The Establishment of the Caucasus Protected Area Fund (CPAF)
- Background Report -

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WWF

CAUCASUS PROTECTED AREAS FUND

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List of Acronyms

BMZ	German Federal Ministry for Economic Cooperation and Development
CEPF	Critical Ecosystem Partnership Fund
CI	Conservation International
CPAF	Caucasus Protected Areas Fund
ECP	Ecoregion Conservation Plan
GCF	Global Conservation Fund
GEF	Global Environment Facility
KfW	German Development Bank (KfW Entwicklungsbank)
NP	National Park
OSCE	Organization for Security and Cooperation in Europe
PA	Protected Area
PPA	Priority Protected Area
REC	Caucasus Regional Environmental Center
USAID	US Agency for International Development
WWF	Worldwide Fund for Nature

1. Executive Summary

The Caucasus Ecoregion---which covers all of Armenia, Azerbaijan and Georgia, as well as parts of Russia, Turkey and Iran---is recognized by both WWF and Conservation International ("CI") to have some of the globe's most diverse and endangered biodiversity. An ecoregional approach is required for conserving this biodiversity, because a majority of the region's protected areas ("PAs") are located adjacent to national boundaries, and many threatened and endangered wildlife species migrate across these boundaries. However, due to political crises, wars and economic collapse after they became independent from the Soviet Union, the governments of the 3 south Caucasus countries (Armenia, Azerbaijan and Georgia) have only been able to provide very limited funding for their national PAs. The German Development Bank ("KfW") and the Worldwide Fund for Nature ("WWF") were therefore concerned that the results achieved on the ground by their substantial investments in establishing new PAs and strengthening existing ones in Armenia, Azerbaijan and Georgia would be financially unsustainable. KfW and WWF therefore proposed the establishment of an ecoregion-based trust fund to support up to 50% of the recurrent management costs of priority PAs in all three southern Caucasus countries.

It took a total of four years to establish the Caucasus Protected Areas Fund ("CPAF"). Phase 1 required approximately 18 months, and consisted of extensive stakeholder consultations in the Caucasus countries, PA financial gap analysis, and analysis of the legal and institutional framework in the Caucasus countries. The final output of Phase 1 was a comprehensive 140-page Feasibility Study that analyzed the issues and options for establishing an ecoregional trust fund. Phase 2 lasted for two years, and consisted of designing the detailed structure of the trust fund, drafting the necessary legal documents for registering the CPAF as a tax-exempt German foundation, raising an initial capital of € 7.5 million for the CPAF, appointing its board of directors, holding initial board meetings, and hiring an Executive Director.

One of the first tasks of the Feasibility Study was to investigate whether the following 4 conditions which the GEF has identified as "essential" for establishing a conservation trust fund are present in the 3 South Caucasus countries:

1. The biodiversity conservation issues to be addressed require a financial commitment of at least 10-15 years;
2. There is active government support for creating a public-private sector partnership by setting up an independent foundation outside direct government control;
3. There is a critical mass of people from diverse sectors of society who can work together to achieve biodiversity conservation and sustainable development; and
4. There is a basic fabric of legal and financial practices and supporting institutions (including banking, auditing and contracting) in which people have confidence.

The Feasibility Study found that the first 3 “essential conditions” are present, but questioned whether the fourth essential condition (“legal and financial practices and supporting institutions…in which people have confidence”) exists in the south Caucasus countries, because of widespread problems of corruption, and because of the lack of clarity about the legal rights and tax privileges of charitable foundations. However, the Feasibility Study concluded that it would be possible to satisfy this fourth condition by legally establishing the CPAF in a Western European country as a charitable foundation whose sole purpose is to fund biodiversity conservation in the Caucasus countries.

Another one of the main tasks of the Feasibility Study was to collect and analyze data on the basic management costs of “priority” protected areas in each of the 3 south Caucasus countries, and then to calculate the total financial gap that would need to be filled by an ecoregional trust fund. The calculations were based on the assumption that the national governments or other sources would provide at least a 1:1 matching contribution for grants from the trust fund, in order to uphold the principle that governments have the primary responsibility for funding PA systems, and in order to maintain and strengthen incentives for efficient PA management and for further fundraising efforts. The Feasibility Study concluded that the trust fund should be able to provide approximately € 2 million/year to support 50% of the basic management costs of approximately 80 “priority” PAs in the 3 countries for at least 20 years. This in turn meant that the trust fund should try to raise a target capital of € 44 million (based on the assumption that it could earn a net average long-term rate of return on investment of 5%/year).

The two consultants who wrote the Feasibility Study developed 4 different options for structuring the CPAF, based on their meetings with government officials, PA managers, scientists, NGOs, and other international donor organizations in the 3 south Caucasus countries. A series of national stakeholder workshops were held to discuss these different options. Based on the feedback received from these stakeholder workshops and from meetings with the Ministers of Environment and Nature Protection in all 3 countries (as well as with Deputy Ministers of Finance and Deputy Ministers of Foreign Affairs), the Feasibility Study recommended structuring the CPAF as a single international foundation that would have 3 national sub-accounts (for donors who might only want to support PAs in one particular country), but that would have only a single Board of Directors responsible for making all decisions on how to allocate and award grants. Somewhat surprisingly, most of the Ministers said they preferred for all of the members of the CPAF’s board of directors to be representatives of international donor agencies or international NGOs. The Ministers and even the NGOs in each country were concerned that having board members from each of the 3 countries would politicize the whole CPAF, and would make it impossible to award grants based purely on objective scientific criteria, which is what they all said they wanted.

The CPAF was first publicly announced at a Ministerial Conference on “Nature Protection in the Caucasus: Promoting Transboundary Cooperation for CBD Implementation” in March 2006 in Berlin, which was attended by the German Minister for Economic Cooperation and Development and the Ministers for Environment of each of the Caucasus countries, as well as representatives from Conservation International (CI), which had been a big supporter of the CPAF idea from the very beginning, and representatives from various European bilateral donor agencies. KfW, WWF and CI together publicly announced that they would contribute a total of € 7.5 million to help capitalize the fund. They hoped that this would encourage other international donors to also contribute to the CPAF, and during the following year there were many efforts (especially by WWF) to try to lobby European bilateral donor agencies. However, most of the bilateral donors, as well as large international foundations and corporations, said that they wanted to wait until the CPAF was legally established and had begun operating before considering whether or not to contribute to its endowment.

It took more than a year to draft, negotiate and finalize the legal Charter and Bylaws for the CPAF. The process began with the preparation of a term sheet that served as a framework for KfW, WWF and CI to systematically elaborate, discuss and reach agreement on all of the legal, institutional and financial aspects of the fund. This minimized outside legal costs, because instead of involving a German law firm in the discussions from the beginning, they were able to give very detailed instructions to the German lawyers who simply had to adapt the final version of the termsheet into a set of formal legal documents that met all of the specific requirements of German law.

After the CPAF was legally registered as a tax-exempt foundation in the German state of Hessen, the board of directors was appointed, consisting of one representative each from WWF (acting as the Chair), the German Ministry for Economic Cooperation and Development (BMZ), KfW, and CI. The most important tasks achieved at the board’s first meetings were hiring an Executive Director for the CPAF; making arrangements for an office; investing the initial capital of the fund in safe short-term bank deposits earning 4.5% while the board of directors carefully considers how to develop guidelines for longer-term investment of the CPAF’s capital and decides on the procedures for hiring professional investment managers.

The most important task and challenge for the new Executive Director is to raise substantial additional capital for the CPAF. In the meantime, CI has provided € 335,000 and WWF has provided € 135,000 to cover the CPAF’s current administrative costs and to cover a pilot program of grants to qualified PAs. The total cost that KfW paid for the entire project of designing and establishing the CPAF over a 4-year period is around €180,000, which was mostly used for hiring international consultants and lawyers, and for paying the costs of travel to the Caucasus and meeting costs. However, this does not include the substantial staff time contributed especially by WWF but also by CI and KfW, nor the pro bono services contributed by two large international law firms.

2. Introduction

Mtirala Nationalpark, Georgia © WWF Germany, F. Mörschel

The “Caucasus Eco-region” consists of the isthmus between the Black and Caspian Seas, covering a total area of 580,000 km^2. It includes the entire territory of Armenia, Azerbaijan and Georgia, as well as small parts of Russia, Turkey and Iran. The Caucasus Eco-region is classified by both Conservation International and WWF as one of the globe’s most diverse and endangered regions for biodiversity conservation.

An ecoregional approach to conserving biodiversity is required in the Caucasus, because a majority of its protected areas are located adjacent to national boundaries, and many threatened and endangered wildlife species need to cross these boundaries in order to migrate between summer and winter feeding areas, or to maintain viable breeding populations.

A comprehensive discussion of the rationale for treating the three core Caucasus countries (Armenia, Azerbaijan and Georgia) as a single biological unit can be found in the Caucasus Ecoregional Profile (July 2003) and the Ecoregional Conservation Plan (“ECP”, March 2006). The ECP is based on a biodiversity vision elaborated by stakeholders from the region, and has a time horizon of 50 years. It sets long-term goals for conservation of the region’s biodiversity, identifying priority conservation areas and strategies regardless of national borders.

The ECP identified approximately 92 Protected Areas that lie within priority conservation areas as defined by the ECP. These priority protected areas (“PPAs”) include strict nature reserves, national parks, and sanctuaries within the three core Caucasus countries, altogether covering a total of about 16,300 km^2. While a number of international donors provide funding for the establishment of new protected areas, basic management costs are only funded by GEF and KfW in a few protected areas in the 3 Caucasus countries. The deteriorating socioeconomic situation in Armenia and Georgia over the past 10 years makes it impossible for the governments of those countries to cover all of the basic costs of managing their protected area systems. And despite the growing income from the oil sector in Azerbaijan, the government must first use the revenues to address more pressing social needs.
As a result, only 14 % of the basic management costs of the protected areas system in Armenia, Azerbaijan and Georgia were covered by national government budgets as of December 2004. The existing donor-funded biodiversity conservation programs in the Caucasus provide only relatively limited short term financial assistance, and therefore most of the positive results they achieved in the improvement of biodiversity conservation are likely to be “unsustainable” in the long term.

To solve the problem of sustainable funding for biodiversity conservation in this global biodiversity “hotspot”, the German Development Bank (“KfW”) and WWF developed the idea of establishing a regional conservation trust fund to cover the basic management costs of the protected areas systems in the Caucasus Ecoregion. Trust funds can be a useful mechanism for financing long-term recurrent costs of protected areas, when combined with other sources of revenue such as state budgetary contributions. Conservation trust funds can be based on different types of financial mecha-

nisms such as endowments, sinking funds and revolving funds, or a combination of these.

The common features shared by all trust funds is that the money which they receive

1. can only be used for specifically defined purposes;
2. must be kept legally separate from other sources of money, such as a government agency's regular budget; and
3. is managed and controlled by an independent board of directors.

Conservation trust funds do not duplicate the functions of a national park agency, because conservation trust funds have no legal authority to manage protected areas or to enforce laws and regulations. Instead, a conservation trust fund functions as a donor agency, similar to a charitable foundation that financially supports projects and activities for which government agencies lack sufficient resources.

4. Project Description and Rationale

Greater Caucasus Mountains © WWF Caucasus PO

3.1 Analysis of the Problem addressed by the Project

The German Ministry for Development and Cooperation ("BMZ") provided considerable financial resources for the establishment of the Borjomi Kharagauli NP, the first national park in the Caucasus. In the course of establishing the national park, it became obvious that the Georgian government was not able and willing to ensure the sustainable funding of the basic management costs for the national park. A solution for the difficult long term funding situation in the protected areas system in the Caucasus had to be identified, which would also serve to attract further investments by other international donors.

Trust funds have been successful in more than 50 countries to provide long-term financing for management of protected areas, establishment of new protected areas, scientific research and monitoring or alternative livelihood projects.
Due to the importance of setting up a protected areas system in the Caucasus on a regional rather than a national level, it was decided to evaluate the feasibility of establishing a regional trust fund structure. Even so, the difficult political situation in the Caucasus ecoregion is a major obstacle for any regionally based approach. In the late 1980s, calls by the majority of Armenians in Nagorno-Karabakh for unification with Armenia led to an armed conflict. Armenia and Azerbaijan signed a ceasefire accord in 1994, but the conflict has still not been solved. The Caucasus region is also affected by other disputes and tensions that seriously hamper using regionally based approaches.

3.2 Purpose of establishing the Caucasus Protected Areas Fund ("CPAF")

The CPAF's primary mission is to provide a sustainable source of funding to cover the basic management costs of Priority Protected Areas as identified in the ecoregional planning process. Since trust funds are by no means intended to replace or substitute for government funding, national governments should be required to provide a reasonable matching contribution to co-finance protected area management costs. This requirement maintains the principle that the national governments have primary responsibility for the sustainable financing of their protected areas network. However, the share of the minimum management costs of protected areas that is currently provided by the national governments of the Caucasus countries is very low.

