there should not be a performance bond required on the monthly disbursements to the pass-through NGOs. (It was reported during the Evaluation that this requirement would be dropped in future contracts.) Instead, the financial arrangement might be a quarterly advance payment or line of credit against which the NGO presents receipts and reports.

There should be a provision for capacity building of the pass-through NGOs, perhaps 1% of the overall amount, that the NGO would be free to use as it sees fit (projects, core funding, or operations). The only requirement is that the NGO must report how the funds were used. FN noted that it has already begun discussing with other Fund Administrators (such as other RedLAC members) whether the pass-through NGOs should be asked just to report their administrative expenditures (10%) without any requirement to budget in advance or defend the use they make of those funds. Either approach would help the NGOs have a flexible item in the budget for their own capacity building.

# Annexes

## Annex 1. Statement of Work

**Statement of Work** — for an Enterprise for the Americas Initiative (EAI)/Tropical Forest Conservation Act (TFCA) Sponsored Evaluation of the TFCA program in Panama.

The USDA Forest Service requests METI secure the services of a qualified consultant to serve as the Team Leader for an evaluation of the implementation of the two TFCA accounts in Panama, the TFCA Oversight Committee management, and the administration by the Fundación Natura.

### Background

The country of Panama has negotiated two TFCA agreements with the U.S. Government and the Nature Conservancy (TNC). The first TFCA agreement was signed on July 10, 2003 and targeted the Panama Canal Watershed and the second TFCA agreement signed on August 19, 2004 targeted the Darién National Park.

The two TFCA swaps share the same Fund Administrator, Fundación NATURA. The two TFCA accounts for the Chagres and the Darién regions are only two of five accounts administered by "NATURA". The other three accounts include: 1) Fideicomiso Ecológico de Panamá (FIDEICO); 2) Fondo para la Conservación y Recuperación de la Cuenca Hidrográfica del Canal de Panamá-CHCP (Fondo ACP-USAID); and, 3) the Fondo para Acciones Prioritarias en la CHCP (IDB resources under the Ministry of the President – Fondo BID-MP).

### Purpose of the Evaluation

Because the evaluation is statutorily required, the U.S. Congress has an interest in the outcome. Other intended audiences include the EAI/TFCA Secretariat, U.S. Agency for International Development, U.S. Department of Treasury, U.S. Department of State, the U.S. Office of Management and Budget, the Enterprise for the Americas Board (Washington DC), the greater family of EAI/TFCA Funds and other associations of environmental funds (e.g. RedLAC and the Conservation Finance Alliance).

While the primary audience is interested in compliance with the legal and normative requirements established in the incorporating documents (e.g. statutes, bilateral agreements and by-laws), there is also great interest in the institutional performance of NATURA in administering the TFCA account and in the Oversight Committee's management thereof. Specifically, the Fund administration and management would be examined relative to: (a) effectiveness (how appropriate was the Fund administration and management relative to achieving program objectives), and, (b) efficiency (were the objectives of the program achieved in a cost-effective manner).

Consider that the fund has not been operational for a long period of time and TNC was the sole NGO donor. In addition, after the completion of the TFCA/Panama agreements in 2003 and 2004, the U.S. Office of Management and Budget (OMB) undertook a Program Assessment Rating Tool (PART) review of the entire Tropical Forest Conservation Act in 2004. The PART was developed to assess and improve program performance. Largely due to lack of performance measures, the TFCA program received a rating of "results not demonstrated." One result was the creation and application of a TFCA program evaluation scorecard.

The scorecard, based on best management practices for foundations, is now incorporated in the new TFCA agreements and sensitively grandfathered into preexisting agreements, such as TFCA/Panama. The U.S. Government representative of each TFCA Fund Board or Oversight Committee is charged with annually submitting the scorecard to the EAI/TFCA Secretariat. Because the design of the TFCA program does not allow for exclusive USG control of local program grants, the scorecard targets the assurance of good Fund management and administration as proxies for field-level conservation impacts. The evaluation should comment upon the scorecard as an evaluation tool, its application and make recommendations for its improvement.

### **Evaluation Methods**

The Team Leader will work with at least one team member from Panama to conduct the evaluation including, but not limited to, the following activities:

- A review of relevant documents, including but not limited to, the Forest Conservation and the Debt-Swap Agreements, Oversight Committee by-laws (if any), Fundacion Natura Articles and Memorandum of Association and relevant beneficiary NGO operating manuals.
- Interviewing a broad cross-section of relevant stakeholders and interest groups involved with administration of the programs and a representative sample of grantees, prospective grant recipients and beneficiaries of the TFCA program.
- Conducting a limited number of representative site visits to examine how selected projects are functioning, with particular emphasis on beneficiary organization effectiveness and efficiency in the use of the TFCA account.
- Analyzing all the data and drafting a preliminary report, including findings, conclusions and recommendations.
- Allowing a period for review of the draft evaluation report by the Oversight Committee, the Government of Panama and the U.S. Government.
- Completing a final written report incorporating the significant comments (including disagreements) from reviewers of the draft evaluation.

### **Deliverables**

The Team Leader and other project team members should produce the following documents and deliverables:

1. Summary of methodology and questions to be used for the evaluation;
2. List of people targeted for interviews and list of sites to visit;

3. Preliminary report for review by USAID, USFS, and the EAI/TFCA Secretariat, including findings, data analysis, conclusions, and recommendations;
4. Presentation of evaluation findings and recommendations, if appropriate; and,
5. Final report incorporating comments from stakeholders, available in electronic (PDF or MS Word) format and in hardcopy.

### **Work Schedule**

Work will begin on or about June 7, 2007, the preliminary evaluation report will be delivered on or about June 30, 2007 and the final report will be delivered no later than July 10, 2007.

## Annex 2. Acronyms and Abbreviations

ANAM	Autoridad Nacional del Ambiente ("National Environmental Authority")
ANCON	Asociación Nacional para la Conservación de la Naturaleza ("National Association for the Conservation of Nature")
BID	Banco Interamericano del Desarrollo ("Inter-American Development Bank")
CACPYMER	Cooperativa de Ahorro y Crédito de la Unión Nacional de la Pequeña y Mediana Empresa
CBC	Conservation of the Biodiversity in the Canal Watershed Project
CBMAP	Corredor Biológico Mesoamericano del Atlántico Panameño ("Meso-American Biological Corridor in the Panamanian Atlantic")
CBO	Community-Based Organization
CF	Fondo para la Conservación del Parque Nacional Chagres ("Chagres Fund")
CI	Conservation International
CICH	Comisión Interinstitucional de la Cuenca Hidrográfica del Canal de Panamá ("Inter-institutional Commission for the Panama Canal Watershed.")
CNP	Chagres National Park
CV	Comité de Vigilancia ("Oversight Committee")
DF	Fondo para la Conservación del Parque Nacional Darién ("Darién Fund")
DNP	Darién National Park
DOS	Department of State
EAB	Enterprise for the Americas Board
EAI	Enterprise for the Americas Initiative
FANP	Fondo para Areas Naturales Protegidas
FCA	Forest Conservation Agreement
FIDECO	Fideicomiso Ecológico de Panamá ("Panamanian Ecological Trust")
FN	Fundación Natura (Fundación para la Conservación de los Recursos Naturales)
FOIAMI	Fondo de Inversiones Ambientales ("Fund for Environmental Investments")
Fondo ACP	Fondo para la Conservación y Recuperación de la Cuenca Hidrográfica del Canal de Panamá ("Fund for the Conservation and Restoration of the Panama Canal Watershed")
GEF	Global Environment Facility
GOP	Government of Panamá
JICA	Japanese International Cooperation Agency
MEF	Ministerio de Economía y Finanzas
MIDA	Ministerio de Desarrollo Agrícola
NGO	Non-Governmental Organization
OC	Oversight Committee
OCB	Organización Comunitaria de Base ("Grassroots Organization")
OES	DOS/Oceans and International Environmental and Scientific Affairs
PAN	Programa Ambiental Nacional ("National Environmental Program")
PCA	Panama Canal Authority ("Autoridad del Canal de Panamá")

