

ENVIRONMENT AND CONSERVATION

**Agreement Between the
UNITED STATES OF AMERICA
and JAMAICA**

Signed at Kingston June 29, 2015



NOTE BY THE DEPARTMENT OF STATE

Pursuant to Public Law 89—497, approved July 8, 1966
(80 Stat. 271; 1 U.S.C. 113)—

“ . . .the Treaties and Other International Acts Series issued under the authority of the Secretary of State shall be competent evidence . . . of the treaties, international agreements other than treaties, and proclamations by the President of such treaties and international agreements other than treaties, as the case may be, therein contained, in all the courts of law and equity and of maritime jurisdiction, and in all the tribunals and public offices of the United States, and of the several States, without any further proof or authentication thereof.”

JAMAICA

Environment and Conservation

*Agreement signed at Kingston June 29, 2015;
Entered into force June 29, 2015.*

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

The Government of the United States of America and the Government of Jamaica (collectively, the “Parties” and each individually a “Party”),

Seeking to implement the Enterprise for the Americas Initiative (“EAI”),

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

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

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

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

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

Wishing to follow upon the Agreement between the Parties Regarding the Reduction of Certain Debts Owed to the United States Government and its Agencies (“Debt Reduction Agreement 1”) of August 23, 1991, and the Agreement between the Parties Regarding the Reduction of Certain Debts Related to Foreign Assistance Owed to the United States Government and its Agencies (“Debt Reduction Agreement 2”) of January 13 and 15, 1993, which reduce certain debt owed by the Government of Jamaica to the Government of the United States of America, and

Recalling the Agreement between the Parties Concerning the Establishment of an Enterprise for the Americas Environmental Foundation (“1991 EAI Agreement”) of November 26, 1991, which was superseded by the Agreement Between the Parties Concerning an Enterprise for the Americas Foundation (“1993 EAI Agreement”) of September 27, 1993,

Have agreed as follows:

ARTICLE I: PURPOSE

1. The purpose of this Agreement is to provide, among other things, for the maintenance of an Americas Fund and for the expansion of the scope and capacities of the Environmental Foundation of Jamaica, a company limited by guarantee and not having share capital, organized under the laws of Jamaica (the "Foundation"), both of which were established and maintained pursuant to the 1991 EAI Agreement and the 1993 EAI Agreement. The objectives of the Foundation shall be:

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

2. This Agreement does not establish new obligations on the part of the Government of Jamaica to deposit monies into the Americas Fund ("the Fund").

ARTICLE II: THE FOUNDATION

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

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

3. The procedures for the operations of the Foundation other than those set forth in the Articles of Association shall be adopted by the Board of Directors of the Foundation by a majority vote, provided that the majority vote includes the affirmative vote of all Permanent Directors.

ARTICLE III: THE AMERICAS FUND

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

2. a. The Fund shall have two accounts, Account 1 and Account 2, funds in which shall not be comingled.
 - b. Subject to Article IV of Debt Reduction Agreement 1, the Government of Jamaica shall ensure that any interest owed pursuant to Debt Reduction Agreement 1 due on or after the date of entry into force of this Agreement, is deposited in local currency in Account 1. Monies paid prior to the date of entry into force of this Agreement into the environmental fund established under Article III of the 1991 EAI Agreement or into Account 1 of the Americas Fund established under Article III of the 1993 EAI Agreement shall be deemed deposits into Account 1 under this Agreement.
 - c. Subject to Article IV of Debt Reduction Agreement 2, the Government of Jamaica shall ensure that any interest owed pursuant to Debt Reduction Agreement 2 due on or after the date of entry into force of this Agreement, is deposited in local currency in Account 2. Monies paid prior to the date of entry into force of this Agreement into Account 2 of the Americas Fund established under Article III of the 1993 EAI Agreement shall be deemed deposits into Account 2 under this Agreement.
 - d. Any interest which is due pursuant to Debt Reduction Agreement 1 or Debt Reduction Agreement 2 subsequent to the termination of this Agreement pursuant to Article X shall not be deposited in the Fund, but shall be deposited in U.S. dollars in the appropriate U.S. Government account.
3. The Fund may have additional accounts beyond those specified in paragraph 2.
4. Once all monies owed pursuant to the Debt Reduction Agreements have been deposited in Accounts 1 and 2 as required in paragraph 2, the Foundation may leave the monies in those accounts or move them to other Fund accounts.
5. Monies from other sources, including public and private creditors of the Government of Jamaica, in the form of local currency or other currencies, may also be deposited into the Fund Accounts 1 and 2. Once deposited, these monies shall be subject to the requirements and conditions agreed to between the donor(s) of such monies and the Parties, so long as these terms are consistent with this Agreement.
6. Deposits in the Fund shall be the property of the Government of Jamaica until they are disbursed.