Other funding principles established by the CPAF will have additional impacts on the management effectiveness of protected areas, such as:

1. The definition of minimum management costs requires the development of a management and business plan for each protected area that meets defined standards.

2. The management of the protected areas funded by the CPAF will be subject to an intensive monitoring process, since CPAF has to ensure that funds are used for their agreed purpose.
3. It will improve the management of those protected areas that have been identified in the ECP as the most essential for conserving the biodiversity of the Caucasus ecoregion.

This ecoregional conservation initiative is also expected to have indirect "political" benefits by increasing the cooperation between the countries in the Caucasus region and thereby indirectly reducing the potential for future conflicts. The CPAF was established with funds provided by the Caucasus Initiative launched by BMZ in April 2001. The BMZ Caucasus Initiative supports political and economic cooperation in the southern Caucasus republics of Azerbaijan, Armenia and Georgia. However, activities financed by BMZ's Caucasus Initiative are intended to support much more than just the economic and social development of the countries in the southern Caucasus region. The German Government hopes that the economic and social stabilization of the region will also contribute to conflict resolution and crisis prevention in the region.

During recent years, trans-boundary environmental issues have been one of the few fields in which all three Caucasus countries have cooperated at least on a technical level. International donors can therefore consider their contributions to capitalizing the CPAF not only as a means of providing long-term support for nature conservation in the Caucasus, but also as a way of strengthening democracy, civil society and peaceful cooperation in the region.

3.3 Defining the Trust Fund Project's Objectives and Activities

Facing a situation where governments in the Caucasus Ecoregion provide only very limited funding for the maintenance of their national protected area systems, and therefore the investments of international donors in the establishment of protected areas are likely to be unsustainable, WWF Germany and KfW launched the idea of establishing a trust fund to jointly support the protected areas systems of all three southern Caucasus countries. The main purpose of this fund would be to finance the recurrent management costs of protected areas, rather than to cover the costs for their establishment. As a first step, KfW asked WWF Germany to undertake a feasibility study in order to assess whether and in which form establishing a trust fund for protected areas could help to overcome the unsustainable funding situation. It was agreed that if the study concluded that a trust fund model would clearly be feasible, then KfW would provide funding for WWF-Germany to continue with a second phase project to actually design and establish the trust fund. This commitment was important, since it was expected that the extensive stakeholder consultation process of the first phase would generate a strong interest and momentum that should not be lost

by allowing too much time to elapse between conducting the feasibility study and actually establishing the fund.

The goal of the Feasibility Study was to provide information and recommendations about what would be the most suitable structure for the CPAF. The terms of reference ("TOR") for the Feasibility Study were based on extensive preliminary discussions with relevant stakeholders. One of the earliest results that emerged in the course of conducting the Feasibility Study was that none of the three southern Caucasus countries had a fully developed and transparent system of laws and regulations (including tax regulations) relating to charitable foundations, and that therefore it would probably be advisable to establish the trust fund under the laws of an unrelated Western European country (such as Germany, the Netherlands or Switzerland) which has a fully developed and transparent system of laws and regulations relating to charitable foundations. In order to nevertheless ensure a strong buy-in and sense of ownership by Caucasus national governments and civil society representatives to the trust fund, the consultants proposed the idea of establishing different national sub-accounts within a single international foundation (i.e., a foundation that would be legally established "offshore" in a Western European country), so that each of the 3 national sub-accounts would have its own separate board of directors or advisory committee that would decide which activities to fund. Therefore, the offshore foundation's responsibility would be limited to: (1) establishing general eligibility criteria for grants by the 3 national boards or committees; (2) raising international funds for the offshore foundation's endowment capital; and (3) overseeing the investment of the offshore foundation's endowment capital. However, in the course of the lengthy stakeholder consultation process, other possible structures for the CPAF were also developed and discussed, and their feasibility was also evaluated.

The Feasibility Study had the following main goals:

1. To assess whether the key factors for the success of conservation trust funds are present in each of the three Caucasus countries (as those factors were originally identified by the GEF in its 1999 Evaluation Report title "GEF Experience with Conservation Trust Funds", and then were further refined by a small working group of KfW, GTZ and WWF staff).
2. To provide relevant information for developing a proposal for the most suitable structure for the CPAF.
3. To calculate how much additional money would be needed each year in order to cover the essential management costs of eligible protected areas in the three Caucasus countries. The result of this calculation provided the basis for determining the target size of the endowment capital that would need to be raised from donors, over and above current government budget allocations for the three national protected areas systems.
4. To prepare an inventory of potential donors and other sources of financing for the CPAF, including an analysis of the requirements and priorities of different potential donors, and the potential amount of their contributions.

5. To define the specific objectives and activities for the process of setting up the trust fund in a second phase project based on the results of the Feasibility Study.

In order to achieve these objectives, the Feasibility Study included the following activities:

1. Evaluating the political and economic contexts in each of the three southern Caucasus countries, in order to determine the presence or absence of what the GEF identified as the “critical factors” for successfully establishing a conservation trust fund;
2. Analyzing different legal, institutional and financial options for establishing the CPAF, and outlining what would be the most suitable institutional and legal structure for the trust fund, including deciding (a) where the trust fund will be legally incorporated, (b) where its assets will be held, and (c) where its head office will be based. The consultants considered that (a), (b) and (c) could be three different locations, or they could be combined in one location, depending on various legal, fiscal, political, and administrative factors, and depending on whether or not separate trust funds are created for each of the core countries;
3. Obtaining input from key stakeholders in each core country and achieving consensus on major issues relating to the organization, board structure, and overall management of the CPAF, which involved consultations with different levels of government and broader stakeholder conferences in each of the three Caucasus countries;
4. Analyzing the current legal status, management structure, budget, and funding sources of each significant protected area in the three core countries; estimating the financial needs of protected areas that fulfill previously developed funding criteria (criteria which include prioritization of protected areas by the ecoregional planning process); determining all relevant funding mechanisms for these protected areas, including governmental contributions as well as income generated by the protected area and other sources; determining the role of the trust fund in ensuring sustainable funding of the three countries’ protected area networks;
5. Identifying potential donors to the CPAF’s core endowment and/or to its separate national sub-accounts, evaluating the advantages and disadvantages of seeking funding from various potential donors, and analyzing the conditions under which particular donors would be interested in contributing; compiling a short list of the most promising donors, and informally contacting them in order to determine their level of interest;
6. Analyzing different financial scenarios based on a determination of both the minimum capital and the “target” capital of the CPAF;
7. Identifying revenue sources within each core country that could be tapped to support the funding of management costs of protected areas, and determining what level of national government co-financing should be required in each country;

8. Analyzing whether to involve any of the three larger Caucasus countries (Russia, Turkey and Iran) in the original design and establishment of the CPAF, or at a later stage.

Part of the TOR for the first project phase (i.e., the Feasibility Study) included the development of a project proposal that could be presented to KfW in order to seek funding for the second project phase (i.e., the actual establishment of the Trust Fund). Based on the encouraging results of the Feasibility Study, KfW agreed to provide financial resources for the actual establishment of CPAF. However, some of these planned activities and outputs were modified in the course of carrying out the second phase. Section 6 of this Final Report contains a comparison of the originally planned activities and results of the second phase (as set forth in the Feasibility Study) and the ones that were actually implemented and achieved, and gives the reasons why the original plans had to be modified. From the beginning, it was realized that modifications to the plans would be likely, since the experiences of setting up other conservation trust funds had shown that the following causes could significantly complicate or delay the establishment of a trust fund:

1. Changes in a country's government administration;
2. Opposition by certain stakeholders to the purpose or structure of the trust fund;
3. Long delays in obtaining funding commitments from donors;
4. Long decision-making processes among donors and other stakeholders with respect to the contents of a trust fund's proposed statutes, bylaws and investment policies;
5. Difficult political or legal settings for establishing the required administrative structures for a trust fund;
6. The time required to amend existing laws or regulations, or to issue presidential or ministerial declarations;
7. Unexpected international, domestic political or financial crises.

In the case of the CPAF, the third and fourth causes listed above were the ones that were most responsible for delays and modifications.

The original proposal for the second phase listed the following outputs to be achieved:

1. Securing funding commitments from donors;
2. Legally establishing the CPAF by registering its legal Charter with government authorities;
3. Organizing the first meeting of the CPAF's Board of Directors;
4. Selecting an investment manager for the CPAF; and
5. Providing training and technical assistance to the CPAF's staff and Board.

Seven activities were identified as being crucial for achieving the five outputs listed above:

1. Preparing a clear, succinct and visually attractive proposal ("Prospectus") that could be used for trying to raise funds for the CPAF from international development aid agencies, foundations, and the private sector;
2. Lobbying potential donors to secure firm funding commitments for capitalizing the CPAF, by first identifying the key persons in each entity to be contacted by email and telephone, and then arranging face-to-face meetings with those people who indicated interest in supporting the CPAF;
3. Organizing meetings with relevant stakeholders in the region, including governments, NGOs, and local offices of international donor organizations, in order to mobilize and maintain support for the establishment of the CPAF, and to achieve a consensus among the main stakeholders about the best legal, financial and institutional structure of the CPAF before proceeding to the phase of actually establishing the CPAF;
4. Drafting a Charter (Articles of Incorporation) and other legal documents required in order to register the CPAF as a tax-exempt charitable foundation either in Germany, Switzerland, the Netherlands, U.K. or the U.S., by first preparing such documents in cooperation with relevant stakeholders (including donors), and then adapting the documents in order to satisfy the requirements for legally registering the CPAF as a tax-exempt charitable foundation in whichever one of the above-listed countries was chosen;
5. Drafting Bylaws and an Operations Manual for the CPAF, including terms of reference for the fund's staff and board members, and revision of these documents in response to comments and suggestions.
6. Drafting of investment guidelines and criteria for selection of an investment manager for CPAF. This process would need to include consultations with donors regarding their restrictions, requirements or preferences for the investment of their contributions. The final outcome would be a report and recommendations on investment managers.
7. Preparation of the agenda and documents required for the first meeting of the Trust Fund's Board of Directors to take place after the legal establishment of the Trust Fund. Ensuring follow-up activities after the first board meeting, including training for the board members in form of a one-day training workshop as well as training and technical assistance/advice for the CPAF's Executive Director and staff.

In the course of implementing the second project phase, it was decided to make it a precondition that at least € 7 million should be secured as endowment capital before the CPAF would be legally registered. The goal was to avoid establishing a legal structure that could not become operational in practice due to a lack of adequate funding from donors.

3.4 Project Design and Stakeholder Consultation Process

It required a total of four years to establish the Caucasus Protected Areas Fund from start to finish, which was divided into the two phases mentioned above. The work was financed by KfW and was implemented by WWF-Germany. Phase 1 lasted for approximately 18 months, and its final output was a comprehensive 140-page Feasibility Study for establishing the trust fund. Phase 1 included two trips to the Caucasus region by the two principal consultants: Michael Evers, Head of the Forest Department at WWF-Germany who had extensive prior experience of working in the Caucasus; and Barry Spergel, an independent consultant and lawyer based in Washington DC, who had formerly worked as Director of Conservation Finance at WWF-US and been involved in establishing other conservation trust funds. Phase 2 lasted for two years, and its main outputs were the preparation and finalizing of all the legal documents required for establishing the CPAF as a tax-exempt German foundation; appointing the CPAF's board members and holding initial board meetings; and hiring an Executive Director for the CPAF.

Consultants' First Trip to the Caucasus

The consultants made an initial trip to the Caucasus in March 2004 to introduce the general concept of establishing a 3-country ecoregional protected areas trust fund, and to obtain preliminary feedback from key stakeholders. They were accompanied by Scott Dresser from the Global Conservation Fund ("GCF") at Conservation International ("CI"), which from the beginning expressed a very strong interest in supporting the Caucasus trust fund. Together with Gogi Sanadiradze, Director of the WWF Caucasus Programme, they had meetings in Tbilisi with Georgia's Minister of Environment and two of her Deputy Ministers, as well as meetings with senior Finance Ministry officials, Georgian environmental NGOs, international donor agency representatives based in Tbilisi, and legal experts from all 3 Caucasus countries. Prior to the meetings in Tbilisi, the consultant's team made a 3-day visit to three Georgian protected areas (Borjomi National Park, Kolkheti National Park, and Sataplia Nature Reserve) in order to meet with protected area Directors, other staff, and local government officials, to hear their perspectives on sustainable financing issues. After the meetings in Tbilisi, Spergel traveled separately to Baku for initial discussions about the trust fund proposal with Azerbaijan's Ministry of Energy, Environment and Natural Resources, and several people at the World Bank's Baku office.