PEP	Parques en Peligro ("Parks in Peril")
PMEMAP	Programa de Monitoreo de la Efectividad de Manejo de las Areas Protegidas de Panamá ("Program for Monitoring the Effectiveness of the Management of Protected Areas in Panama")
PNUD	Programa de las Naciones Unidas para el Desarrollo ("United Nations Development Program-UNDP")
POA	Plan Operativo Annual ("Annual Operating Plan")
RedLAC	Red de Fondos Ambientales de Latinoamérica y el Caribe ("Environmental Funds Network of Latin America and the Caribbean")
RFP	Request for Proposals
SAP	Sociedad Audubon de Panamá ("Audubon Society of Panamá")
SiiAP	Sistema Integrado de Información y Administración de Proyectos
SINAP	Sistema Nacional de Areas Protegidas ("National System of Protected Areas")
SOMASPA	Sociedad Mastozoológica de Panama ("Mastozoological Society of Panamá")
TFCA	Tropical Forest Conservation Act
TNC	The Nature Conservancy
TRC	Technical Review Committee
USAID	United States Agency for International Development
USDA	United States Department of Agriculture
USG	United States Government
WB	World Bank (International Bank for Reconstruction and Development)
WWF-US	World Wildlife Fund - US

## **Annex 3. List of Key Persons**

(**bold** indicates personal interviews)

### Oversight Committee for Chagres Fund and Darién Fund

Aracelly Mendez  
Ministry of Economy y Finance

Kermit C. Moh  
USAID

**George Hanily**  
Country Program Director/Panama, The Nature Conservancy

**Mirei Endara de Heras**  
Board Member / Smithsonian Foundation

Anna Lisa de Porras  
Executive Director / Smithsonian Foundation

Loyda Sánchez  
Audubon Society of Panamá

### Alternates and Observers

Roberto de la Cruz  
National Director for Environmental Planning and Policy, ANAM (GOP alternate)

Matthew Roth  
US Embassy (USG alternate)

**Ms. Rita Spadafora**  
Project Management Specialist/Environment Officer, USAID

**Eida Gabriela de Eleta**  
Deputy Director / Direction of Public Credit / MEF

### Fundación Natura

**Zuleika Pinzón**  
Executive Director

**Leonor M. de Fadul**  
Administration and Finance Manager

**Elvin Britton**

Projects Director

**Yolanda Jiménez M.**  
Projects Coordinator

**José Santamaria**  
Oficial de Informática

National Environmental Authority (ANAM)

Dra. Ligia Castro de Doens  
Administradora General de ANAM

**Aleida Salazar**  
Directora Nacional / Areas Protegidas y Vida Silvestre

Yariela Hidalgo  
Chief, National System of Protected Areas (SINAP)

**Oyantay Murgas**  
Dirección Nacional de Planificación y Política Ambiental (PPA)

**Desiree Vergara**  
Areas Protegidas (former Director of PN Chagres and PN Soberanía)

**Raúl Gutiérrez**  
Dirección Nacional de Areas Protegidas y Vida Silvestre

**Domiluis Dominguez**  
Director / Darién National Park

**Elsy Vergara**  
Administradora, Parque Nacional Darién

**Randino Medina**  
Director / Chagres National Park

**Caisamo**, Guardaparque, Puesto Alajuela, Parque Nacional Chagres  
**Isidro Gil**, Guardaparque, Puesto Alajuela, Parque Nacional Chagres  
Camilo Grandi M., Parque Nacional Chagres  
Elvis García, Parque Nacional Chagres

Ministry of Economy and Finance (MEF)

Javier Vidal R.  
Direction of Public Credit

**NGO and Community Organizations**

TNC - Panamá

**Julio Rodríguez**

Director / Parks in Peril Program

**Mayté González**

Program Coordinator

Indra Candanedo

Conservation Specialist

**Marlouis Alvarado**

Program Assistant

Fundacion para la Conservación del Parque Nacional Chagres

Roderick R. Gutiérrez P.

President of the Board

German Bravo

Vice President

Norita Scott Pezet

Secretary

Walkyria Pitti Martínez

Treasurer

Hermann Atencio (Business Sector)

Board Member

Rosa Edith Urriola (Community Representative)

Board Member

**Roberto Batista**

Administrator

**Erika Bravo**

Accountant

Fundación PANAMA

**José Armando Palma**

Executive Director

**Daina Tejada**

Fundación PANAMA

USAID Projects

**Alicia Pitty Navarro**

Coordinadora Componente Gobernabilidad Ambiental  
Proyecto Conservación de la Biodiversidad del Canal

**Dimas Arcia**

Coordinador Componente Manejo de Areas Protegidas  
Proyecto Conservación de la Biodiversidad del Canal

Consultants

**Pacífico Plata**

Remasa Corporation

## **Annex 4. Sites Visited**

### **Field Visits**

#### Chagres National Park

Puesto Alajuela ("Alajuela Ranger Station")

Camitillo

Madden Dam

#### Soberania National Park

Chilibre

Summit Park

Madden Highway

### **Office Visits**

Fundación para la Conservación del Parque Nacional Chagres (Fundación Chagres)

Fundación de Parque Nacionales y Medio Ambiente (Fundación PA.NA.MA)

## Annex 5. List of Key Documents Reviewed

### Agreements for the Chagres Fund

[Chagres Debt-for-Nature Swap Agreement]

**Agreement between The Government of the United States of America and the Republic of Panamá Regarding a Debt-For-Nature Swap.** 10 p. plus exhibits. 10 July 2003.

[Chagres Swap Fee Agreement]

**Swap Fee Contractual Agreement Among the Government of the United States of America and The Nature Conservancy.** 8 p. plus exhibits. 10 July 2003.

[Chagres - FCA]

**Forest Conservation Agreement.** ("by and among" the Government of Panamá, The Nature Conservancy, and Fundación Natura). 25 pages plus exhibits. 10 July 2003.

[Chagres Trust Fund Agreement]

**Tropical Forest Conservation Trust.** (agreement signed between the Government of the Republic of Panama and the Banco General SA., with the USG and TNC as principal donors.)

### Agreements for the Darién Fund

[Darién Debt-for-Nature Swap Agreement]

**Agreement between The Government of the United States of America and the Republic of Panamá Regarding a Debt-For-Nature Swap.** 10 p. plus exhibits. 19 August 2004.

[Darién Swap Fee Agreement]

**Swap Fee Contractual Agreement Among the Government of the United States of America and The Nature Conservancy.** 8 p. plus exhibits. . 19 August 2004.

[Darién - FCA]

**Forest Conservation Agreement (Darién National Park).** ("by and among" the Government of Panamá, The Nature Conservancy, and Fundación Natura). 27 pages plus exhibits. 19 August 2004.

[Darién Trust Fund Agreement]

**Tropical Forest Conservation Trust.** (agreement signed between the Government of the Republic of Panama and the Banco General SA., with the USG and TNC as principal donors.)