ARTICLE IV: THE BOARD OF DIRECTORS OF THE FOUNDATION

1. The Parties shall ensure that the Foundation's Board of Directors (the "Board") is suitably constituted. The Board shall consist of eleven voting natural persons as directors. The directors shall be classified into three groups: (i) "Permanent Directors"; (ii) the "Institutional Director"; and (iii) "Term Directors."

a. Permanent Directors. Permanent Directors shall mean and at all times comprise three directors: one director appointed by each of the Parties and one director appointed by The Nature Conservancy, a nonprofit corporation organized under the laws of the District of Columbia in the United States of America ("TNC"). Each Permanent Director shall hold office until his or her successor is appointed by the entity that appointed him or her in accordance with this clause (b). A Permanent Director may be removed from the Board with or without cause by the entity that selected him or her. A Permanent Director may at any time give notice of his or her resignation as a Permanent Director, and the entity that selected him or her shall notify the Board in writing of the fact and shall provide at the same time the name of the new Director, and the appointment shall be effective immediately upon the said notification unless the notification provides otherwise.

b. Institutional Director. The Institutional Director shall be appointed by the Government of Jamaica. The Institutional Director shall retire or resign at the desire of the Government of Jamaica. In the event that the Government of Jamaica wishes to replace the Institutional Director, the Government of Jamaica shall notify the Board in writing of the fact and shall provide at the same time the name of the new Director, and the appointment shall be effective immediately upon the said notification unless the notification provides otherwise.

c. Term Directors. The Term Directors shall at all times comprise:

i. one director who shall be a representative of a non-governmental organization in Jamaica which has forest conservation as its principal focus of activities;

ii. one director who shall be a representative of a non-governmental organization in Jamaica which has as its principal focus of activities the promotion and improvement of child survival and child development, and is either (x) an environmental non-governmental organization, (y) a local community development non-governmental organization, or (z) a scientific, academic or forestry organization;

iii. one director who is a representative of academia associated with the University of West Indies or another tertiary education institution in Jamaica (the "Academia Director"); and

iv. four directors who shall be representatives of (A) any non-governmental environmental, scientific, community development, academic or forestry research organization in Jamaica or (B) any other environmental non-governmental organization of, or active in, Jamaica.

d. At least one of the Term Directors shall be an attorney at law and one shall have financial management expertise. None of the Term Directors shall be an agent, employee or officer of any national, supranational, regional or local government or governmental, administrative, legislative, fiscal, judicial, or government-owned body, department, commission, authority, tribunal, agency or entity, or central bank. Notwithstanding the status of the University of the West Indies as a government supported institution, members of academia associated with the University of the West Indies (or other tertiary educational institutions in Jamaica) shall be eligible for the Academia Director position. Of the initial seven Term Directors, two shall be appointed to a one-year term, three shall be appointed to a two-year term, and two shall be appointed to a three-year term. In every subsequent year, the number of Term Directors necessary to replace those Term Directors whose term has ended shall be appointed to three-year terms.

e. Chairman. The Directors may elect a Chairman (which shall not under any circumstances be a Permanent Director or the Institutional Director) of their meetings from among the Term Directors and determine the period for which he or she is to hold office.

f. Meetings. The Directors may meet together for the dispatch of business, adjourn, and otherwise regulate their meetings, as they think fit, provided that the Directors shall meet at least once every four months. A Director may, and the Secretary (any person appointed to perform the duties of the secretary of the Foundation) on the requisition of a Director, shall, at any time summon a meeting of the Directors with no less than ten days' advance written notice of such meetings given to each Director, which notice will set forth the time and place for such meeting. Prior notice of a meeting may be waived by a Director in writing and shall be deemed to have been waived by a particular Director by attendance by such Director at such meeting. Directors may participate in a meeting of the Board by means of telephone conference or similar communications equipment by which all persons participating in the meeting can hear each other.

g. Decisions. Each Director on the Board shall at all times be entitled to one vote. The quorum necessary for the transaction of the business of the Board shall be seven Directors, and shall include all Permanent Directors and a majority of the Term Directors. Questions arising at any meeting shall be decided by a majority of votes and in the case of an equality of votes the Chairman may have a second or casting vote, provided however that:

i. any proposal to make a grant in excess of one hundred thousand United States dollars (US\$100,000.00) over the life of the project or the Jamaican dollar equivalent thereof shall be presented by the Board to the Permanent Directors who each shall, for a period of thirty days after such presentation, have the power to disapprove such proposal, in which event the proposal shall be rejected; and

ii. except as otherwise provided in the Articles of Association of the Foundation with the consent of the Parties, any proposal regarding procedures for the operations of the Foundation may only be adopted by a majority of Directors and such majority shall include the Permanent Directors.

