

**No. 51818\***

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**United States of America  
and  
Botswana**

**Agreement between the Government of the United States of America and the Government of the Republic of Botswana concerning the establishment of a Tropical Forest Conservation Fund and a Tropical Forest Conservation Board (with annex). Gaborone, 5 October 2006**

**Entry into force:** *19 November 2006, in accordance with paragraph 10*

**Authentic text:** *English*

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**États-Unis d'Amérique  
et  
Botswana**

**Accord entre le Gouvernement des États-Unis d'Amérique et le Gouvernement de la République du Botswana relatif à la création d'un Fonds de conservation de la forêt tropicale et d'un Conseil de conservation de la forêt tropicale (avec annexe). Gaborone, 5 octobre 2006**

**Entrée en vigueur :** *19 novembre 2006, conformément au paragraphe 10*

**Texte authentique :** *anglais*

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[ ENGLISH TEXT – TEXTE ANGLAIS ]

AGREEMENT BETWEEN  
THE GOVERNMENT OF THE UNITED STATES OF AMERICA  
AND  
THE GOVERNMENT OF THE REPUBLIC OF BOTSWANA  
CONCERNING THE ESTABLISHMENT OF A  
TROPICAL FOREST CONSERVATION FUND AND A  
TROPICAL FOREST CONSERVATION BOARD

The Government of the United States of America (U.S. Government) and the Government of the Republic of Botswana (Government of Botswana), hereinafter known as the Parties,

*Seeking* to facilitate the conservation, protection, restoration, and sustainable management of tropical forests, which provide a wide range of benefits to humankind,

*Acknowledging* the work and contributions of the Government of the Botswana toward forest conservation under its national Forest Act and approved National Forest Policy;

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

*Recognizing* that tropical deforestation and forest degradation continue to be serious problems in many regions of the world,

*Also recognizing* that the alleviation of external debt can reduce economic pressures on countries and result in increased conservation of tropical forests,

*Further recognizing* that economic benefits to local communities of sustainable uses of tropical forests are critical to the protection and sustainable management of tropical forests,

*Wishing* to ensure that resources freed from debt are targeted to the conservation of tropical forests,

*Also wishing* to further the Agreement between the Government of the United States of America and the Government of the Republic of Botswana Regarding the Reduction of Certain Debts Owed to the Government of the United States and its Agencies, hereinafter known as the “Debt Reduction Agreement,” which reduces certain debts owed the U.S. Government through the exchange of old obligations for new obligations, known as the New Tropical Forest Conservation Act (New TFCA) Obligations,

Have agreed as follows:

**Article I  
PURPOSE**

The purpose of this Agreement is to provide for the establishment of a Tropical Forest Conservation Fund and an administering Tropical Forest Conservation Board to promote activities designed to conserve, maintain and restore the forests of Botswana. The agreement will be implemented in Botswana in accordance with the Forest Act and the National Forest Policy of Botswana.

**Article II  
TROPICAL FOREST CONSERVATION FUND**

1. Within eight months of the signing of this Agreement, the Government of Botswana shall establish a Tropical Forest Conservation Fund, hereinafter known as the "Fund," in accordance with the laws of Botswana. The Fund shall be administered by the Board established pursuant to Article III of this Agreement. Any monies deposited in the Fund, or grants made from the Fund, will be free from any taxation, levies, fees or other charges imposed by the Parties to the extent permissible by the laws of the Parties.
2. The Fund shall consist of monies, in the form of local currencies or other currencies, as follows:
  - 2.1 Monies appropriated by the Parliament of the Government of Botswana for this purpose;
  - 2.2 Deposits made pursuant to Article II, paragraph 3 of the Debt Reduction Agreement; and
  - 2.3 Grants and contributions from other sources.
3. The amounts deposited in the Fund shall be subject to the provisions of this Agreement. Deposits in the Fund made pursuant to Article II, paragraph 3 of the Debt Reduction Agreement shall be the property of the Government of Botswana until they are disbursed pursuant to the procedures set forth in Article VI of this Agreement. The Board and the Fiscal Agent shall develop a provision to be included in each Grant Agreement approved pursuant to Article IV, paragraph 2 of this Agreement to address the recovery of funds misspent or misused by, and the return of any unused grant funds held by a grantee.
4. Within eight months of the signing of this Agreement, the Government of Botswana shall appoint an accounting officer who shall act as Fiscal Agent for the Fund charged with monitoring payments into the Fund and disbursement and investment of the monies in the Fund. The Botswana Government Instructions appointing the accounting officer shall be reviewed by the U.S. Government prior to finalization. The Instructions shall be concluded within eight months of the signing of this Agreement and shall specify the subordinate relationship of the accounting officer to the Board established under Article III of this Agreement and

shall also specify that the accounting officer shall take direction only from the Board. The Fiscal Agent is responsible for promptly notifying the Board in writing when monies are deposited in the Fund pursuant to paragraph 2 of this Article, or if a deposit is overdue.