### Fundación Natura Documents

**Nuestro Reto Estratégico: Seguimiento.** For Fundación Natura. Prepared by Remasa Corporation. Panamá. 16 May 2007.

**Plan de Acción.** Fundación Natura, Panamá. (part of the strategic planning process)

**Plan Estratégico 2002-2001.** Fundación Natura, Panamá. Revisión 2006. (Uses the Balance Scorecard approach)

[Minutes from meetings of the Oversight Committee]

**Acta de Reunión** from 2003 through 2007, for Chagres Fund and Darién Fund. (electronic: on CD)

[Five-Year Report: 2000-2005]

**Informe Quinquenal: 2000-2005.** Fundación Natura, Panamá, República de Panamá. (Spanish and English) 64 p.

[Procedures Manual for Chagres]

**Manual de Procedimientos.** Fondo para la Conservación del Parque Nacional Chagres (Fondo Chagres, Programa de Donaciones. Fundación Natura, julio de 2005, revisión 2.0. 275 p.

**Informe de los Auditores: Fundación para la Conservación de los Recursos Naturales (Fundación Natura) - Fondo para la Conservación del Parque Nacional Chagres.** FN, Panamá, República de Panamá, del 1 de enero al 31 de diciembre de 2006. 19 p.

**Independent Auditor's Report: Fund Accountability Statement – Parque Nacional Chagres Preservation Fund.** Year ended 31 December 2004. Deloitte – Panamá. Panamá. 18 pages.

[Strategic Plan 2002-2011]

**Plan Estratégico 2002 – 2011.** Fundación Natura, revisión 2006. Includes elements of the “Cuadro de Mando Integral” (Balance Scorecard). 23 pages (electronic: 46 powerpoint images).

### Background References

[Detail of Transactions, Chagres and Darién Trust Funds]

**Detalle de Movimientos del Fideicomiso Chagres para el Año 2003**

**Detalle de Movimientos del Fideicomiso Chagres para el Año 2004**

**Detalle de Movimientos del Fideicomiso Chagres para el Año 2005**

**Detalle de Movimientos del Fideicomiso Chagres para el Año 2006**

**Detalle de Movimientos del Fideicomiso Chagres para el Año 2007**

**Detalle de Movimientos del Fideicomiso Darién para el Año 2004**

**Detalle de Movimientos del Fideicomiso Darién para el Año 2005**

**Detalle de Movimientos del Fideicomiso Darién para el Año 2006**

**Detalle de Movimientos del Fideicomiso Darién para el Año 2007**

Servicios Fiduciarios, Banco General SA, Ciudad de Panamá, Panamá. (each a single page, fax, received 2007 June 28 and July 04)

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[Annual Report of the Protected Areas System for 2006]

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[Management Effectiveness Monitoring Program for Protected Areas en Panamá]

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**Adenda No 1 al Contrato Fondo Darién No. FD-PS-001-06.** 21 de marzo de 2007. 2 p.

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[Monitoring report on Jaguar prey species]

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[Estimating jaguar densities using still cameras]

**Estimación de la Densidad de Jaguares Utilizando Cámaras Trampa en la Región del Alto Chagres.** Ricardo Moreno y Vilma Fernández, Sociedad Mastozoológica de Panamá. Diciembre de 2006. 7 pag. (electronic)

[Amphibian diversity in Alto Chagres]

**Diversidad de Anfibios del Bosque Nuboso de Cerro Brewster, Cerro Jefe y Cerro Azul en el Alto Chagres.** Melvin A Aguirre H, Rogelio Samudio, Erick Nuñez, Israel Tejada y Querube Fuenmayor. Sociedad Mastozoológica de Panamá. Diciembre de 2006. 17 pag. (electronic)

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[Biodiversity Strategy for Panamá]

**Estrategia de la Biodiversidad.** ANAM. 2000

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**Experience with Conservation Trust Funds.** Evaluation Report 1-99. Global Environment Facility. Washington DC. 80 p.

## Annex 6. Financial Highlights

GOP has punctually made (2003-2007) or is expecting to make (2007-2016) payments into the TFCA Accounts according to the following table:

**Table 6.1: Schedule of Payments to the Trustee under the New Obligations for the two TFCA Accounts**

Year	Chagres	Darién
2003	402,337	
	407,837	
2004	402,792	
	397,677	459,128
2005	392,489	459,127
	387,236	459,128
2006	381,907	459,129
	376,507	459,129
2007	371,032	459,128
	365,506	459,129
2008	361,081	459,128
	357,505	459,128
2009	354,903	459,129
	352,261	459,127
2010	349,581	459,128
	348,179	459,129
2011	346,754	459,127
	345,311	459,128
2012	343,844	459,129
	342,358	459,129
2013	340,847	459,127
	339,315	459,128
2014	339,191	459,128
	339,067	459,129
2015	338,940	459,129
	338,811	276,496
2106	338,681	276,497
	238,052	276,496
<b>Totals</b>	<b>10,000,000</b>	<b>10,930,313</b>

Note: All amounts in US dollars.

Under the terms of the debt reduction agreements, the Panamanian Central Bank makes semi-annual payments into separate TFCA Accounts (Chagres Fund and Darién Fund) established by the Forest Conservation Agreements. The two Funds are

on track to receive GOP funds from 2003 through 2016 totaling \$10.0 million for the Chagres Fund and \$10.93 million for the Darién Fund.

At the time of this evaluation, the Chagres Fund had received \$3,519,814 and the Darién Fund \$2,754,770 in payments from GOP. Each Fund consists of two components: a Tropical Forest Conservation Trust that is allowed to grow over time to establish an endowment and a Forest Action Fund for current expenses.

For example, the GOP payments into the Chagres Fund are divided equally between the Tropical Forest Conservation Trust and the Forest Action Fund.

**Table 6.2: Allocation of Payments to the Tropical Forest Conservation Trust and the Forest Action Fund for Chagres National Park**

<b>Calendar Year</b>	<b>Conservation Trust</b>	<b>Forest Action Fund</b>
2003	201,169	201,169
	203,919	203,919
2004	201,396	201,396
	198,839	198,839
2005	196,245	196,245
	193,618	193,618
2006	190,954	190,954
	188,254	188,254
2007	185,516	185,516
	182,753	182,753
2008	180,541	180,541
	178,753	178,753
2009	177,452	177,452
	176,131	176,131
2010	174,791	174,791
	174,090	174,090
2011	173,377	173,377
	172,656	172,656
2012	171,922	171,922
	171,179	171,179
2013	170,424	170,424
	169,658	169,658
2014	169,596	169,596
	169,534	169,534
2015	169,470	169,470
	169,406	169,406
2016	169,341	169,341
	119,026	119,026
<b>Totals</b>	<b>5,000,001</b>	<b>5,000,001</b>

Notes: All amounts in US dollars. The FCA for Chagres sets the minimum allocation to the Tropical Forest Conservation Trust at 50%, but through June 2007, the split has never varied from 50/50. Total exceeds \$10 million because of rounding/display errors.

In the case of the Darién Fund, the proportion of GOP payments allocated to the Tropical Forest Conservation Fund began at 100% in 2004 and decreases over time while the proportion allocated to the Forest Action Fund increases.