2. A Director who is in any way whether directly or indirectly interested in a contract or grant or proposed contract or proposed grants or has any other actual or potential conflict of interest with the Foundation shall declare the nature and extent of his interest or conflict at a meeting of the Board and shall not participate in the discussions or decisions of the Board involving that particular issue, to the extent that such participation would present a conflict of interest.

3. The Foundation's Articles of Association, written policies, operating procedures, minutes of meetings, books, records, and reports shall be retained in the files of the Foundation. A permanent record shall also be maintained on the decision criteria used by the Foundation in the award of grants. The above records shall be open for public inspection.

ARTICLE V: FUNCTIONS OF THE FOUNDATION WITH REGARD TO THE AMERICAS FUND

1. The Board shall be responsible for the management of the program undertaken and oversight of grant activities funded from the resources of the Fund. In this capacity, the Board of the Foundation shall:

a. Issue and widely disseminate a public announcement of the call for grant proposals which states the criteria for the selection of projects eligible for grant assistance and the qualifications of organizations eligible to submit proposals for grant awards;

b. Receive proposals for grant assistance from entities described in Article VI.3 and VI.4 of this Agreement, and make grants to such entities for the activities enumerated in Article VI.1 and VI.2 of this Agreement; and

c. Publicly announce grants awarded by the Foundation.

2. The Board shall have overall responsibility for the Fund and shall establish policies and approve projects.
3. The Board shall appoint one or more investment advisor(s) (the “Investment Advisor(s)”) to manage the investment portfolio of the Fund.
 - a. The Investment Advisor(s) shall be charged with the investment of the monies in the Fund.
 - b. Deposits in the Fund shall be prudently invested by the Investment Advisor(s). Returns on investment shall be deposited by the Investment Advisor(s) in the Fund.
 - c. The Investment Advisor(s) shall make every effort to ensure that such investments yield a positive real interest rate as defined in terms of the Jamaican Consumer Price Index. To the extent that prudent investment practices are not accomplishing this goal, the Foundation shall promptly bring this matter to the attention of the Parties for their consideration, with a view toward pursuing appropriate corrective measures.
4. The Board shall appoint a fiscal agent to manage the disbursement of monies from the Fund. The terms of appointment of the fiscal agent shall include a provision that requires the fiscal agent to ensure that the Board is promptly notified in writing when the Government of Jamaica makes a deposit in the Fund.
5. The Board may take on additional functions and responsibilities beyond those related to the Fund so long as they do not conflict with or undermine the Purpose of this Agreement or the Board’s functions and responsibilities specified herein.
6. The Board shall be empowered to engage staff for the proper performance of its functions and to engage independent contractors as technical or professional staff as necessary.
7. The Board shall present to the Parties:
 - a. An annual program on the first of June of each year, covering the following twelve-month period from 1 August through 31 July;
 - b. An annual report on 30 October of each year, on the activities funded by the Foundation (which shall include on-going, multi-year projects) covering the previous 1 August – 31 July period; and
 - c. An annual audit by an independent auditor on 30 October of each year, covering the previous 1 August – 31 July period.

8. The Board shall ensure that performance under grants and other agreements made pursuant to this Agreement is monitored to determine whether time schedules and other performance goals are being achieved. Grant agreements shall provide for periodic progress reports from the grantee to the Foundation. Such reports shall review all project components essential to the successful achievement of the goals of the project. Such reports should be received from the grantee at least annually.

ARTICLE VI: ELIGIBILITY OF PROJECTS AND ORGANIZATIONS

1. Activities that may be funded with monies initially deposited in Fund Account 1 under this Agreement are:

- a. Restoration, protection, or sustainable use of the world's oceans and atmosphere;
- b. Restoration, protection, or sustainable use of diverse animal and plant species;
- c. Establishment, restoration, protection, and maintenance of parks and reserves;
- d. Development and implementation of sound systems of natural resource management;
- e. Development and support of local conservation programs;
- f. Training programs to strengthen conservation institutions and increase scientific, technical, and managerial capabilities of individuals and organizations involved in conservation efforts;
- g. Efforts to generate knowledge, increase understanding, and enhance public commitment to conservation;
- h. Design and implementation of sound programs of land and ecosystem management;
- i. Promotion of regenerative approaches in farming, forestry, fishing, and watershed management;
- j. Agriculture-related activities, including those that provide for the biological prevention and control of animal and plant pests and diseases, to benefit the environment; and