Consultants' Second Trip to the Caucasus

The consultants made a second 10-day trip to the Caucasus in June 2004 in order to give more detailed presentations (based on the results of their first trip) and to lead discussions at three national stakeholder workshops in Armenia, Georgia and Azerbaijan. This time they were accompanied in all of their meetings by the Conservation Director for the WWF Caucasus Programme, Dr. Nugzar Zazanashvili. Each of the three workshops was attended by more than 20 people representing national gov-

ernment ministries, NGOs, and international donor agencies. Four different options for structuring the trust fund were presented at the workshops, and discussed intensively by the stakeholders. The second trip also involved meetings with each country's Minister responsible for environment and nature protection, and meetings with local conservation NGOs and representatives of international donor agencies (World Bank, UNDP, Swiss Development Cooperation, USAID and OSCE). The workshops and meetings during this second trip involved a total of more than 80 people, most of whom expressed particular opinions, comments and recommendations about the trust fund.

Feasibility Study

Following their June trip to the Caucasus, the consultants spent a total of six months writing a comprehensive feasibility study on the trust fund. This included preparing several revised drafts in response to detailed comments from KfW. In writing the Feasibility Study, the consultants received substantial assistance and feedback from the Director and staff of the WWF Caucasus Program Office ("CPO"), who provided extensive data used for the chapters on protected area eligibility criteria and management costs. The consultants also benefited from legal analyses that the CPO commissioned from external legal experts in all three Caucasus countries.

WWF Germany published the Feasibility Study in December 2004 on the internet, in order to make it more easily available to all interested persons and organizations (including potential donors), and also sent printed copies to the Environment Ministers of the three Caucasus countries. The Feasibility Study is almost 140 pages long, and is divided into 12 sections.

- Section 1 presents a general introduction and overview.
- Section 2 covers a general discussion of conservation trust funds.
- Section 3 is a discussion of the rationale for adopting an ecoregional approach to financing biodiversity conservation in the Caucasus.
- Section 4 is a detailed discussion of protected area management costs in each of the three Caucasus countries, and the criteria for determining which protected areas and which kinds of costs should be eligible for support from the proposed fund. (This data is also presented in the form of tables that are attached as ;Appendices 9, 10, 11 and 12.).
- Section 5 presents the assumptions and formulas used for calculating how much capital the fund would need to raise in order to be able to pay for 50% of the management costs of all the eligible protected areas in the three Caucasus countries.
- Section 6 discusses legal and fiscal issues in Georgia, Armenia and Azerbaijan that affect how the fund should be designed. This section was based on reports by lawyers commissioned by the WWF Caucasus Program Office in each of the three countries (attached as Appendices 6, 7 and 8).
- Section 7 presents general issues relevant to the design of the fund.

- Sections 8, 9 and 10 present detailed analyses and recommendations about various options for structuring the fund.
- Section 11 discusses a list of potential donors to the fund.
- Section 12 presents a proposed TOR for a phase two consultancy to actually establish the fund.

Consultants' Third Trip to the Caucasus

After KfW decided to support a Phase 2 consultancy based on the results and recommendations of the Feasibility Study, the consultants made a third trip to the Caucasus in September 2005. They gave presentations and received extensive feedback from local NGOs about the conclusions of the Feasibility Study and proposed structure of the CPAF. This was done through a series of stakeholder meetings in Armenia, Azerbaijan and Georgia that were organized by the WWF CPO. The consultants also met with government ministry officials in all three countries.

Their visit to Armenia coincided with a field visit by Jorgen Thomsen (Senior Vice-President of Conservation International) and Christopher Holtz (the Director for the Caucasus Ecoregion of CI's Critical Ecosystem Partnership Fund, or "CEPF"), who were accompanied by the Director of the WWF Caucasus Ecoregion Programme. This led to a series of discussions between all five of them that focused on (1) planning future strategies for fundraising, (2) defining protected area management costs (as distinguished from protected area establishment costs), and (3) discussing ways of financing the preparation of protected area management plans (since it was decided that a protected area would need to having a management plan would be one of the conditions for a protected area to be able to receive multi-year grants from the trust fund).

Midterm Report

Six weeks after their third trip to the Caucasus, the consultants produced a 70-page Midterm Report for KfW. The Midterm Report summarized the consultants' recent meetings in the Caucasus; recommended reasons for adopting of one of the previously proposed options for structuring the trust fund; and presented a draft legal charter for the CPAF. Most of the Midterm Report consisted of the following detailed appendices:

- Minutes of NGO workshops and meetings held in September 2005, prepared by the WWF offices in each of the Caucasus countries (Appendix 1 and 2 to the midterm report);
- A first draft of the legal charter ("Satzung") for the trust fund, which was sent to the Environmental Ministers of the three Caucasus countries for their comments (Appendix 3a to the Midterm Report);

- A second revised version of the Charter, which was adapted to meet the requirements of the foundation law of the German state of Hessen (Appendix 3c, Part I) by a German lawyer who was hired for this purpose.
- Preliminary answers by the German lawyer to a set of questions (Appendix 3b and 3c, Part II) which were important for determining whether or not Germany was the most suitable location for establishing the trust fund (Appendix 3c, Part III).
- An analysis by the German lawyer of whether or not the establishment of the fund under the foundation law of Rhineland Palatinate might be advantageous (Appendix 3c, Parts II and III).
- A Prospectus about the trust fund to interest potential donors (Appendix 4 to the Midterm Report);
- A list of individuals to contact at donor agencies (including bilateral donors, multilateral donors, and foundation donors (Appendix 5 to the Midterm Report);
- Cover letters to potential donors (Appendix 6 to the Midterm Report).

Ministerial Conference

Four months after submission of the Midterm Report, the CPAF was publicly launched at a Ministerial Conference on "Nature Protection in the Caucasus Promoting: Transboundary Cooperation for CBD Implementation", which was held from March 9 to 11, 2006 in Berlin, and was attended by the Environment Ministers of Germany, Armenia, Azerbaijan and Georgia. The environmental ministries of Armenia, Azerbajan and Georgia expressed strong support for the implementation of the Ecoregional conservation plan presented at the conference. At the Conference, Michael Evers and Markus Stewen of KfW gave a detailed presentation about the trust fund, and invited other international donor agencies which were present to also support the trust fund. At the conference, BMZ/KfW, CI and WWF committed a total of € 7.5 million for the capitalization of the endowment fund.

Legal Establishment and Capitalization of the Trust Fund

After completion of the Midterm Report, it took 20 months to legally establish the CPAF as a German tax-exempt foundation, and to capitalize through contributions from KfW, and WWF-Germany. CI-GCF required that an approved investment strategy for the Trust fund be in place before transferring its contribution to the CPAF, which is expected to finally happen in June 2008.

This length of time was required in order to draft and circulate more than a dozen different versions of the Articles of Incorporation and Bylaws; seek comments from stakeholders in the three Caucasus countries; reach final agreements between KfW, WWF-Germany and CI-GCF about the Articles of Incorporation and Bylaws; and

meet several times with the foundation supervisory authorities and the fiscal authorities of the German state of Hessen in order to obtain their comments and approval.

In order to limit the amount of legal fees that would otherwise have had to be paid to a German law firm for drafting the CPAF's legal charter (Satzung) and Bylaws (Geschäftsordnungen) 'from scratch', the three original sponsors of the CPAF (KfW, CI-GCF and WWF) decided to prepare a "term sheet" summarizing their detailed views and decisions on all of the issues that are normally covered in a foundation's basic legal documents. The term sheet served as a framework for the three organizations to systematically elaborate, discuss and reach agreement on all of the legal, institutional and financial aspects of the fund, so that they could then give very detailed instructions to the German lawyers who would adapt the term sheet into a set of formal legal documents that meet all of the specific requirements of German law.

The Charter/ Articles of Incorporation and the Bylaws were first drafted by the one of the consultants who was a lawyer (i.e., Spergel) in a form that was based on models of conservation trust fund legal documents from other countries. WWF then hired a German lawyer to adapt these draft legal documents to fit German legal requirements. The in-house lawyers who work for GCF then reviewed these documents and modified them several times. The legal documents were then reviewed by the outside German lawyer hired by CI-GCF. Only after further discussions and changes were the legal documents finally ready to be registered with the supervisory authorities of the German state of Hessen. Discussing and reaching agreement on all of the detailed legal, tax and investment issues required very intensive discussions both by face-to-face meetings, international conference calls and email exchanges. A more detailed account of all the various legal issues is presented below in section 4.5 of this Final Report.

4. Project Results

Bezoar Goat, © WWF Caucasus PO

4.1 Factors Required for Successful Establishment of a Conservation Trust Fund

One of the main tasks of the Feasibility Study was to analyze whether the proposal for establishing a Caucasus Protected Areas Fund met the GEF's list of criteria and conditions for the successful establishment of conservation trust funds, even though in this case, the GEF indicated that it was unlikely to become a donor to the CPAF, because the GEF is already supporting several other protected area projects in the three Caucasus countries, and because any GEF contributions to the CPAF would have to come out of the relatively small amount of funding (less than $2 million) that GEF had allocated for each of the three countries during the GEF's current 4-year funding cycle. KfW and WWF nevertheless wanted to test whether the GEF's list of criteria and conditions for the successful establishment of conservation trust funds applied to the case of the CPAF, because the GEF's 1999 Evaluation Report on "Experience with Conservation Trust Funds" is regarded as an authority by many other donor agencies. It lists four "essential conditions" that should be satisfied before establishing a conservation trust fund:

1. The issue to be addressed requires a commitment of at least 10-15 years;
2. There is active government support for a public-private sector mechanism outside direct government control;
3. A critical mass of people from diverse sectors of society can work together to achieve biodiversity conservation and sustainable development; and
4. There is a basic fabric of legal and financial practices and supporting institutions (including banking, auditing and contracting) in which people have confidence.

The CPAF Feasibility Study showed that all of these conditions are satisfied in the case of the three Caucasus countries, based on the following considerations:

- WWF' ecoregional conservation plan for the Caucasus, and CEPF's Caucasus Ecoregion Profile (July 2003) and Section 3 of the Feasibility Study, all clearly show the necessity of having a *long term (10- to 15-year) commitment* by international donors to help co-finance the operating deficit of priority protected areas in the Caucasus in order to preserve the ecoregion's globally significant biodiversity.
- The workshops and meetings with Ministers of Environment and other senior government officials in all 3 countries (as summarized in the meeting notes which are attached to the Feasibility Study as Appendices 3, 4 and 5) all showed strong and *active government support* for the ecoregional trust fund proposal in each of the 3 Caucasus countries.
- The experiences in the Caucasus ecoregion of WWF, CEPF and REC have all shown that there is *a critical mass of people from different sectors of soci-*

ety in each of the 3 countries who can work together to conserve ecoregional biodiversity in spite of political tensions and different approaches to conservation and sustainable development.

- The memoranda prepared by legal experts from each of the 3 countries (attached as Appendices 6, 7 and 8 to the Feasibility Study) show that there exists *a basic fabric of laws in each country* relating to the establishment of independent non-governmental institutions.

The Feasibility Study recognized, however, that "it might be questioned whether (because of widespread problems of corruption in all 3 countries) there does in fact exist 'a basic fabric of *financial practices and supporting institutions* (including banking, auditing and contracting) in which people have confidence'." This is one of several reasons why it was eventually decided to establish the CPAF as an offshore charitable foundation in Germany, because Germany unquestionably has "a basic fabric of legal and financial practices and supporting institutions (including banking, auditing and contracting) in which people have confidence."

Two other criteria for GEF support of conservation trust funds can also be satisfied in the case of the CPAF:

1. "keeping operating costs within a range of 20-25%", since the CPAF Foundation is bound by its Charter to keep operating costs below 15% after its start-up phase; and
2. "the development of partnerships with international NGOs with experience and recognized abilities", which is a form of support that WWF-Germany and CI-GCF are clearly providing in this case.

In addition to the GEF criteria, KfW, GTZ and WWF jointly developed supplementary sets of criteria for conservation trust funds. The first and second of these sets of criteria can be regarded as pre-conditions, which must be largely satisfied *prior* to committing resources to a trust fund; while the third, fourth and fifth sets of criteria constitute areas in which it is acceptable if progress can be achieved during the initial stages of committing an endowment:

1. Ecological Criteria

- International / regional ecological importance of a protected area or protected areas system (e.g. classification as World Heritage Site, specific biodiversity indices, „Hotspot/EcoRegion approach" [CI, WWF…]): *The Caucasus ecoregion meets these criteria.*
- Representativity of protected area/ protected areas systems with pertaining set of plausible selection criteria: *The CPAF will support a representative group of priority protected areas in all 3 core countries of the ecoregion.*

2. Sectoral Framework Conditions ("Commitment" of Partner Country):

- GEF Criteria: *These have already been discussed above, and are largely satisfied in this case---*
- Sectoral engagement (proportion of protected area surface; level of implementation of relevant laws and regulations):

  In this case, criteria were only partly satisfied, but KfW and WWF chose to make allowances for this.