**Table 6.3 Allocation of Payments to the Tropical Forest Conservation Trust and the Forest Action Fund for Darién National Park**

Calendar Year	Conservation Trust	Forest Action Fund
2004	459,128	0
2005	344,345	114,782
	344,346	114,782
2006	321,390	137,739
	321,390	137,739
2007	298,433	160,695
	298,434	160,695
2008	275,477	183,651
	275,477	183,651
2009	252,521	206,608
	252,520	206,607
2010	229,564	229,564
	229,565	229,565
2011	206,607	252,520
	206,608	252,520
2012	183,652	275,477
	183,652	275,477
2013	160,695	298,433
	160,695	298,433
2014	137,738	321,390
	137,739	321,390
2015	91,826	367,303
	55,299	221,197
2016	19,028	257,469
	19,028	257,468
<b>Totals</b>	<b>5,465,156</b>	<b>5,465,156</b>

Notes: All amounts in US dollars.

## Investment Performance

Each Fund consists of two separate accounts – a Tropical Forest Conservation Trust (the endowment fund) and a Forest Action Fund (used for current expenses until 2016). In total there could be four entirely separate investment portfolios, each having the potential to earn investment income.

**Table 6.4 Chagres Tropical Forest Conservation Trust: Payments Received and Investment Income Earned**

<b>Calendar Year</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007*</b>
New Balance	0.00	394,943.57	795,351.53	1,189,823.88	1,588,989.18
New Payments	405,087.00	400,234.50	389,862.50	379,207.00	185,516.00
Income	1,356.57	8,173.46	14,609.85	29,958.30	15,223.30
Expenses	11,500.00	8,000.00	10,000.00	10,000.00	
<b>End Balance</b>	<b>394,943.57</b>	<b>795,351.53</b>	<b>1,189,823.88</b>	<b>1,588,989.18</b>	<b>1,789,728.48</b>

Notes: Amounts in US dollars. \*2007 reporting only through 31 May 2007.

The Chagres Tropical Forest Conservation Trust from 2003 through May 2007 has received approximately \$1.76 million in punctual payments, earned another \$70,000 in interest (apparently never exceeding 2.24%), and been charged \$39,500 in management fees.

**Table 6.5 Chagres Forest Action Fund:  
Payments, Expenditures, and Investment Income**

<b>Calendar Year</b>	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007*</b>
January Balance	0	405,087	757,268	479,092	623,034
New Payments	405,087	400,234	389,863	379,207	185,516
Investment Income	0	802	20,894	21,950	6,167
<b>Project Expenses</b>	<b>0</b>	<b>2,250</b>	<b>377,700</b>	<b>446,770</b>	<b>238,884</b>
- Long-Term Projects	0	2,250	189,342	255,860	125,626
- Short-Term Projects	0	0	145,210	104,081	71,059
- Co-administration			5,606	19,099	31,529
- Measures of Success	0	0	37,542	67,730	10,670
Admin Expenses	0	46,605	36,021	85,659	39,806
<b>December Balance</b>	<b>405,087</b>	<b>757,268</b>	<b>479,092</b>	<b>623,034</b>	<b>536,027</b>

Notes: Amounts in US dollars. \*2007 reporting only through 30 June 2007.

Fundación Natura received the approval of the OC to invest a portion of the 2005 surplus from the Chagres Forest Action Fund until it was needed in 2006. \$275,212 was invested in Treasury Bills with a yield of 4.261%.

**Table 6.6 Darién Tropical Forest Conservation Trust:  
Payments Received and Investment Income Earned**

<b>Calendar Year</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007*</b>
January Balance	0.00	449,761.74	1,144,216.51	1,812,717.79
New Payments	459,128.09	688,691.51	642,780.72	298,433.26
Investment Income	2,383.65	13,763.26	33,720.56	19,308.10
Expenses	11,750.00	8,000.00	8,000.00	
<b>End Balance</b>	<b>449,761.74</b>	<b>1,144,216.51</b>	<b>1,812,717.79</b>	<b>2,130,459.15</b>

Notes: Amounts in US dollars. \*2007 reporting only through 31 May 2007.

**Table 6.7 Darién Forest Action Fund:  
Payments, Expenditures, and Investment Income**

<b>Calendar Year</b>	<b>2005</b>	<b>2006</b>	<b>2007*</b>
January Balance	0	201,054	203,595
New Payments	229,564	275,477	160,695
Investment Income	2,190	5,832	2,895
<b>Project Expenses</b>	<b>5,665</b>	<b>219,758</b>	<b>139,458</b>
- Park Administration	4,228	186,099	107,589
- Darienita Projects	1,437	23,431	20,505
- Small Projects	0	10,228	11,364
Admin Expenses	25,035	59,010	41,736
<b>December Balance</b>	<b>201,054</b>	<b>203,595</b>	<b>185,991</b>

Notes: Amounts in US dollars. \*2007 reporting only through 30 June 2007.

### Forest Action Funds

Through the use of Treasury Bills, FN earned 4.261% on portions of the Forest Action Fund account not needed until the following year.

According to the FCA, the Fund Administrator may charge up to 9% overhead on the Chagres Forest Action Fund account and up to 18% on the Darién Account. This overhead ceiling is calculated as a percentage “of the amounts it receives from the Trustee during such fiscal year” and appears to have been exceeded in most years for both Funds but only slightly.

**Table 6.8: “Management Expenses” charged to the two Forest Action Funds**

	<b>2003</b>	<b>2004</b>	<b>2005</b>	<b>2006</b>	<b>2007*</b>	<b>Average</b>
<b>Chagres (9% ceiling)</b>						
Management Expenses	0	46,605	36,021	85,659	39,806	208,091
New Payments	405,087	400,234	389,863	379,207	185,516	1,759,907
Percent Overhead	<b>0.00</b>	<b>11.64</b>	<b>9.24</b>	<b>22.59</b>	<b>21.46</b>	<b>11.82</b>
<b>Darién (18% ceiling)</b>						
Management Expenses			25,035	59,010	41,736	125,781
New Payments			229,564	275,477	160,695	665,736
Percent Overhead			<b>10.91</b>	<b>21.42</b>	<b>25.97</b>	<b>18.89</b>

Notes: Amounts in US dollars. \*2007 reporting only through 30 June 2007.

The average overhead amount, shown in the far-right column of Table 6.8 above, exceeds the limit set for the Chagres Fund (11.82% instead of 9.0%) and the limit set for the Darién Fund (18.89% instead of 18.0%). One might have expected the overhead amount to fall as more of the administrative burden was shifted to long-term grant recipients, but this has not yet been possible.

## Tropical Forest Conservation Trust Funds

The Tropical Forest Conservation Trust agreements direct that the Trust Funds should be invested with the help of a professional Asset Manager once the balance in the fund reaches \$1.0 million (see for example Chagres Trust Agreement, Section 14). Both Trust Funds hit this target amount in August of 2005. The Banco General notified the Chair of the OC via a letter dated October 2005 that the contract required the OC to select an Asset Manager. It is now almost 24 months later and the portfolios still have not been invested.

The Darién FCA directs that the policy for the management of the funds in the Tropical Forest Trust Fund be to maximize the amount of funds available for conservation “while at least maintaining the real value of the Trust Corpus over time” (Darién FCA, section 4.2.c). This sentence is not present in the Chagres FCA, but the Chagres Trust Agreement includes language directing that the investment portfolio for the Trust Fund be a balanced portfolio without high-risk investments and that it be managed to protect against the loss of value due to inflation. (Chagres Trust Fund Agreement, section 5.1)

Unfortunately the delays by the OC in selecting an Asset Manager for the Trust Funds once they reached a value of \$1 million, and in seeking a more beneficial rate of return from the Banco General during the interim period, have caused the Trust Funds to barely keep up with inflation. Using data from the US Department of Labor Statistics, the Evaluation Team estimates that the total interest earned in the trust funds 2003-2007: \$138,497.05 is almost entirely offset by losses to inflation of \$123,458.69 and the overall value falls into negative territory if the accumulated management fees are included (\$67,250.00) for a net loss of \$ -52,211.64 since operations began in 2003.