5. Monies in the Fund shall be invested until disbursed, with every effort made to ensure that such investments yield a positive real rate within acceptable limits of risk in accord with sound investment practices. To accomplish this goal, the Parties may jointly request the conversion of all or part of the monies in the Fund into U.S. dollars or other hard currencies for investment purposes. Returns on investment shall be deposited by the Fiscal Agent in the Fund until disbursed, pursuant to the procedures set forth in Article VI of this Agreement.

Article III  
ESTABLISHMENT AND COMPOSITION OF THE  
TROPICAL FOREST CONSERVATION BOARD

1. Within eight months of the signing of this Agreement, the Government of Botswana shall establish, in accordance with the Companies Act, in consultation with the U.S. Government and domestic Botswana nongovernmental entities with an interest in forests, a Tropical Forest Conservation Board, hereinafter known as the "Board," to administer the Fund. The Board shall have the authorities and functions conferred on it by this Agreement and implemented through the requisite documents of incorporation under Botswana law, which shall be reviewed by the US Government prior to finalization. The Board shall be discrete and separate from any existing Board, Commission, Foundation, or other entity in Botswana.
2. The Board shall consist of nine members. It shall be composed of:
  - 2.1 Two officials of the U.S. government appointed by the U.S. Government;
  - 2.2 Two officials of the Government of Botswana appointed by the Minister of Environment, Wildlife and Tourism; and
  - 2.3 Five representatives of a broad range of:
    - 2.3.1 environmental nongovernmental organizations of, or active in, Botswana;
    - 2.3.2 local community development nongovernmental organizations of Botswana; and
    - 2.3.3 scientific, academic or forestry organizations of Botswana.
3. The representatives under paragraph 2.3 of this Article shall constitute a majority of the members of the Board. They shall be appointed to the Board by the Minister of Environment, Wildlife and Tourism of the Government of Botswana in consultation with a range of domestic nongovernmental entities in Botswana and the U.S. Government.

4. Board members named pursuant to paragraphs 2.1 and 2.2 above shall serve *ad honorem* and at the discretion of the naming Party. Board members described in paragraph 2.3 above shall serve *ad honorem*, except that the administrative expenses of such Board members may be paid as provided in Article IV, paragraph 9 of this Agreement. Board members described in paragraph 2.3 above shall serve in their expert capacity for a three year term, and may be removed prior to the end of their term only for malfeasance. Any such member of the Board may serve for a consecutive term if so recommended by the Board and agreed by the Parties.
5. A Board member may not participate in the approval of any proposed grant which if approved, would result in a financial benefit for the member or any person in his family, for an organization which employs the member or any person in his family, or for an organization in which the member or any person in his family has an affiliation or a direct financial interest.

Article IV  
FUNCTIONS OF THE BOARD

1. The Board shall be responsible for administration and management of the Fund, for disbursements of grants from the Fund to support eligible activities, and for oversight of activities financed from the Fund, pursuant to this Agreement. The Board shall have full legal competence to carry out the functions assigned to it in this Agreement.
2. With respect to the management of the Fund, the Board shall:
  - 2.1 Issue and widely disseminate a public announcement on the call for grant applications, which announcement shall state the purpose of the Fund, eligible activities and eligible entities in accordance with Article V of this Agreement, the criteria for the selection of grant recipients, the schedule of the grants process, and any other requirements established by the Board for the award of grants from the Fund;
  - 2.2 Receive applications for grants from entities described in Article V, paragraph 3 of this Agreement and award grants consistent with Article V of this Agreement on the basis of an evaluation of applications on their merits;
  - 2.3 Publicly announce grants awarded by the Board;
  - 2.4 Develop with each grant recipient a Grant Agreement which shall include provisions on, *inter alia*, receipt and use of funds, audit and reporting requirements, improper use of funds and subsequent remedies, representations and warranties, and intellectual property.
  - 2.5 Within six months of the Board's establishment, develop and submit to the Parties for their approval a long-term strategic plan for the operation of the