  - Proportion of national territory classified as protected areas:
    - for Armenia (IUCN Cat.I-IV) – 10.3% of the total territory
    - for Azerbaijan (IUCN Cat.I-IV) – 6.8% of the total territory
    - for Georgia (IUCN Cat.I-V) – 6.9% of the total territory

    Therefore, only Armenia meets the CBD's goal that each country should declare at least 10% of its territory as protected areas.
  - *Level of implementation of relevant laws and regulations are low for the whole region, but comparatively high for Georgia.*
  - "Participatory" sector policies in place (especially involvement of "stakeholders" from adjoining communities, the private sector and NGO's – "enabling environment"): *Currently, participatory sector policies are not in place in any of the 3 Caucasus countries.*
  - The principle of 'sustainable use' is in place and being applied, with the primary objective of delivering direct benefits (and/or compensation) to the affected population: *To a certain extent, this principle has been applied in Georgia in a number of cases during protected area designing and planning processes, although it has never been properly applied. The principle of 'sustainable use' has never been in place in Azerbaijan and Armenia.*
  - Established practice of using consistent and prioritised management and work plans as basis for protected area management: *Protected area management plans are a basic legal requirement for protected area management in Georgia. But in Azerbaijan and Armenia, national laws do not even contain the term "protected area management plan", and therefore protected area management plans are not legally required.*
  - Financial requirements of the protected area system plausibly documented *(*preferably through a "gap analysis*"* – taking into account all available sources of funding*)*: *WWF has conducted a comprehensive financial gap analysis for protected areas in the 3 core countries of the Caucasus ecoregion.*
  - Retention of at least a significant portion of protected area revenues for the benefit of the protected area or the protected area system is permitted by law or ordnance: *This is permitted by legislation in Georgia and is supported by the Minister of Environment in Azerbaijan.*

- Ratification of relevant international conventions (CBD, CCD, Ramsar, CMS etc.): *All Caucasus countries have ratified each of the international conventions just mentioned.*

3. Protected Area Management Criteria:

- Participation / active involvement of "stakeholders" (buffer zone inhabitants, private sector and NGOs…) is established practice: *This is not the established practice for any of the countries.*
- Rights (e.g. benefit sharing, access to cultural sites…) and duties are agreed upon and adhered to: *Rights and duties with the above regard are prescribed (in general) by national legislations (civil law, general land use law, cultural heritage law etc), but there are no examples of reaching agreement on the above subjects in concrete cases.*
- Open information/ communications policy: *Generally, there are legal requirements for open public information and communications policies in all 3 countries. Practically, these policies are implemented through providing general information through websites.*
- Functioning mechanisms to address and resolve conflicts among stakeholders: *This kind of mechanism exists formally only in Georgia. Georgian legislation stipulates for creation of "scientific-consultative councils" for each protected area. The main purpose of such councils is to cooperate with government, local authorities, etc and they could involve, inter alia, independent experts, NGO representatives etc. These councils have been created for some of the protected areas, but they have never been functional.*
- "Co-management" institutionalised (through authorised fora, committees…): *"Co-management" is institutionalised only in Georgia (See the remark above regarding "scientific-consultative councils").*
- Adequate, transparent and prioritised allocation of available resources, personnel and equipment (e.g. vehicles, boats): *Usually, allocation of available resources is not done in transparent manner and very often priorities are not clear. Exceptions might be found only in those protected area s where international aid programmes are implemented*
- Revenue retention offers adequate incentives for protected area management to perform according to management/ work plans: *This has never been the case (e.g., in Georgia), simply because of the very low level of revenues.*
- Management plans, work plans and business plans constitute basis for prioritised protected area operations: *Preparation and adoption of management plans that meet defined criteria is a precondition for* a protected area *to receive any grants from the CPAF. Currently, protected area management plans are legally required only in Georgia. Despite this legal requirement, many Georgian protected areas have still not adopted management plans.*

Many of these shortcomings were known even before the idea of a trust fund was proposed. However, it was decided to proceed with establishing a conservation trust fund in spite of being unable to fully meet all of the "preconditions", because of: the Caucasus Ecoregion's very high biodiversity and the high threat to that biodiversity; the concern that otherwise the positive results achieved through substantial investments in conservation by donors such as KfW, CI and WWF would be lost; the very substantial progress and achievements that had already made through the Caucasus Ecoregional Planning Process; the high degree of interest in the ecoregional trust fund concept expressed by the governments of all 3 Caucasus countries; and the potential for achieving a kind of transboundary cooperation in the region that seemed to be impossible to achieve in most other sectors.

4. Specific Requirements for Establishing Trust/ Endowment Funds:

- Relevant legislation (e.g. on taxes and trusts) allow for non-profit trust and endowment funds: *This is true in Germany, where the CPAF is legally established and headquartered.*
- The trust as such is legally and financially independent (i.e. NOT part of the governmental administration system!): *This is definitely true in the case of the CPAF Foundation, which has no government representatives on its Board.*
- If Fund capital is to be invested locally: *Not applicable.*
- Functioning financial sector (banking system/regulatory authority, accounting standards etc.)
- Stable local currency or no restrictions on investing locally in foreign ('hard') currencies

  Alternatively: no restrictions on investment "offshore": *The CPAF will be established under German foundation law, which has no restrictions on a German foundation investing its assets outside of Germany.*

5. Trust Fund Operating Mechanisms:

- „Lean structure" of operating and supervisory bodies: *Administrative costs will be less than 15% after the CPAF's start-up phase.*
- Supervisory structure ("*Board*") allows for substantial participation by non-governmental "stakeholders" and civil society (e.g. private sector; NGO's): *The CPAF Board includes 2 NGOs, one of which (i.e., WWF) has a very large Caucasus Programme Office in Georgia with over 30 local staff, as well as offices in Armenia and Azerbaijan which are entirely staffed by local people.*
- Subsidiary mandate with linkage to complementary protected area financing mechanisms (e.g. revenue retention schemes, payments for environmental services – if any): *Any grants from the CPAF require a 1:1 match from other sources.*

- Clear statutes ensure transparent utilisation of interest yield for designated and prioritised purposes (esp. recurrent operating protected area expenditure): *This is definitely true in the case of the CPAF statutes/Article of incorporation and Bylaws.*
- In case of endowments: maintenance of capital stock in real terms (i.e. accounting for the respective currency's depreciation) ensured: *This is required by German foundation law.*
- Linkage with performance-oriented incentives for protected area management (i.e., in order to prevent PA managers from becoming complacent about raising revenues and cutting costs): *Such incentives are a built-in feature of the CPAF by virtue of the 1:1 matching requirement for all grants---in order for* protected area *s to receive grants from the CPAF, they need to generate an equal amount of co-financing from other sources.*
- Allocation of resources based on prioritised management and work plans: *Section 18 of the CPAF Bylaws establishes specific detailed criteria for prioritizing resource allocation in cases where "* the Foundation does not have enough financial resources to support all of the PPAs for which qualifying proposals are submitted in a particular year".
- Potential to attract third-party sponsoring: A number of other potential donors have expressed interest in supporting the CPAF, and CPAF will soon have a detailed fundraising plan.

6. Additional Criteria Specific to German Development Cooperation:

- Regional/sectoral focus of development cooperation: *Environment is a top priority for German development cooperation in the 3 core countries of the Caucasus ecoregion.*
- "Programmatic approach", preferably in tune with other international agencies: *Other international donor agencies such as World Bank-GEF and NORAD also have programs that support protected area management and establishment in the 3 core countries of the Caucasus Ecoregion.*
- Structural impact: Protected area m*anagement plans are not currently required in Armenia and Azerbaijan, and many Georgian protected areas lack management plans, but since protected areas are required to adopt a management plan as a prerequisite for receiving CPAF financial support, the CPAF will therefore have the effect of improving overall protected area management effectiveness, as well as supporting regional coordination for nature conservation in the Caucasus.*
- Visibility of support: *Visibility of the support provided by German Development Cooperation will result from the improved long-term protected area management in the region. Using trust funds as a tool for supporting nature conservation is still relatively new, and establishing the CPAF as a successful example will have a political and structural impact beyond the Caucasus region*

- Preferably regional/ trans-national linkages: *The basic purpose of the CPAF is to support an ecoregional strategy for biodiversity conservation that links all 3 core countries of the Caucasus ecoregion.*

In conclusion, the CPAF---in the form in which it has finally been established: as an offshore German foundation whose purpose is to support biodiversity conservation in a globally high-priority ecosystem through grants that cover up to 50% of the eligible management costs of priority protected areas in 3 countries--- substantially meets most of the GEF criteria, and meets more than half of the KfW/GTZ/WWF criteria for conservation trust funds.

4.2 Trust Fund Structure

At an early stage, it was decided to limit the trust fund to Armenia, Azerbaijan and Georgia, rather than also involving the three other countries that each have a small percent of their total territory situated in the Caucasus ecoregion: Turkey, Russia and Iran (even though collectively these latter three countries include over 60% of the total area of the Caucasus ecoregion, and are included within WWF's and CI-CEPF's Caucasus ecoregional programs). This decision was based on several practical considerations:

- 100% of the terrritory of Armenia, Azerbaijan and Georgia is situated within the Caucasus ecoregion, which means that a Caucasus ecoregional trust fund can involve national government agencies of those countries, working on a nation-wide scale. On the other hand, the Caucasus regions of the 3 larger countries probably represent less than 5% of each of their national territories, which means that grants provided for the Caucasus might end up being diverted for use in other parts of those countries, or used to subsidize activities such as capacity-building on a nation-wide scale, rather than being limited to the Caucasus regions of those larger countries.
- The Caucasus regions of the Russian Federation (particularly Chechnya, but also North Ossetia) have been the scene of war and terrorist attacks over the last 10 years, which makes it difficult or impractical to carry out conservation activities there.
- Since Iran currently has, in many ways, the status of an international pariah, including Iran would make it much more difficult for the trust fund to receive financial support from potential donors.
- Turkey's participation in the Trust Fund might greatly complicate Armenian participation.

Perhaps the most decisive factor was that a much larger amount of capital would be required to support a 6-country Caucasus ecoregional protected areas trust fund, and unless this larger amount could be raised, there would be a risk that the amount of support that the trust fund could provide for protected areas in the three core Caucasus countries might be greatly reduced, to the point where the three core countries might even lose interest in the trust fund. In the end, it was finally agreed that if the trust fund reaches its initial fundraising target of Euro 44 million, the Board of the trust

fund could consider adding one or more of the other three Caucasus countries (Turkey, Iran and Russia) to the trust fund, provided that none of the three core Caucasus countries and none of the three founding donors (KfW, CI-GCF and WWF-Germany) object. In any event, there were never any discussions with relevant people in Russia, Turkey or Iran about the trust fund proposal.

Four different Options for structuring the Caucasus Protected Areas Trust Fund were discussed at the 3 national stakeholders workshops held in June 2004:

1. Establishing an international (i.e., offshore) foundation to hold and invest an endowment contributed by international donors, and then also establishing 3 separate national foundations that would each receive part of the annual investment earnings from the from the international foundation, and each decide how to allocate grants to priority protected areas in their own country;

2. Not establishing an international foundation, but only establishing 3 separate national foundations that would each have their own separate endowment, and each make their own grants, based on a common ecoregional conservation strategy;

3. Not establishing 3 separate national foundations, but only establishing a single international foundation that would have 3 national sub-accounts (for donors who only want to support protected areas in a particular country), but with only a single Board of Directors that would make all decisions on how to allocate and award grants to priority protected areas in all of the 3 countries;

4. Not establishing any new international or national foundations, but simply using an existing Georgian foundation such as the Caucasus Regional Environmental Center (“REC”) to administer and allocate the proposed endowment (trust fund) for priority protected areas in the Caucasus.

In addition, a fifth option was proposed during one of the workshops, and a sixth Option was proposed by Matthias von Bechtolsheim of KfW:

5. establishing 3 separate national foundations, and using the Caucasus Ecoregional Coordinating Council to coordinate conservation strategies between them (but not expecting it to exercise any financial control function over the 3 national foundations);

6. establishing an international foundation with 3 national sub-accounts that would each be administered by a separate ‘national advisory council’.

The Feasibility Study proposed that the choice between the different options for structuring the trust fund should be based on determining which option would be most likely to maximize:

1. financial support for the trust fund by international donors
2. political support for the trust fund by the governments of each of the Caucasus countries
3. the adoption of an ecoregional approach to conserving biodiversity
4. cooperation between the Caucasus countries
5. collaboration between governmental and non-governmental organizations
6. transparency and stakeholder participation
7. cost effectiveness
8. innovative and effective conservation approaches;

and also based on which option would be most likely to minimize:

9. administrative expenses and bureaucracy
10. taxation of income earned from investments (in order to maximize the amount of money that can be spent on protected areas).