(Consumer Price Index data based on a table from the US Bureau of Labor Statistics titled: “Consumer Price Index, All Urban Consumers - (CPI-U), U.S. city average, All items, 1982-84=100” and available at <ftp://ftp.bls.gov/pub/special.requests/cpi/cpiat.txt>)

## Project Portfolio

A fundamental motivation for the creation of the TFCA Funds for two specific national parks was to create a mechanism to boost the annual budgets for these two areas beyond the amounts available in the ANAM national budget. The two Funds were intended to complement and/or supplement the GOP budget assignment that was expected to be inadequate to meet the conservation and protection goals of these important protected areas for a number of years going forward.

The goals, objectives, and activities for each national park are programmed in a broad sense in a general management plan (“Plan de Manejo”)<sup>25</sup> typically covering a five-year period and then in more detail with an annual operating plan (“Plan Operativo Anual”). In theory, this means that most of the activities for a particular protected area can be rolled up into a single long-term project, complemented by a few smaller projects executed by NGO partners in the buffer zone. This precludes the need to develop a

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<sup>25</sup> The most recent Plan de Manejo for Darién was approved in 2004 and the Plan de Manejo for Chagres was approved in 2005. Full citations are included in the bibliography (Annex 5).

broad portfolio with many projects because all or most of the activities have been planned within the main long-term project.

## Management Expenses

The Forest Conservation Agreement for the **Chagres Fund** set the maximum overhead rate for FN at **9%** with the following text:

'The Fund Administrator shall have the right to expend in any fiscal year up to nine percent (9.0%) of the amounts it receives from the Trustee during the fiscal year on Management Expenses incurred in ordinary course. For the purposes of this Agreement, "Management Expenses" means such reasonable costs and expenses incurred by the Fund Administrator in the ordinary course in connection with the management, review, technical assistance, oversight and administrative functions (including the administrative function of the secretariat described in Section 7.1(h)) and grant administration provided by the Fund Administrator hereunder.'

(Forest Conservation Agreement for Chagres National Park, Article IV.1.c)

The Forest Conservation Agreement for the **Darién Fund**, signed a year later, set the maximum overhead rate for FN at **18%** with similar language to the above, but includes:

'... The Management Expenses approved by the Oversight Committee shall adequately compensate the Fund Administrator for the services it provides under this Agreement, but shall not exceed eighteen percent (18%) of the aggregate of all amounts transferred by the Trustee to the Forest Action Fund in a given year. The Fund administrator shall not be allowed to charge any fees or other amounts to any party or any FCA Grant Recipient, the amounts designated as Management Expenses by the Oversight Committee being compensation in full for the services provided by the Fund Administrator pursuant to this Agreement.'

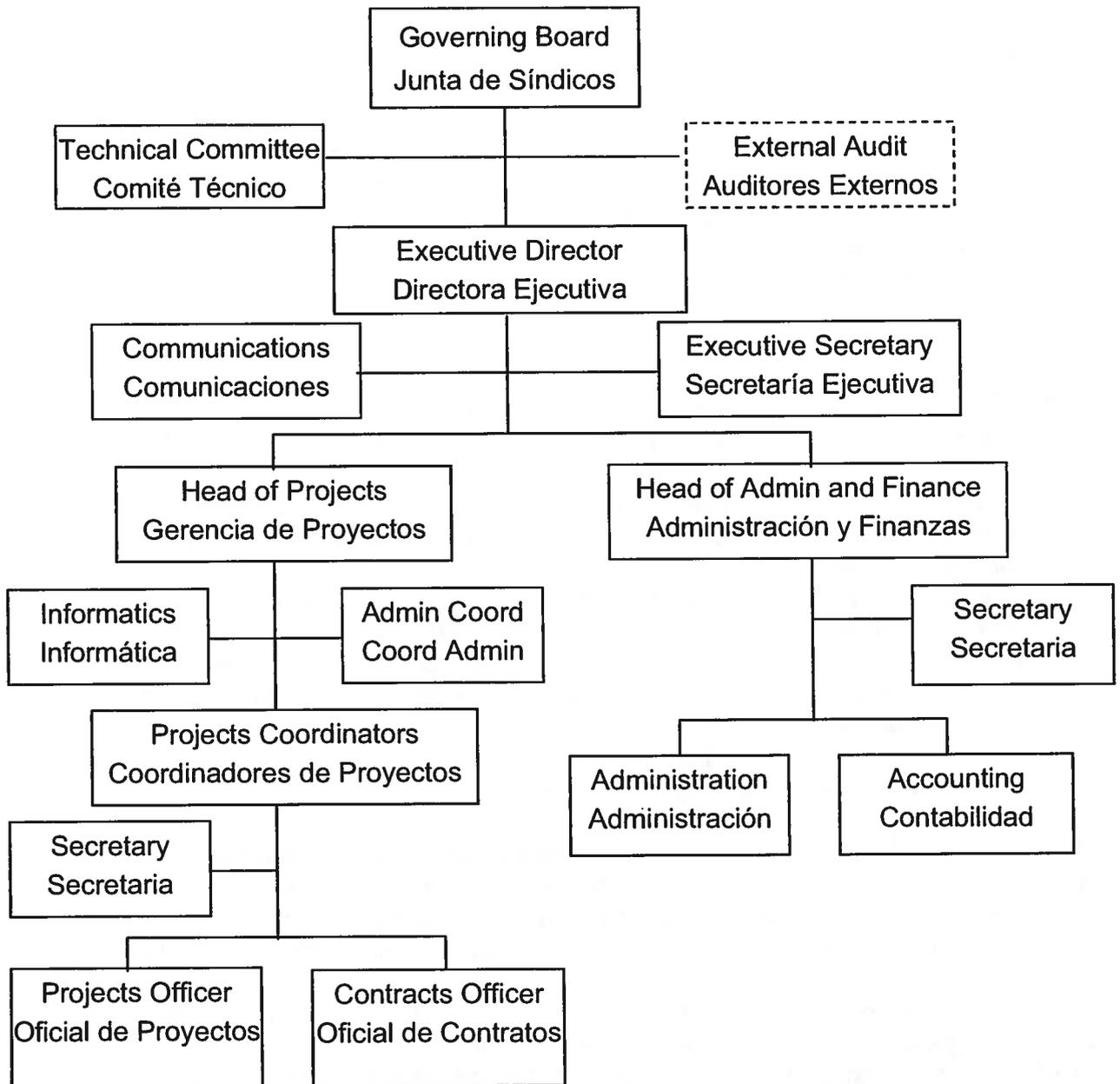
(Forest Conservation Agree for Darién National Park, Article 4.1.c)

FN is interested in qualifying for ISO 9001 certification for its management systems, so in January 2007 they implemented a new cost-tracking package as part of their financial and project administration information system. The new system will provide them with a basis for reporting their direct and indirect costs across funds, accounts, and projects.

Specifying the maximum overhead rates in the Agreements is one way to establish these ceilings, but a more dynamic way would be to set them on the basis of the actual direct and indirect costs, depending upon the services that FN as the Fund Administrator is contracted to provide.