- k. Local community initiatives that promote conservation and sustainable use of the environment.
2. Activities that may be funded with monies initially deposited in Fund Account 2 under this Agreement are:
 - a. Activities, including those listed in Article VI.1, that link the conservation and sustainable use of natural resources with local community development; and
 - b. Activities that promote child survival and other child development activities, especially those that link child survival and child development with sustainable management of natural resources.
3. Organizations which shall be eligible for grants funded with monies initially deposited in Fund Account 1 are:
 - a. Jamaican nongovernmental environmental, conservation, development, and educational organizations;
 - b. Other appropriate nongovernmental local or regional entities; and
 - c. In exceptional circumstances, and to the extent consistent with the domestic legal requirements of the Parties, the Government of Jamaica, including its subdivisions.
4. Organizations which shall be eligible for grants funded with monies initially deposited in Fund Account 2 are:
 - a. Jamaican nongovernmental environmental, conservation, child survival and child development, and development organizations;
 - b. Other appropriate nongovernmental local or regional entities; and
 - c. In exceptional circumstances, and to the extent permissible under the domestic legal requirements of the Parties, the Government of Jamaica, including its subdivisions.
5. Grants shall be awarded to organizations strictly on the merits of proposals presented to the Board without regard to whether the proposing organization does or does not have representation on the Board.
6. The Board shall give priority to projects that are managed by nongovernmental organizations and that involve local communities in their planning and execution.

ARTICLE VII: DISBURSEMENTS FROM THE FUND

1. The Board may disburse monies initially deposited in Accounts 1 and 2 to fund eligible projects and organizations either through direct grants or through intermediary organizations that qualify under Article VI.3 or VI.4. The Board shall disburse grants or other funding arrangements with monies initially deposited in Accounts 1 and 2 of the Fund to organizations eligible under Article VI.3 or VI.4 when the Board approves a proposal eligible under Article VI.1 or VI.2. All disbursements shall be made pursuant to a grant agreement and be made promptly.
2. To the extent that administrative expenses relate to the shared operation of both the Fund and any other funds or accounts under the administration of the Foundation, the Board shall determine an appropriate proportional rate to draw from each fund or account to pay for such administrative expenses, including the fiscal audit required pursuant to Article V.7.

ARTICLE VIII: CONSULTATION AND REVIEW

1. Upon the request of either Party, the Parties shall consult concerning the implementation or interpretation of this Agreement. These consultations shall take place within 60 days after the request for consultations is received in writing from the other Party.
2. Either Party may request consultations with the Foundation and the other Party after reviewing the Foundation's reports and audits presented pursuant to Article V.7. These consultations shall take place within 60 days after the request for consultations is received in writing from the other Party.
3. The Parties shall meet to review the operation of this Agreement three years from the date of its entry into force.

ARTICLE IX: SUSPENSION OF DISBURSEMENTS

1. If at any time either of the Parties determines that issues requiring consultation under Article VIII have not been satisfactorily resolved, such Party may notify the other in writing.
2. Upon receipt of such written notification from the Government of the United States of America, the Government of Jamaica shall immediately instruct the Board of the Foundation to suspend disbursements which may be made under Article VII.1 of this Agreement.

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

4. Suspension of disbursements shall mean that:

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

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

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

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

ARTICLE X: TERMINATION

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

2. No disbursements from the Fund shall occur after a Party has given notice to terminate the Agreement, unless the Parties agree to permit disbursements. The termination of this Agreement shall not prevent expenditures of funds disbursed before notice to terminate is given.

3. Upon termination of this Agreement, amounts remaining in Accounts 1 and 2 of the Fund (and, to the extent derived from monies initially deposited in Accounts 1 and 2, amounts in any other accounts used pursuant to Article III.4) shall, at the discretion of the Government of the United States of America, be converted into U.S. dollars and deposited into the appropriate U.S. Government account(s).

**ARTICLE XI: ENTRY INTO FORCE, AMENDMENT AND OTHER
ARRANGEMENTS**

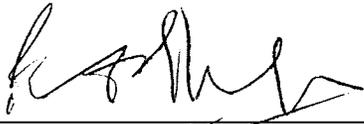
1. This Agreement shall enter into force upon the date of the last signature and shall remain in force unless terminated by the Parties in accordance with Article X.
2. This Agreement may be amended by written agreement of the Parties.
3. Nothing in this Agreement shall prejudice other arrangements between the Parties concerning debt reduction or cooperation and assistance for environmental, conservation, or child survival or child development purposes.
4. Upon entry into force, this Agreement shall supersede the 1993 EAI Agreement.

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

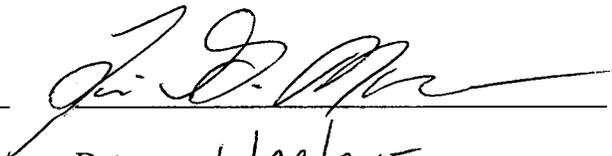
Done at Kingston, in duplicate, in the English language.

FOR THE GOVERNMENT OF
JAMAICA:

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:



Date: 6-29-15



Date: 6/29/2015