Section 6 of the Feasibility Study discussed the legal and tax reasons for deciding not to establish charitable foundations in any of the Caucasus countries. Of these legal and tax reasons, the most important one is that in each of the three Caucasus countries, any income or gains that a charitable foundation earns from its investments or bank accounts is subject to the same profits tax that corporations and individuals would have to pay on their investments in stocks and bonds, and on the interest they earn from their bank accounts. By contrast, in most Western European countries and in the US, charitable foundations are not subject to tax on their interest or investment income or their profits from the sale of stocks and bonds, provided that all of the money is used exclusively to support the foundation's charitable purposes and activities.

There were also important political reasons for deciding to establish the trust fund as an offshore legal entity. The Governments of Armenia and Azerbaijan had fought a war in the early 1990s over the region of Nagorno-Karabakh, and therefore each said that they were unwilling to support the proposed trust fund if the trust fund were legally established or headquartered in each other's country. They also were each unwilling to support the idea of basing the trust fund in Georgia, because they both expressed the opinion that Georgia was already unfairly favored by having been chosen as the headquarters for various other Caucasus regional programs, and that this had resulted in the Georgians "dominating" and getting more benefits from those programs and organizations (such as the Georgia-based Caucasus Regional Environmental Center or "REC", whose 32-member staff consisted of thirty Georgians, one Armenian and one Azerbaijani). On the other hand, Georgian government officials said that they were willing to support any of the various proposed options for the trust fund. The "bottom line" is that the Governments of all three Caucasus countries were willing to accept the idea of legally establishing the CPAF in a Western European country or the US, and that 2 of the 3 governments preferred this option.

The consultants suggested several possible ways of structuring the composition of the Board of the offshore foundation. For example, the Board could be composed of the following 7 members:

- 2 international donor agency representatives;
- 2 international conservation NGO representatives; and
- each country's Minister of Environment, or the Director of each country's Department of Protected Areas.

Alternatively, the Board of the international foundation could be composed of only 5 members:

- 1 international donor agency representative;
- 1 international NGO representative; and
- 3 national representatives (i.e., each country's Director of Protected Areas).

However, the Government of Azerbaijan further stated that it would not be willing to support the trust fund if any representatives of the Government of Armenia sat on its Board, or at least not unless Armenian military forces withdrew from the territory of Nagorno-Karabakh.

The consultants proposed the alternative of having representatives of conservation NGOs (but not governments) from all 3 Caucasus countries sit on the Board of the offshore trust fund. However, some of the governments (and some Caucasus NGOs) objected to this idea because they were concerned that even NGO representatives from a particular country might be unfairly biased in favor of supporting grants for projects in their own country.

The Governments of Armenia and Azerbaijan both said they preferred to have all members of the Board of the offshore trust fund be from outside of the Caucasus region. The Government of Georgia agreed that this would be acceptable. All of the stakeholders said that the most important goal should be to have a Board that everyone could trust to make its decisions objectively, based on purely scientific criteria, without being influenced by political considerations.

Once it was decided to establish only a single offshore foundation, the next question was where to establish it. The main criteria were that that it should be established in a country that has:

- a well-developed and impartially administered system of laws and regulations governing non-profit charitable organizations;
- no taxes on the investment income of non-profit charitable organizations;
- no foreign exchange controls or restrictions on international financial transfers; and
- no requirement that a foundation registered under its laws must conduct any part of its charitable activities there, or that the members of the foundation's Board must be local citizens or residents.

Switzerland, Germany, Netherlands, UK or the USA could each meet these criteria. It was decided to legally establish the CPAF foundation in Germany because two of the

three founding donors are German, and because Frankfurt seemed to be the most convenient place for establishing the head office of the foundation.

4.3 Protected Area Financial Gap Analysis for the Caucasus

The Feasibility Study proposed that the goal of the trust fund should be to support 50% of the basic management costs of approximately 77 eligible protected areas in the three core Caucasus countries. The Feasibility Study estimated this cost to be $2.3 million/year, which was based on a complex series of calculations of protected area management costs by country and by protected area category according to the respective size of the protected area and the corresponding average annual protected area management costs per hectare. Georgia's Borjomi-Kharagauli National Park was used as the basis for calculating management costs for all protected areas in the three Caucasus countries, because it has the most detailed business plan of any protected area in the three countries and therefore its total management costs are much better known and documented. However, Borjomi-Kharagauli National Park was established as a model park, and has received a much larger financial investment in infrastructure than any other protected area in the ecoregion, which has also resulted in its having higher operating costs. Due to these special circumstances, the consulting team decided to reduce the set of costs obtained from Borjomi-Kharagauli NP's business plan when applying them to calculate the management costs of other protected areas in the region.

A set of criteria was applied to determine which protected areas in the three countries would be eligible to receive grants from the trust fund. Not all of the protected areas in the three countries were considered to be equally important for maintaining biodiversity. WWF's and CEPF's ecoregional planning process for the Caucasus identified specific priority landscapes for ensuring the maintenance of habitats and wildlife populations, and corridors to ensure connectivity between them. The ecoregional planning process was developed in a participatory way, and its conclusions are based on the expertise of several hundred scientists as well as the views of government officials and NGO representatives. All protected areas that are located within the priority conservation areas and corridors that were identified by the WWF ecoregional planning process were considered eligible to receive support from the trust fund, and were included in the calculations of total protected area management costs for the Caucasus ecoregion. Protected areas located outside of the identified priority zones are considered ineligible, and are therefore excluded from these calculations. The calculations also exclude protected areas which were identified as conservation priorities in the ecoregional planning process, but which are located in areas currently subject to territorial dispute between Armenia and Azerbaijan. However, such protected areas could become eligible for grants from the trust fund when such conflicts are solved.

It was also decided to exclude any protected area that lacks a separate management and administration, since protected areas without clear administrative structures cannot be improved just by providing more funding, However, in the case of Armenia, it was decided to include “Sanctuaries”, since Armenia would otherwise have many fewer eligible protected areas than the other two countries, even though sanctuaries very often lack their own administrative structures but are simply managed by the forest administration. The total area of Azerbaijan’s eligible protected areas is twice as large as Armenia’s, and the total area of Georgia’s eligible protected areas is around 60% larger than Armenia’s. But on the other hand, it appeared to be politically impossible to base the total amounts that each country would receive from the trust fund solely on ecological criteria, such as the relative total size of all of its protected areas. Moreover, another factor considered was that Armenia’s government funds almost twice as large a proportion of the basic management costs of its protected areas as Georgia does, and one third more than Azerbaijan does. It was felt that governments should be ‘rewarded’ (i.e., given an “incentive”) for demonstrating a relatively greater financial commitment to supporting protected area management costs.

The share of minimum basic protected area management costs which currently is being provided by the governments of the Caucasus countries is very low. The Government of Armenia provides the highest share, representing about 18% of what the consultant team has calculated to be the minimum basic management costs for its national protected areas system, followed by Azerbaijan which provides about 13%, and Georgia which provides only 10% (which may partly be a reflection of the fact that Georgia has been able to attract more international donor funding than its neighbours).

All calculations were based on the assumption that over the long-term, the trust fund should provide no more than 50% of the calculated protected area management costs, and that the rest should come from some combination of:

- increased government budget allocations;
- other grants from donor agencies, and contributions from individuals and corporations;
- PA entry fees and income based on tourism or “environmental services” (such as watershed protection, carbon sequestration, bio-prospecting, etc.).

Even though further increases in government funding for protected area networks seem unlikely in the short term, the requirement that at least 50% of the management costs of each protected area must, over the long term, come from other sources besides the trust fund, maintains the principle that the national governments have primary responsibility for financing protected area networks.

Grant eligibility criteria and costs financed by CPAF

In order to create incentives for effective protected area management, the Feasibility Study proposed that any eligible protected area applying to receive grants from the trust fund would have to fulfil certain criteria:

1. the protected area must have an acceptable management plan and business plan;
2. the grant proposal must meet general criteria specified by the board and must be submitted by the environmental ministry of the country where the protected area is located
3. a particular protected area's role in conserving threatened high priority ecosystems or species must be clearly defined, and this should include setting specific conservation targets, and explaining how various kinds of management activities will directly or indirectly contribute to achieving those targets;
4. at least 50% of the funding for a particular protected area's management costs as defined in a management and business plan must come from sources other than the trust fund.

4.4 Capitalization of the Trust Fund

The Feasibility Study attempted to calculate the amount of capital that would be required in order to generate the $2.3 million/ year needed to pay for 50% of the management costs of "priority" protected areas in the 3 Caucasus countries. The Feasibility Study recognized that this could not simply be calculated by applying an estimated average annual rate of return on investing capital---for example, that in order to generate $1 million/year based on a 5% annual rate of return, one would need to have an endowment of $20 million---but this also depends on the following factors:

- whether the fund is intended to be an endowment (i.e., to keep generating income "in perpetuity"), or a sinking fund (i.e., to only generate income for a limited period of years), or a combination of both types of funds;
- the relative proportion of assets that are invested in "fixed income" instruments which pay a "fixed" rate of return (such as government and corporate bonds, or bank certificates of deposit), compared to stocks and other investments which pay a variable rate of return (such as real estate investment funds, hedge funds, etc.). Stocks generally have a long-term average rate of return that is at least double the rate of return on fixed income investments, but on the other hand, stocks may produce negative returns in some years, so therefore it is necessary to balance these two types of investments (i.e., to balance the trust fund's short-term versus long-term spending needs);
- forecasted future average rates of return (both short-term and long term) for each of these two different classes of investments;
- forecasted future short-term and long-term rates of inflation (and then deciding whether or not to try to "offset" for inflation by reinvesting a portion of each year's investment earnings; and

- the amount of fees that would need to be paid annually to a professional investment manager.

The Feasibility Study examined the rates of return on investment that GEF-supported conservation trust funds achieved over the preceding 5 to 10 years, and found that while many of these funds had achieved 10-year gross rates of return of over 10%/year (because of the sock market boom of the 1990s), their 5-year average annual gross rate of return was closer to 3% (because of the sharp decline in global stock markets around the time of the September 11, 2001 World Trade Center attacks and the collapse of the "dot-com" boom). The Feasibility Study therefore decided to use a rather conservative estimated long-term average rate of return on investments of 5%/year, for purposes of calculating the amount of capital needed to generate US $2.3 million/year.

This estimated 5% gross long-term rate of return on investments was then reduced by certain assumptions about each of the 5 bulleted factors listed above (e.g., assumptions about future inflation rates, investment management fees, etc.), which resulted in the final estimate of a 4.4% net long-term rate of return on investments. This in turn resulted in a calculation that around US $52 million would be required to capitalize an endowment that can generate $2.3 million/year 'in perpetuity'. At the time that the Feasibility Study was written, this amount was equal to approximately Euro 44 million. Given the developments in the Euro/U.S. dollar exchange rate since the feasibillity study and inflation, the fundraising target for the endowment has since been raised to Euro 50 million.

During the three trips that the consultants made to the Caucasus to work on developing the CPAF proposal, they held meetings with the local representative offices of the following potential donors in order to discuss the possibility of their contributing to the capital of the trust fund: the offices of USAID in all 3 Caucasus countries; the World Bank's Resident Representatives in Georgia and in Azerbaijan); UNDP's offices in Georgia and Azerbaijan; the EU's office in Georgia; Swiss Development Cooperation's regional environmental representative based in Georgia; Japan's ODA Advisor for Azerbaijan and Georgia; and meetings by Spergel with BP Azerbaijan. Evers also enlisted the help of the staff of WWF Germany and the staff of WWF national organizations in Norway, Sweden, UK, Switzerland, Austria, Netherlands, Canada and Japan to identify and contact relevant officials at the head offices of the bilateral aid agencies of all those countries. In addition an external consultant (Katherin Tallowitz) was hired to contact several potential donors and evaluate their interest in supporting the CPAF. The main result was that donors are very reluctant to discuss funding commitments while the legal structure of a foundation is not established. Furthermore, CI and KfW used their past contacts with BP in other areas as a basis for urging BP to make a substantial donation to the CPAF endowment, due to its role as the largest single foreign investor in both Azerbaijan and Georgia (as a result of the construction of the $4 billion BTC oil pipeline from the Caspian to the Mediterranean), and due to BP's widely proclaimed support for the general principles of sustainable development and biodiversity conservation (even though the WWF Caucasus Pro-

gramme and WWF-UK had publicly criticized the location of the BTC pipeline route so close to Borjomi-Kharagauli National Park). A strategy was also planned (and although it has not yet been implemented) for contacting potential international private sector and foundation donors, such as the Soros "Open Society Institute", the MacArthur Foundation, and various Armenian "diaspora" organizations and wealthy individuals of Armenian descent living in the US and Europe (who would be asked to contribute to a CPAF sub-account dedicated that could be created specifically for supporting Armenia's priority protected areas).