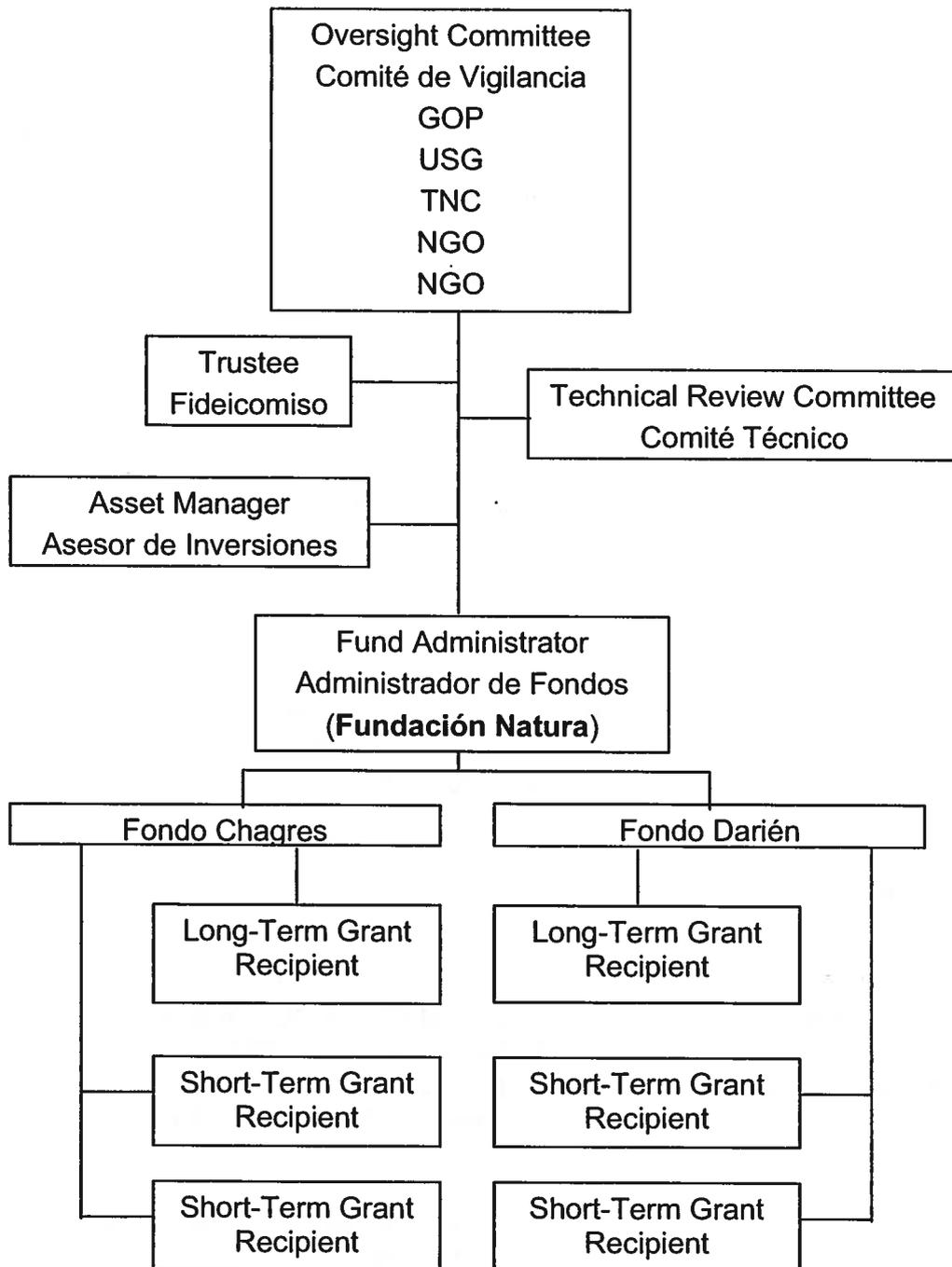
## Annex 7. Organizational Structures

Fundación Natura, as the Fund Administrator for the two TFCA Funds as well as administrator of several other funds, has a typical environmental fund structure.



As of May 2007, the Fundación Natura personnel list included 31 individuals.

Below is a graphic depiction of the institutional structure for the two Funds.



## Annex 8. General Information about Fundación Natura and the TFCA Accounts

The Fundación para la Conservación de los Recursos Naturales (Fundación Natura or FN) was established in 1991 as a not-for-profit organization under the laws of Panamá, dedicated to the promotion of plans and programs for the protection and conservation of the natural heritage of Panamá. During 1993-1996, FN administered the USAID small grants program. In 1995 FN became the fund administrator for the Fideicomiso Ecológico de Panamá (FIDEICO), an environmental trust fund established by GOP, USAID, and TNC.

FN has developed additional co-financing mechanisms with resources from Banco Interamericano de Desarrollo Agropecuario, Banco Nacional de Panamá, Proyecto Bio Darién, and the Inter-America Foundation.

In 2003 FN became the administrator for a fund established with the Panama Canal Authority (Fondo para la Conservación y Recuperación de la Cuenca del Canal de Panamá).

### Board of Directors (Junta de Síndicos) of FN

FN is governed by a Board consisting of nine members: three from the public sector and six from the private sector. Each designated Board Member has an Alternate from the same institution. The Board is advised by a Technical Committee of members with considerable technical and scientific expertise.

<u>Member</u>	<u>Institution</u>
(Public Sector)	
Lic. Juan Héctor Díaz	Autoridad del Canal de Panamá (ACP)
Dra. Ligia Castro de Doens	Autoridad Nacional del Ambiente (ANAM)
Mons. Laureano Crestar Durán	CARITAS Arquidiocesana (representing the Presidencia de la República)
(Private Sector)	
Lic. Ricardo Delvalle	Asociación Nacional de Reforestadores y Afines de Panamá (ANARAP)
Lic. Irving H. Bennett N.	Asociación Panameña de Ejecutivos de Empresa (APEDE)
Prof. Jorge Arosemena	Ciudad del Saber
Prof. Adolfo C. Quintero	Colegio Nacional de Economistas de Panamá
Arq. Álvaro González Clare	Instituto Panameño de Arquitectura y Urbanismo (IPAUR)
Lic. Elena G. De Lombardo	Instituto Smithsonian de Investigaciones Tropicales (STRI)

## Members of the Fundación Natura Technical Committee

Ing. Elio Alvarez	Lic. Francisco Herrera
Ing. Dionisio Batista	Ing. Carlos A. Gómez Martínez
Dr. Alexis Baúles	Lic. Maribel Gordón
Dr. Julio Calderón	Ing. Sayda Grimaldo
Dr. Todd Capson	Dr. Mahabir Gupta
Dra. Mireya Correa	Dr. Roberto Ibañez
Lic. Georgina de Alba	Lic. Nidia Morales
Lic. Nilce de Cerezo	Ing. Blas Morán
Dra. Blanca de Hernández	Lic. Diniz Ramos Mendoza
Ing. Irving Díaz	Ing. Ivanor Ruíz
Dra. Marilyn Diéguez	Ing. Casilda Saavedra de Madrid
Lic. José A. Espino	Lic. Guillermo Salazar
Lic. Raúl Fletcher	Lic. Julieta de Samudio
Dr. Miguel A. Flores	

The Board is supported by an Executive Director who heads an organization of nine technical/professional positions plus administrative staff and assistants.

### **Vision**

"To be a leader in the conservation of natural resources, recognized for our capacities in (1) the promotion, identification, and support of environmental initiatives for sustainable development that generate changes in human values, attitudes, and behaviors; and (2) the management of environmental funds with transparency, effectiveness, and quality of technical expertise. (FN Strategic Plan 2002-2011, revised 2006)

### **Mission**

"To promote environmental conservation and sustainable development through the management of resources to improve quality of life."  
(FN Strategic Plan 2002-2011, revised 2006)

### **Key Strategic Areas**

#### **A. Conservation and Development**

- Protected Areas
- Watersheds
- Coastal Areas
- Capacity Building

#### **B. Sustainable Institutional Development**

- Finance
- Stakeholders and Marketing
- Operational Processes
- Human Resources

(FN Strategic Plan 2002-2011, revised 2006)

## **Values of FN**

Creativity  
Honesty and Transparency  
Equality  
Respect for Life and for Diversity  
Responsibility  
Teamwork  
(FN Strategic Plan 2002-2011, revised 2006)

## **Project Portfolio**

FN is the fund administrator for a variety of funds including the two TFCA Funds. Each fund reflects the needs and requirements of its particular donor(s), so the FN staff must expertly juggle a portfolio of different rules, restrictions, procedures, geographic foci, and purposes.

Some funds operate with open competition, some admit only requested proposals, and some use both mechanisms. Some have a geographic focus (Chagres, Darién, Canal watershed, etc.) while others are more national in coverage. With new funds coming on-line and other funds closing, there really isn't a typical year, but in general, the total project portfolio across all funds administered by FN is roughly between \$1 and \$2 million dollars annually.

## **Counterpart Contribution**

FN welcomes all counterpart contributions whether cash, labor, or other in-kind support, but the TFCA Funds do not specify a minimum counterpart contribution.

## **Chronology**

1980

Darién National Park established.

1984

Chagres National Park established (Decreto Ejecutivo N. 73 del 2 de octubre de 1984).

1991

Creation of Fundación Natura

...

2003

Creation of the Chagres Fund; FN selected as Fund Administrator

2004

Creation of the Darién Fund; FN selected as Fund Administrator

Management Plan for Darién National Park published.

2005

Management Plan for Chagres National Park published.

2006

2007

Installation of new members of the Junta de Síndicos at FN.

Evaluation of two TFCA accounts (the Chagres Fund and the Darién Fund)

...

2016

Transition from drawdown/replenishment fund to endowment for the Chagres Fund and the Darién Fund

## **Annex 9. Fundación Natura and the InterNet**

### **E-mail**

FN deserves praise for providing clients and stakeholders with the means to contact the FN offices via e-mail. The web site includes generic addresses for contacting the offices of FN:

The posted e-mail addresses are:

Information <info@naturapanama.org>  
Communications <comunicaciones@naturapanama.org>  
Director of Projects <gerproyectos@naturapanama.org>

FN staff are reachable directly with e-mail using the common pattern flast@naturapanama.org – basically the first initial and last name of each staff member. This is not posted on the web site – which helps to reduce unwanted spam – but could be guessed by a motivated website visitor.

FN might want to implement e-mail distribution lists for FN news and announcements. This increases the speed and breadth of communication with interested parties. The registration process to receive announcements should describe the privacy policy of FN and what use, if any, will be made of the registration information.

### **Web Presence**

FN maintains a public web site at <http://www.naturapanama.org/> with abundant images of nature in Panama. From the main page, one can select numerous options.

A toolbar across the top of the page offers:

- (a) Calendar
- (b) Download documents
- (c) Links
- (d) Contact us and Register
- (e) Calls for Proposals
- (f) Search

A vertical menu on the left side of the page includes:

- (a) Background
- (b) Mission and Vision (mission, values, and vision)
- (c) Junta de Síndicos (Board of Directors)
- (d) Contact information
- (e) Fund for the Panama Canal Authority
- (f) Fund for Chagres National Park
- (g) Fund for Darién National Park
- (h) Fund for ??

- (i) Notices and publications
- (j) NATURA newsletters
- (k) Biosphere media contest

## **Strengths**

FN deserves praise for creating a web site and making information about the institution, the funds it manages, and the grantmaking available for download. This can greatly increase the availability of documents and information, and significantly reduce the cost of their distribution.

## **Weaknesses**

The page can be slow to load and has a look that is “busier” than may be optimal. Navigation is not always obvious, the screen continues to display a lot of background noise as one drills down (part of the “busy” look, instead of reserving space for the displayed/selected item), and the pages do not seem to follow standard InterNet conventions (it is not obvious what to click when one finally finds a desired document for download. The size of documents is not always indicated to warn visitors with limited bandwidth.

## **Suggestions for the Web Site**

The web site should mirror all of the information that FN is required to make available to the public. It should also reflect the FN strategic plan and any communication plans, particularly involving external audiences. The web site should also address the needs of three distinct groups of applicants: (1) organizations potentially interested in applying for a grant under one of the funding mechanisms, (2) organizations that were not successful in the most recent competition and so need more information so that they can improve their next application, and (3) civil society in general that has a right to know what its institutions are doing.

A web site is an excellent tool to increase transparency. All of FN’s legal documents and agreements should be available on the web site (respecting any restrictions that appear in the documents themselves). Lists of approved projects, annual reports, membership of current and past Boards and Technical Committees, and even the auditors reports could be posted. Annual reports, announcements of the annual Competitions, announcements of Grant Awards, Press Releases, any Newsletters, Brochures, and any other non-confidential reports, could all be available on-line. Ideally the minutes from Board meetings and the (non-confidential) decisions should be posted as soon as possible after each meeting.

For the TFCA funds, this would include the swap fee, debt swap, trust, and Tropical Forest Agreement for each Fund plus the most recent annual reports and audits. Each document link should have a short summary describing the contents of the document that can be downloaded, its file size, and file type.

The web site should include the list of current Board Members, how to contact them (not necessarily their e-mail addresses), and the schedule for regular meetings.

The web site should include the list of staff and the appropriate ways to contact them, including e-mail addresses and extension numbers if automated dialing is possible.

For competitive grants, information on the next project competition should be posted, including the application packet, a description of the process, and a schedule or calendar of the key deadlines and decision points. Any manuals and guides on the project implementation phase should be posted.

Information on current and past projects and the implementing organizations should be posted. In the simplest form, this can be a text document with a brief description of every project implemented to date. A separate database contain a description of all of the implementing organizations with contact information and a link to each implementer's web site. (The content management system for this website makes this very practical to do.)

On-line project descriptions should provide more information about each project's goals and objectives, cooperating institutions, location, etc.

Web sites often include what is called a "FAQ" (for "frequently asked questions"). One FAQ could list the most common errors and the most common omissions that reviewers observed in the last set of proposals. Another FAQ might list some of the best ways to incorporate the key themes or best practices into projects. There could even be a FAQ that presented a model project proposal. These would be valuable additions to the web site.

Publications, studies, and reports by the grantees would ideally be on the grantees' own web sites, but FN could provide links to FN-supported reports and documents. For the Community-based Organizations and smaller NGOs that don't have their own web sites, FN could post general information and contact information.

Note: The FN public web site uses a content management system so that the power to create new content or update existing content resides with individual staff people and does not require html or web programming expertise. Pushing this responsibility down to the level where content is handled is excellent, but it does mean that the responsibility to update content is dispersed. The Evaluation Team discovered that the list of members of the Junta de Síndicos that appears on the web site is the previous list – some changes occurred on the Junta in January of 2007 that were not yet reflected on the web site five months after the fact.

## **IntraNet and ExtraNet**

FN is in the process of developing a more specialized InterNet presence that will not be as public. The project is called the Sistema Integrado de Información y Administración de Proyectos or SiiAP. It will have an intranet component of, for, and by the staff of FN plus an extranet component where registered partners and stakeholders will have access to view certain content, communicate with interested parties, engage in questions and answers, submit proposals, submit periodic reports, etc. from a browser-

based window. It is an ambitious project, but it will carry into the 21st Century with a digital office and digital archives.