In order to try to effectively "market" the CPAF by catching the attention and interest of senior donor agency representatives who often receive many hundreds of project proposals but may not have the time to read more than very short project summaries, a 6-page Trust Fund "Prospectus" was prepared. This document was carefully designed and produced with beautiful color photos and maps showing priority protected areas of Georgia, Armenia and Azerbaijan, and with the logos of all three sponsoring organizations (KfW, WWF and CI). The Prospectus presents a very easy-to-ready short 2-page summary of the main features of the CPAF, followed by one page indicating where the people who are reading the Prospectus can find out more information, and then followed by three half-page appendices: (1) a map showing "Priority Biodiversity Conservation Areas in the Caucasus"; (2) a "Rationale for an Ecoregional Approach in the Caucasus", and (3) a short description of the "Biological Importance of the Caucasus Ecoregion". A printed copy of the Prospectus was sent to more than fifteen bilateral and multilateral donor agencies, as well as to a number of large foundations.

Although a number of these donors said that they would be interested in following the development of the trust fund proposal and being kept informed about it, they also said that they could not discuss their possible future support for the trust fund until the trust fund was actually legally established, and (in the case of some potential donors) until they could also see that the trust fund had had a successful track record after operating for at least 1 or 2 years. Some potential donors such as BP also expressed disbelief that the trust fund would be able to simultaneously get the support of both Armenia and Azerbaijan, because of existing political tensions.

All of these reasons led to the idea of publicly launching the trust fund at a Ministerial Conference on "Nature Protection in the Caucasus: Promoting Transboundary Cooperation for CBD Implementation" that was scheduled for March 9-11, 2006 in Berlin, at which the Environment Ministers of Germany and all of the Caucasus countries would be present, as well as representatives of many other European bilateral donor agencies, NGOs, and the press. This would not only make it clear to everyone that the Caucasus countries were all prepared to work together on the protected areas trust fund, but would also serve as a very publicly visible opportunity for KfW, CI-GCF, and WWF-Germany to each announce their commitment to contribute to capitalizing the trust fund's endowment, and thereby set an example for other international donors to do the same.

One of the biggest challenges encountered in capitalizing the trust fund was lobbying the German Government to change their regulations in order to be able to make a hard currency contribution to the trust fund. In the past, KfW had supported a number of conservation trust funds in countries such as Peru, Ecuador and Madagascar, but these contributions had always been tied to bilateral debt swaps: in other words, Germany would agree to cancel a large amount of bilateral debt owed by a developing country, if the developing country's government would agree to transfer the local currency equivalent of a portion of the cancelled hard currency bilateral debt into a conservation trust fund, usually in the form of a "sinking fund" rather than an endowment. WWF had been trying for many years to convince BMZ and the German Finance Ministry to follow the example of other international donors such as GEF, USA, Netherlands, Switzerland, Norway and Finland by contributing directly to the hard currency endowment of a protected areas trust fund. Fortunately, this lobbying effort by WWF-Germany and others which lasted more than 5 years finally succeeded just in time to allow BMZ/KfW to make a commitment to contribute Euro 5 million to the CPAF Endowment.

KfW's commitment of Euro 5 million to the endowment then allowed GCF to make a commitment of US $3 million to the endowment, because GCF's internal rules and policies require co-financing in a ratio of at least 2:1 from other donors in the case of all GCF contributions to trust funds. GCF also needed to obtain the assent of its primary funding source---the Gordon and Betty Moore Foundation---in order to contribute to the CPAF. This took over six months, because the Moore Foundation had to decide whether the Caucasus Ecoregion was a high conservation priority for it (even though the Caucasus Ecoregion had already been declared as a Global Biodiversity Hotspot by CI, and had received a grant of more than $5 million from the CI-administered Critical Ecosystem Partnership Fund ("CEPF"), which is jointly funded by CI, GEF, World Bank, the Government of Japan, and the MacArthur Foundation.

WWF then approved a Euro 500,000 grant to the CPAF endowment. In this way, the CPAF was established with an initial capital of approximately Euro 7.5 million, or almost US $11 million at current (February 2008) exchange rates.

4.5 Grant Eligibility Criteria

The CPAF's purpose is primarily to make grants to support the essential management costs of Priority Protected Areas ("PPA") in the three countries of the South Caucasus. PPAs are defined as protected areas that

- are part of a wider Priority Conservation Area as defined in the Caucasus Ecoregional Plan/Profile);
- are legally protected in perpetuity; have their own separate administrative structures and separate management plans; and

- have been determined by CPAF board to be PPAs, based on the biological priorities established in the Caucasus Ecoregional Conservation Plan.

One issue on which there was a lot of discussion during the design of the CPAF was whether or not the CPAF should also be able to make grants to support PPAs in the Turkish, Russian and Iranian portions of the Caucasus Ecoregion. Section 15 of the Bylaws lays down five very restrictive conditions that all have to be met for the CPAF to make any grants to PPAs in Turkey, Russia or Iran:

- the CPAF's capital must have reached its target of 44 million;
- a new feasibility study must be prepared which analyzes the current funding needs of the PPAs of the three South Caucasus countries as well as the funding needs of the PPAs in the neighboring country (or countries) for which support is proposed;
- Supporting the PPAs in the Caucasus regions of a neighboring country must not reduce the amount of funding that the CPAF would otherwise have available to support the essential management costs of PPAs in the 3 South Caucasus countries (i.e., 50% of the eligible management costs of all of the PPAs in the three South Caucasus must first be fully funded by the CPAF, before the CPAF can consider funding any of the PPAs in the other three Caucasus countries);
- Providing grants to support PPAs in the Caucasus region of one of the neighboring countries (such as Iran) must not violate the laws or regulations of any of the countries (i.e., the US) in which the organizations that have contributed to the Foundation's initial capital (i.e., CI-GCF) is legally registered; and
- A qualified (i.e., 75%) majority of the CPAF board must approve any grant to support a PPA in the Caucasus regions of Turkey, Russia or Iran.

Within the three South Caucasus countries, the CPAF cannot implement any conservation activities, but can only make grants to support up to 50% of the eligible costs of PPAs. Only the following types of costs are eligible:

1. "Essential PA Management Costs",
2. "PA Management Plan Development Costs", and
3. "PA Establishment Costs".

"Essential PA Management Costs" are defined in section 16 of the CPAF's Bylaws as "the recurrent costs of activities within PPAs to ensure that natural habitats remain intact and wildlife populations remain stable, and to ensure that the purposes of a particular PA category are fulfilled.

Essential PA management costs generally include:

a. Staff salaries and training costs
b. Fuel and vehicle costs for patrolling and monitoring on a regular basis
c. Costs of maintaining existing infrastructure and equipment
d. Purchase and replacement of necessary equipment and supplies

e. Office running costs
f. Research relating to PA management activities
g. Costs for public information dissemination and awareness raising.

In order to provide government protected area managers with the security that they need in order to plan ahead, grants for “Essential PA Management Costs” may be awarded for the period covered by a PA management plan, up to a maximum of three years.

“PA Management Plan Development Costs” are defined as the costs of developing (over a period of up to one year) a new management plan that satisfies all of the criteria established by the CPAF board for a new PPA or for an existing PPA, in order to enable a PPA to become eligible to receive grants.

“PA Establishment Costs” are defined as the costs of establishing essential PA infrastructure over a period of up to two years after the start of implementation of a PA management plan that has been approved by the board. However, the CPAF board can only make grants to fund “PA Establishment Costs” if all eligible proposals to fund “Essential PA Management Costs” or “PA Management Plan Development Costs” have first been fully funded.

Section 17 of the Bylaws specifies the following further general criteria for grant eligibility:

1. The grant proposal must be submitted by the Ministry responsible for environment and nature conservation in the country where the PPA is located.

This requirement gives each country’s Ministry the right to decide which eligible PPAs it wants to prioritize for grants from the CPAF. Individual PA managers cannot apply directly to the CPAF for grants, but must go through their Ministry in order to apply. This provision was adopted for reasons of administrative efficiency (so that the CPAF would not be overwhelmed by receiving grant proposals from every PA in a country each year, but only proposals that have first been screened by the Ministries); and for political reasons (in order to give the Ministry in each country a greater feeling of ‘ownership’ and a sense of direct connection to the CPAF).

2. The PPA must have completed (or must be requesting a grant to complete) a management plan which satisfies all of the criteria established by the CPAF’s board; and

3. The government of the country where the PPA is located (and/or other funding sources) must agree to provide at least a 1:1 matching contribution (i.e., at least 50% co-financing) for any grant. However, in cases of unforeseeable events beyond the control of a government (such as a major earthquake or other emergency which severely depletes the government’s financial resources) - a “qualified” (75%) majority of the CPAF board can decide to reduce the required level of co-financing to less than 50%.

Once the CPAF's capital has grown to at least 4 million Euro, and if the CPAF has funded all of the eligible grant proposals that were submitted for that year, then it can use of its remaining budget for that year to make grants for non-essential PA management costs or infrastructure of eligible PPAs.

On the other hand, if the CPAF does not have enough financial resources to support all of the PPAs for which qualifying proposals are submitted in a particular year, then the CPAF's board must prioritize which PPAs to support by ranking them according to five criteria listed in section 18 of the Bylaws: irreplaceability, representativity, urgency, feasibility, and regional importance.

4.6 Legal Charter and Bylaws

In order to limit the amount of legal fees that would otherwise have had to be paid to a German law firm for drafting the CPAF's legal charter (Satzung) and Bylaws (Geschäftsordnungen) 'from scratch', the three original sponsors of the CPAF (KfW, CI-GCF and WWF) decided to prepare a "term sheet" summarizing their detailed views and decisions on all of the issues that are normally covered in a foundation's basic legal documents. The term sheet served as a framework for the three organizations to systematically elaborate, discuss and reach agreement on all of the legal, institutional and financial aspects of the fund, so that they could then give very detailed instructions to the German lawyers who would adapt the termsheet into a set of formal legal documents that meet all of the specific requirements of German law.

The whole process of drafting the legal documents for the CPAF was also made much easier by the fact that two of the three sponsoring organizations--- CI-GCF and WWF-Germany---employed lawyers on their teams that were responsible for designing the CPAF. The main outside consultant used by WWF-Germany for helping to design the trust fund was an American lawyer and independent consultant who had previously worked as the Director of Conservation Finance for WWF-US. The team of people on CI's staff who were responsible for negotiating and designing the CPAF also always included at least one American lawyer and one conservation expert, although the individual lawyers on CI-GCF's team changed three times over the course of the four years that it took to design and establish the CPAF.

The fact that legal experts were involved in the trust fund design process from the very beginning meant that much less work needed to be done by outside lawyers, because those internal legal experts identified and addressed the key legal issues from the very beginning. If the trust fund's structure had been designed entirely by nature conservation experts and only presented to lawyers at the end of the design process, many unanticipated changes in the fundamental design of the fund might have been required, and this would have involved a lot more work by outside lawyers charging high fees.

The main issues that came up and that were discussed and debated during the course of preparing (and repeatedly revising) the term sheet were:

- the conditions and circumstances under which the Board could authorize grants to the three larger countries of the Caucasus ecoregion;
- whether a PA must first have a management plan in order to qualify as a PPA (since in that case, initially only Borjomi NP might qualify as a PPA);
- whether the CPAF could provide high-level technical support to PAs that are preparing grant proposals, in addition to providing financial support;
- whether, since the CPAF can only make grants to cover "essential management costs", such costs should be defined very specifically in detail in the legal documents, or whether future CPAF Boards should be given flexibility to modify the definition or criteria used for "essential management costs"; and whether changing the definition should require the vote of only a simple majority of the Board, or should require the vote of a "qualified" (i.e., 75%) majority;
- whether there should be a minimum amount that new donors have to contribute to the CPAF in order to be eligible to be given a seat on the Board, and if so, how much should that amount be;
- whether the CPAF should finance the costs of establishing new protected areas as well as the management costs of already established protected areas; and if so, whether financing the establishment of new protected area s should be an equal priority or a lower priority relative to financing the costs of existing protected areas; in addition, for how long a period should establishment costs be paid---should the maximum be 2 years or 5 years;
- Whether there should be flexibility about matching requirements, e.g. should it be possible for the CPAF to finance 60% of the eligible management costs of a PPA that has a qualified management plan, if the government and/or other donors can only finance 40% of such costs, or whether the 50% requirement for co-financing should be an absolute requirement;
- Whether a simple majority vote or a "qualified" (i.e., 75%) majority should be required for decisions to dismiss a board member, to change auditors or investment managers;
- Whether the charter and bylaws should require the establishment of specific committees of the board, such as an executive committee, or a finance and investments committee;
- Whether or not the Statutes and/or Bylaws should specify that the Executive Director's main responsibility in the first 3 years is fundraising, or whether this should not be so explicitly stated, or only stated in other documents such as the Executive Director's TOR or employment contract;
- Whether the Statutes should require that the CPAF must have a physical office (rather than just a legal domicile or post office box address) in Frankfurt;
- Whether the Statutes or Bylaws should specifically authorize the CPAF to open offices in one or more of the Caucasus countries, or whether stating this in the charter or bylaws would encourage the governments of each of the

three Caucasus countries to demand that the CPAF open an office in their country;
- Whether the Statutes or Bylaws should specify a maximum limit (such as 10% or 15%) for administrative costs, or leave this more flexible;
- How specific should the Statutes or Bylaws be about what kinds of investments the CPAF is permitted to make: whether the charter and bylaws should say nothing about this, or be very specific, or just include a few general principles;
- Whether spending part of the capital should ever be permitted, and if so, under what circumstances and conditions, and whether this should this require a unanimous vote or a qualified (75%) majority;
- Whether contributions should be returned to donors if the CPAF is dissolved, or whether its remaining assets should instead be transferred to another non-profit charitable foundation that has similar purposes;
- Whether the charter and bylaws should say anything specific about the procedures for disbursing grants, monitoring grants, and the consequences that should follow in cases where grants are misused, or whether this should instead be addressed in the framework agreements signed between the CPAF and each of the three countries' governments;
- How specific should the charter and bylaws be in defining and regulating potential "conflict of interests" by board members and staff of the foundation?
- Whether or not there is a need to have provisions in the charter or bylaws requiring board members to keep information confidential;
- Whether the charter and bylaws should permit board meetings to occur by telephone conference call or other electronic means, and whether German law permits this, and would legally recognize votes and decisions that are taken at such 'non-physical' meetings;
- What should be the number or percentage of directors required for a quorum (i.e., to enable a board meeting to take place), and whether the chairman or vice-chairman must be present.

In the course of drafting and discussing the term sheet, the three sponsoring organizations also identified certain specific legal questions that could only be answered by a German lawyer:
- Whether it is possible for a German foundation to have sub-accounts which are sinking funds, i.e. whose capital will be completely used up after a certain period of time;
- Whether it is legally possible for a German foundation to maintain separate sub-accounts for restricted purposes that are pooled together for investment purposes; and
- Whether there are any legal restrictions (or any restrictions imposed in practice by German government supervisory authorities) on what kind of investments are permitted for German charitable foundations, including the question of whether there is any maximum limit on the percentage of a foundation's assets that can be invested in stocks.

CI's lawyers were also concerned about certain issues relating to US tax law. Even though the foundation was not being legally established in the US, CI could lose its tax-exempt status in the US if it makes grants to a US or foreign organization that engages in certain activities that non-profit tax-exempt charitable organizations---and their beneficiaries---are not allowed to do under US tax laws. German foundation law requires that certain types of provisions must go into the charter, while others are reserved for the bylaws The German lawyer therefore composed a charter for the CPAF that contained provisions covering matters from name and purpose, to the board and its responsibilities, financial and reporting matters, and oversight and dissolution.
The bylaws basically include all of the same matters as the charter, but elaborated in much greater detail; and in addition, the bylaws contain the following four sections at the end (under the general heading of "Further Principles") which have no corresponding sections in the charter:

- Protected Areas Eligible for Grants
- Protected Area Management Activities supported by the Foundation
- Grant Eligibility Criteria
- Funding Prioritization Criteria

These final four sections of the Bylaws did not involve any legal issues, but they were the subject of a lot of lengthy discussions and differences of opinions between KfW, CI-GCF and WWF. The WWF Caucasus Program was also asked for its views on these issues, since these issues are (from a practical viewpoint) the core issues that determine exactly how the CPAF will operate and make grants to support protected areas in the Caucasus countries.

Unlike the charter, whose binding version is required by German law to be written in German, the bylaws in this case are only written in English. This was done because very few people in the Caucasus region understand German (but many people understand English), and no one at CI-GCF understands German. Since the bylaws deal with many of the most critical issues for determining how the CPAF will operate and make grants to support protected areas in the Caucasus countries on a day-to-day basis, it is extremely important that the bylaws be very clearly understood by all the key stakeholders. German law does not require the bylaws to be in German because the bylaws are legally only considered to be internal rules and regulations of the foundation, which can be changed by the board of directors, whereas the charter defines the basic general purpose and the governance structure of the foundation, which can only be changed with the permission of the German government authorities responsible for overseeing charitable foundations. Such permission is difficult to obtain.

4.7 Draft Investment Guidelines

KfW, WWF and CI decided to postpone having a detailed discussion and decisions about the investment guidelines and policies for the CPAF until after many of the other issues covered by the term sheet were fully elaborated and resolved. This is because investment issues are quite technical and require seeking advice from persons with specialized expertise that none of the persons most directly involved in designing the CPAF possess, and because issues relating to investment guidelines do not affect other more important aspects of the basic legal and institutional structure of the CPAF, or the CPAF's conservation grant-making strategies and procedures. On the other hand, this topic could not simply be ignored and postponed indefinitely, because GCF's internal regulations and policies prevent it from being able to disburse any grant for a trust fund (including its grant to the CPAF) until investment guidelines have been agreed on, and an investment manager has been hired, among other conditions.

The main issues that have been discussed (but still not resolved) relating to investment guidelines include:

- What percentage of the CPAF's endowment should be held in Euro versus held in US dollars?
- Could or should the CPAF try to achieve greater cost-effectiveness (i.e., pay lower fees to investment managers) by pooling its investments with other conservation trust funds or non-profit organizations?
- Should the CPAF simply adopt the model investment guidelines that have been developed for CI-GCF by John Adams of UBS, which GCF has approved for use in cases of other GCF-supported conservation trust funds? Are these also acceptable to KfW and consistent with its internal policies and guidelines?
- What target rate of return on investments should the guidelines call for? 5%? a higher percent? This is closely linked to the next question.
- What should be the maximum percent of CPAF's endowment that can be invested in stocks as opposed to fixed-income instruments such as bonds and bank deposits? Stocks may offer higher average rates of return over the longer term, but can be more volatile and unpredictable in the short-term, even leading to net losses on investments in some years.
- Should the investment guidelines permit a limited amount of investments in hedge funds, and strategies such as "selling short" in a declining market, in order to try to insure or insulate against losses?
- What sort of investment manager/consultants should be retained by the CPAF and where it or they should be based

Finally the board of CPAF decided to postpone the further development of the investment policy until the Executive Director is hired. To have him involved in the further elaboration of the investment policy was seen as crucial.

4.8 Board Composition and Board Responsibilities

One of the conditions of donors such as the GEF and USAID for contributing to conservation the trust funds is that a majority of the members of a trust fund's board of directors must come from outside of government. This is seen as a means of ensuring that decisions are taken in accordance with the purpose and strategy of the trust fund, rather than being based on political interests. Boards that are not controlled by governments are perceived as being more transparent, and therefore are more attractive for many donors. Boards in which a majority of the members are drawn from civil society are normally much more willing to make a trust fund's finances and decision-making procedures public. In addition, it seems to be easier to raise donations from foundations and private entities when the board is composed of a non-governmental majority. The selection of board members from the non-governmental sector should be based on their personal competencies, their dedication to the trust fund's mission, and their specific expertise in one or more areas (such as finance, nature conservation, regional knowledge, donor contacts, etc.) where they might contribute to the development of the trust fund. This is particularly important during the starting phase of a trust fund.

Normally, donor representation on the board of a conservation trust fund should be limited, and most representatives should come from the country or countries where the trust fund gives grants to support conservation activities. The reason for this is to achieve broad buy-in and a sense of national (rather than foreign). There can also be an advantage in having one or two high-level representatives from government ministries on the board, in order to give the trust fund a high political profile, and ensure that its activities are coordinated with government policies and priorities.

However, through discussions with government officials and NGO representatives from the Caucasus countries during the course of designing the structure of the CPAF, it became obvious that under current political circumstances it would be difficult to have a board composed mostly of representatives from governments or NGOs of the Caucasus countries, because of the amount of mistrust that still exists between the countries, particularly at the governmental level. Most people said that they would have more trust in a board composed of foreigners than in a board where a majority of the members came from the two neighboring countries. The governmental representatives from Armenia and Azerbaijan expressed strong support for the CPAF, provided that the international foundation would be established and headquartered outside the region rather than in any one of the Caucasus countries. Azerbaijan required that the board of the foundation should be composed entirely from people from outside the region in order to be able to support the trust fund structure. Despite

the strong interest of potential donors to the trust fund like BMZ/KfW, CI and WWF in having strong participation on the board by representatives from the region, most people in the region were in favor of establishing an international foundation with a board composed mostly or entirely of international representatives, with an option of also creating three separate national sub-accounts. In addition, the German Ministry for Development and Cooperation (BMZ), as the biggest initial donor to the CPAF, felt that it needed to be a member of the CPAF's board in order to ensure the proper use of the German tax money that was contributed to the endowment.

This decision is strongly reflected in the section of the CPAF's Charter stating that the board is to be composed of founding and co-opted members. The founding members are the 3 organizations--- KfW, CI and WWF--- that made commitments to contribute the initial capital of the CPAF during the Caucasus Ministerial conference in March 2006. Additional co-opted members can only be appointed by a qualified majority (i.e., at least three-quarters of the members) of the Board, and provided that they either donate at least € 500.000 to the CPAF or that they can provide some special expertise needed by the board (as defined by objective criteria set forth in §7 of the CPAF Statutes). Although the CPAF board was initially composed of representatives from different levels of hierarchy within BMZ, CI and WWF, all three board members have a strong interest in, and an in-depth experience of working on, nature conservation in the Caucasus Ecoregion. A fourth (i.e., co-opted) board member was appointed from KfW in order to provide expertise on financial matters. By involving this additional member, a direct access was established to use the broad financial expertise of the KfW Bank.

4.9 Recruitment of the Executive Director

The Charter of the CPAF authorizes the board of directors to appoint a managing (i.e., executive) director to conduct the day-to-day business of the foundation. The work of the managing director has to be overseen by the board.

The Executive Director's responsibilities include:

- Fundraising and building up the Foundation's capital endowment: preparing a fundraising strategy, identifying and meeting with potential donors, negotiating the terms of grant agreements with donors, and traveling within and outside the Caucasus countries in connection with fundraising efforts.
- Overall management of the Foundation, subject to the supervision of its Board of Directors, which currently consists of representatives of BMZ, CI and WWF.
- Representing and promoting the Foundation's interests in dealings with the Governments of Georgia, Armenia and Azerbaijan; local and international conservation NGOs; local and international businesses; multilateral and bilateral international donor agencies; and local and international media.

- Developing and implementing long-term strategic plans, annual operating plans, internal operations manuals and policies, and annual budgets for consideration and approval by the Foundation's Board.

Applicants for the position of Executive Director were required to have the following qualifications:

- Strong experience in fundraising for an non-profit organization
- Familiarity with nature conservation issues and protected areas management activities
- Demonstrated organizational and leadership experience in non-profit agencies
- Excellent interpersonal and communications experience and intercultural sensitivity
- Working experience in the Caucasus or in of the Executive Director states of the former USSR was also highly desired.

The initial donors to the CPAF (who later became its founding board members) initiated a recruitment process for the position of the executive director right after the registration of the foundation. The selection of the executive director was based on an international tendering process. The advertisement were placed in Germany and internationally using online job platforms (like Greenjobs, Economist online) and job vacancy sides of several international organizations active in the field of nature conservation (such as IUCN, various WWF offices, CI; Caucasus Environmental NGO networks, and GTZ). In addition, personal contacts within WWF and CI were used to place the advertisement as broadly as possible.

The job offers were placed at the end of July and beginning of August 2007. To handle the applications, an international consultant (Barry Spergel) was again hired, in order to make a first selection of priority candidates based on his broad experience in establishing conservation trust funds and in capacity building for trust fund boards and staff.

The fund received 37 applications which came from candidates in the U.S., Western Europe, the Caucasus region, and several other countries like Pakistan and India. Among the applicants, the following different groups could be distinguished based on their profile:

- Applicants from the Caucasus region with good regional knowledge and good experience in nature conservation, but with little fundraising experience
- Applicants from outside the Caucasus region with a strong working experience in the conservation sector, but who either had no experience in fundraising or only experience in raising funds from governmental organizations, and had no experience in raising funds from the private sector or large individual donors. Some of the applicants had previous working experience in the Caucasus region, or at least in the former USSR.

- Applicants coming from the private sector, with good connections to the private sector, and a perceived strong ability to raise funds for the endowment. Some of the applicants had previous working experience in the Caucasus region, or at least in the former USSR.
- Other applicants who did not fit into the above three categories.