The Chagres Fund, the Darién Fund, and all of the interested parties and stakeholders will benefit from this improvement in processes and enhanced flow of information, but neither Fund is contributing directly to this line item. The cost of the new integrated system is funded by USAID.

## **Annex 10: Shared Management of Protected Areas in Panamá**

Panamá has a long history of outsourcing the management of protected areas. The earliest cases are El Colmón de Macaracas (1918) and Barro Colorado Island (1938), but these cases are more an usurpation of the government role rather than a sharing. The best case of deliberate co-management (and one that the IUCN report below cites as the first for all of Central America) is the Parque Natural Metropolitano in 1985.

Today ANAM lists 14 of the 65 declared protected areas in Panamá as having some type of co-management agreement. There is no single type or structure to these agreements – they are quite varied. The co-managing entities have been grassroots organizations, cooperatives, not-for profit foundations, producer groups, research institutions, indigenous communities, and for-profit companies.

The World Conservation Union (IUCN) collaborated with ANAM during 2005-2006 under the broader “Participatory Management of Protected Areas” project. The consensus for Panama was to use the term “manejo compartido” (“shared management”) with the following general definition:

“Shared management is a dynamic and participatory process involving ANAM, local users, Local Government, and interested groups, with a basis in law, that promotes a change in attitude toward shared common objects, authority, benefits, and responsibilities, in support of conservation and sustainable management of natural resources in protected areas, ensuring a better quality of life for inhabitants of the region.” (ANAM-IUCN, 2006, p 28)

### **Chagres National Park**

Although ANAM does not list Chagres as a protected area with shared management, it could be considered a case of de facto shared management covering at least a portion of the area because Lago Alajuela (the artificial reservoir behind Madden Dam) is managed by the Panama Canal Authority to provide water for the canal and water and electricity for Panama City. Its importance to the Panamanian economy is well known.

### **Darién National Park**

Darién does not have a shared management agreement in place, but there is a small tourism concession for a 300-hectare portion in the community of Cana where the Asociación Nacional para la Conservación de la Naturaleza (ANCON) operates an eco-lodge with community participation.

Useful publications on the co-management theme in Central America:

“Dos décadas de gestión compartida en Centroamérica: el camino recorrido, su estado y desafíos” por Ronald McCarthy Ramírez, Cecilia Martínez Artavia, and Alberto Salas. Editor: Manuel Bermúdez. UICN-ORMA, 2006. (available from IUCN in pdf format: <http://www.iucn.org/places/orma/pdf/193.pdf>)

“Colaboración y negociación en el comanejo: guía para el manejo colaborativo de áreas protegidas” por Sergio Guillén, Franklin Paniagua. Centro de Derecho Ambiental y de los Recursos Naturales; UICN - ORMA. Gestión Participativa de Áreas Protegidas, 2006. (available from IUCN in pdf format: <http://www.iucn.org/places/orma/pdf/202.pdf>)

“Co-administration of National Protected Areas: benefits, challenges, and recommendations from Bolivia.” Douglas Mason, Mario Baudoin, Hans Kammerbauer, Zulema Lehm, Luz María Calvo, and Freddy Heinrich. (summary of a paper appearing in the Journal of Forestry in 2005.) 14 p.

## Annex 11: Possibilities for the Redesign of the TFCA Mechanism

Deeper than the issue of clarifying roles and responsibilities among the major stakeholders and responsible parties is the issue of the overall design of the TFCA mechanism in Panamá. The assumption of co-management in the TFCA agreements has met an apparent impasse with Panamanian Labor Law. Two issues seem to be deal-stoppers: (1) NGO employees cannot be asked to work the same hours and times at the same pay scales as GOP employees because of differences between the laws governing public and private employees, and (2) NGO employees working as park rangers do not have the same powers and protections as do public employees hired by ANAM as park rangers. Until a formal co-management policy is adopted by ANAM that incorporates a solution to the “NGO employee dressed in park ranger uniform” problem, and the overtime pay issues, co-management is a square solution trying to fit a round hole.

Table 11-1 summarizes some of the major options and their ramifications. The column beginning with “1” is a snap-shot of the status quo. Option 2.B.(i) is the option that the TFCA mechanism seems to favor (co-management) but the reality in Panamá does not seem to support. Option 2.B.(ii) might serve as a temporary step, but it is not attractive other than as an interim step. Option 3 basically contemplates the current situation modified to allow Fundación Natura to procure directly some of the goods and services required by each park Annual Operating Plan and Management Plan. In many ways it mimics the arrangements already used for FIDECO, a separate (non-TFCA) trust fund administered by FN.

One of the important contributions that the TFCA Funds have made to the conservation of tropical forests in Panamá has been to augment the skeletal park staff with additional personnel, especially park rangers. The TFCA Funds provide funding that has allowed Fundación Chagres and Fundación Panama to hire staff and assign them to the two national parks. Research has indicated that the presence of park staff (the number of guards)<sup>26</sup> is one of the most important elements of conservation effectiveness in national parks. In theory the TFCA mechanism can support this, but in practice the labor issues may make it nearly impossible.

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<sup>26</sup> “Effectiveness of Parks in Protecting Tropical Biodiversity” Aaron G. Bruner, Raymond E. Gullison, Richard E. Rice and Gustavo A. B. da Fonseca in *Science*, Vol. 291, pages 125–128; January 5, 2001.

**Table 11-1: Options for Re-Design**

<b>Comparison of Potential TFCA Re-Design Options in Panamá</b>					
	1. Current Situation (status quo)	2. TFCA funds pay salaries of staff in or around parks			3. No TFCA funds for park salaries TFCA funds for non-salary (good & services to ANAM plus, 2) NGO/CBO solicitation of grants for their own proposals in and around the park (consistent w/ the ANAM MP)
		A. Allow direct payments to ANAM	B. TFCA grant to NGO; NGO staff are separate from ANAM staff		
			(i) Co-management allowed in parks	(ii) Shift NGO employees to periphery of park	
Status	Not working	Untested	Untested	Untested	(Similar to FIDECO model)
Requirements	No changes to Agreements	US Statutory amendment or interpretation; auditing of ANAM expenditures	Adoption of co-management policy	ANAM approves re-locating NGO staff to perimeter roles	Amend agreements to allow single foundation (e.g., FN) to handle grants and procurement
Feasibility		Very low	Very low	Low	Moderate
Need for organizations	FN, plus pass-through NGO	FN only	FN plus a co-management NGO		FN for NGO grants; for procurement
Information Needs	Clarify roles and responsibilities	Review mechanism for auditing ANAM expenditures; Review ANAM budget and hiring policies	Items to left plus: Review co-management policy; Review Management Plan	All items to left	
Costs	Legal issue with Panamanian Labor Law	Changes park staffing (temporary) and resolves labor issues	Changes park staffing (temporary) and may correct labor issues	Disrupts park staffing but corrects one labor issue	Disrupts park staffing but corrects one labor issue
Benefits		Simplifies payments and staffing; Solves labor issue	Progress toward co-management	May help resolve labor issue	May help resolve labor issue
Results	Retains park guards	Retains park guards	Untested	Reduces effectiveness of staff allocations; Probable reduction in park guards	Reduces number of park guards

Source: Modified from a design contributed by Scott Lampman.



The "Options for Re-Design" is not meant to be exhaustive of the possibilities, but only indicative of the range of options, concerns, tradeoffs, and issues. The Oversight Committee might want to develop an expanded matrix of these and additional options to facilitate their decisionmaking, should they consider a re-design of the TFCA mechanism in Panamá.