Reviewing these profiles, the board had to decide whether to focus more on the nature conservation experience or the fundraising experience of the applicants. Since the income of the trust fund from the initial donations is expected to be rather limited, fundraising activities would have to play a very important role during the initial phase of the trust fund establishment (3-5 years). Once the CPAF starts disbursing more matching funds for protected area management, experience in nature conservation will become more important. Since the success of the CPAF strongly depends on its ability to raise additional endowment capital, giving this priority to fundraising experience over nature conservation experience can be easily justified. In addition, the CPAF board members are very interested in using the CPAF as an example to demonstrate the important role of trust funds for sustainable funding of protected areas.

For the short list, four applicants were selected.
The candidate finally selected had been working as a senior partner for a US law firm and was responsible for the establishment and management of its offices in Europe. Being at the end of his legal career, he showed a strong desire to use his legal experience, and also had extensive high level business contacts that could be very useful for the purpose of fundraising for a charitable organization like the CPAF.
The board chose this latter candidate for four reasons:

- Based on the initial discussions with potential donors, the private sector seemed to be the most promising one from which to obtain additional capital for the CPAF.
- A legal background is crucial for the negotiation of framework agreements with the governments of the three Caucasus countries.
- The seniority of the chosen candidate is a strong asset in the Caucasus countries
- The overall drive, personality and working experience of the chosen candidate.

After setting up the basic administrative structure for CPAF (as described below in section 4.9), the Executive Director was contracted and has been performing his new job since January 21, 2008. The board decided that the Executive Director should hire a consultant who can provide background information on nature conservation issues in the Caucasus, and who will maintain close contact with technical experts from WWF and CI.

4.10 Establishment of the CPAF's Administrative Structure

The challenges and the staff resources required for setting up the CPAF's administrative structure were completely underestimated. The responsibility for coordinating this process lay with Michael Evers from WWF Germany, who was responsible both for the implementation of the KfW-financed project for establishment of the CPAF, and for serving as Chair of the foundation since August 2007. Nevertheless the procedures for getting the CPAF operational required strong input from all the board members and increased the working burden of all involved persons considerably.

A guiding principle for designing the administrative structure was to keep administrative expenses to a minimum, while ensuring that the CPAF would still be fully functional, and maintaining sufficient staff and financial resources for increasing the CPAF's endowment capital, while also initiating grant-making to qualified protected areas in the Caucasus.

The following matters were the most relevant for setting up the CPAF's administrative structure:

- Contracting the selected candidate for the Executive Director position. This included developing a work contract, ensuring insurance coverage for the position, handling payroll, providing an administrative budget including salary and travel costs, etc., as well as providing office space and equipment;
- Organizing a structure to ensure proper bookkeeping and accounting, as well as providing banking support and expertise on tax issues. This structure is also responsible for supporting the Executive Director in reporting to the German foundation supervisory and fiscal authorities;
- Setting up bank accounts to handle and invest the donor contributions to the endowment, and having a sufficient budget available for administrative purposes;
- Defining the strategic priorities and related budget for the work of the foundation during the coming two years.

4.10.1 Administrative Issues relating to hiring the Executive Director

Since some of the legal issues relating to the process of recruiting the Executive Director were rather specific to the individual who was hired in this case, only some of the other main outcomes of the process will be presented:

- Under German law, the Executive Director is an employee of the foundation. His contract is initially a temporary contract for two years, which can later be extended as a permanent contract.

- The Executive Director is covered by Directors and Officers (D&O) liability insurance that is equivalent to the D & O insurance secured for the board members, and is also covered by casualty and travel insurance.

Section 8 (5) of the Bylaws of the CPAF states that the administrative costs of the foundation starting in its fourth year may not exceed 15% of the CPAF's annual budget. In order for the CPAF to soon be able to finance pilot protected areas in the Caucasus, the initial donors raised funds for separately covering the CPAF's current administrative costs, in addition to the grants that they have already made to the CPAF's endowment capital. About € 335,000 is being provided by CEPF to cover the CPAF's current administrative costs, and this is being matched by € 135,000 from WWF. These funds for covering administrative costs can be used for covering salaries for the next two-three years. Funds for administrative purposes are kept separate from the CPAF's endowment capital, which is in a different bank account.

The CPAF is also in a very comfortable situation regarding office space, since at the outset the CPAF will have limited needs, with only one employee, the executive director, who is working from his home as an initial matter..

4.10.2 Bookkeeping and Accounting

Due to the small number of financial transactions that are expected during the initial phase of the CPAF's operations, a part-time consultant was hired to provide bookkeeping and accounting services as well as executing payments. A tender was made to which four enterprises responded. A contract was signed with a smaller firm to perform the following tasks:

- Plan and develop a bookkeeping and accounting system for the CPAF, in consultation with Executive Director;
- Track and book monthly non-grant expenditures (administrative, salary, consulting, travel, etc.);
- Assist Executive Director with booking of gifts, commitments, income and tracking of grant expenditures as required
- Assist with the preparation of the CPAF's annual accounts in compliance with Section 10 of the Charter;
- Assist in dealing with the German government authorities responsible for supervising charitable foundations, including the filing of required annual reports;
- Payroll accounting for any German-based employees of CPAF (if needed in future).
- Making bank transfers to pay vendors/suppliers, and to pay consultants.

4.10.3 Bank Accounts and Short-term Investment of Capital

As the CPAF's investment policy is not yet finalized, the board decided to invest the current endowment capital at a fixed interest rate for a limited time period (6 months). Based on recommendations from KfW, three banks were solicited to make a competitive offer for investing a deposit of € 5.5 million from the CPAF. The one selected does not charge bank fees and offered the highest interest rate. With this solution, the CPAF's endowment capital generates income without limited risk. While the endowment is invested this way, the CPAF board can finalize a longer-term investment policy based on a comprehensive strategy. The CPAF's endowment capital and its budget for covering administrative costs are kept in separate accounts. Any funds which are not used to support the current operations of the CPAF are invested in order to generate income.

4. Total Project Costs (for Feasibility Analysis and Trust Fund Establishment)

Local woman in the Russian Caucasus © WWF Germany, F. Mörschel

The design and establishment of the CPAF has been supported by KfW with funds of € 180,090 from the “Study and Expert Fund Caucasus IV”. Of this amount € 68,900 were spent for the first phase of the project, and the remainder of € 111,190 was spent for the second phase. The biggest share of costs was related to contracting international consultants for writing the feasibility study (first phase) and for legal support in the drafting and finalization of the Charter and bylaws and the registration of the CPAF (second phase). A total amount of € 110,000 was spent for international consultants. In addition, about € 12,000 were paid to local consultants for legal advice, and for assistance in defining the target size for the endowment capital. The remaining funds were spent on travel, meetings (including the stakeholder conferences), and overhead costs.

However, the true costs of the entire project were much higher. First of all, only a very small part of the staff costs of WWF Germany, KfW and CI were paid out of the project’s budget. In addition, the in-depth legal advice given by outside law firms during the recruitment process was entirely pro bono. As a rough estimate, the true costs of the project are probably closer to € 250,000, rather than the € 180,000 disbursed for total expenditures.

6. Assessment of project results

Impressions from Borjomi Kharagauli Nationalpark, Georgia
© WWF Caucasus PO and F. Mörschel

The following table contains a comparison of the project's planned and achieved outputs and activities. The project's overall targets were achieved when the CPAF was legally registered as a German tax-exempt foundation, and an initial capital of € 7.5 million was secured for the endowment. In the course of implementing the project, some activities were carried out which were not part of the originally planned project design, but were crucial in order to make the CPAF fully functional.

Comparison of planned and implemented objectives/activities in the establishment of CPA

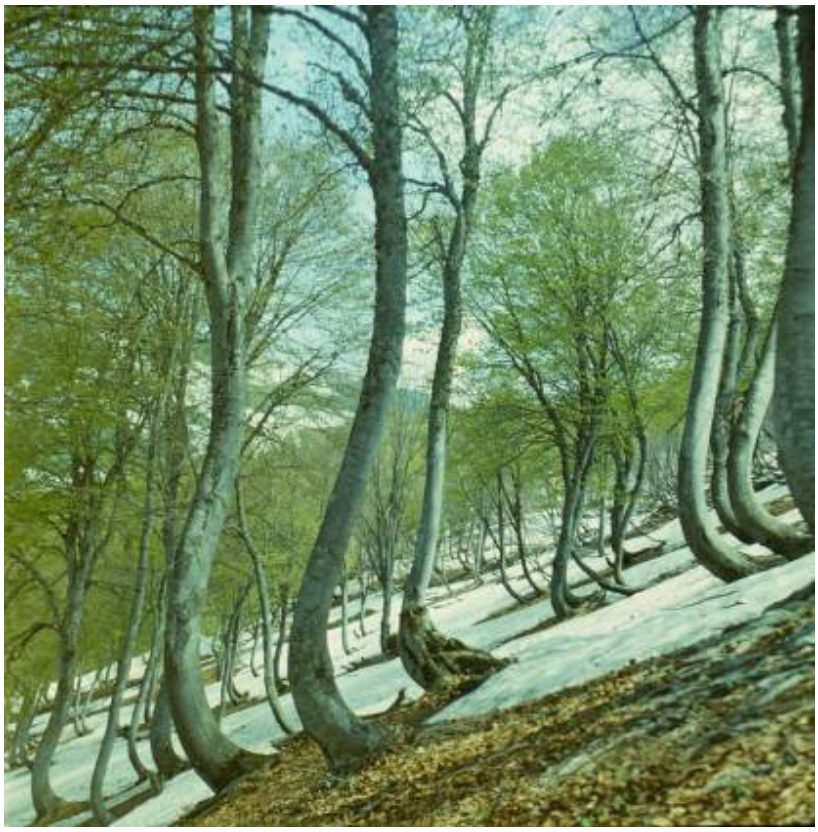
Objectives/Activities	Sub-activities	Achievements	Reason for deviation
Overall goals			
Establish a financial mechanism for sustainably funding the basic management costs of priority PAs in the Caucasus ecoregion		The financing mechanism was established; however no management costs of PAs are yet being covered by the trust fund	
Project goals			
Register CPAF as a tax exempt, charitable foundation for sustainably funding the PA systems of the 3 Caucasus countries		CPAF registered as an tax exempt, charitable foundation under the laws of the German state of Hessen	
Secure at least € 7 million as endowment capital for the fund		€ 7.52 million has been secured for the endowment fund (of which € 5.5 million is already invested) and another € 470,000 has been secured to cover administrative expenses	
Make the CPAF operational		Bylaws were approved, Executive Director hired; administrative structure set up, CPAF structure is operational	
Activities			
Assess the feasibility of a Trust fund	Determine the presence or absence of what the GEF has identified as the “critical factors” that are necessary for successfully establishing a conservation trust fund	Criteria were evaluated; GEF criteria are fulfilled; in addition, further criteria were evaluated which were not all met	

Objectives/Activities	Sub-activities	Achievements	Reason for deviation
	Analyze different legal, institutional and financial options for establishing the CPAF and design the institutional and legal structure of the trust fund	Different options were analyzed, and based on the results of the stakeholder consultations, an international foundation with a board composed of persons from outside the region was established	
	Organize a participatory process in order to determine the organization, board structure, and overall management of the CPAF;	The consultants organized three trips to the Caucasus, which included intensive stakeholder consultations with governments (environmental ministries, finance ministries and foreign ministries), NGOs and donor organizations; separate stakeholder workshops were organized in each of the 3 countries; Caucasus governments and NGOs were involved in the Ministerial conference in March 2006 in Berlin	
	Calculate the basic management costs for each PA and define their current funding and legal status	Analysis was done and annual needs for funding from CPAF were defined; as a result, the target for endowment capital was set at € 44 million	
	Identify potential donors to the CPAF and analyze their interest to support CPAF	Donor analysis done by direct visits of donor organizations in the Caucasus, negotiations with donor originations during Caucasus conference and separate analysis of donor potential by an international consultant	
	Define possibilities for co-financing PA management cost on a national level	Done in the context of analyzing the funding situation of PAs by determining current governmental and other funding contributions	

Objectives/Activities	Sub-activities	Achievements	Reason for deviation
	Analyze whether to include Russia, Turkey or Iran in the CPAF	Done. CPAF will initially only provide funding for Armenia, Azerbaijan and Georgia, since including other countries will exceed the current funding potential of CPAF	
Design and registration of the fund	Preparation of Prospectus for fundraising purposes	Prospectus was elaborated and revised in the course of the project	Prospectus was not intensively used, since all donors except for KfW, CI and WWF require the CPAF to be legally established before they will consider making any financial contributions to it.
	Secure funding commitments from donors	Done; KfW, CI and WWF have committed € 7.5 million for the endowment capital	
	Organizing stakeholder meetings	Workshops were organized in each of the 3 Caucasus countries	
	Preparation and registration of the CPAF legal charter (Satzung)	Done	
	Preparation of Bylaws	Done	
	Preparation of Operations Manual	Not done yet	It was decided to postpone the development of the Operations Manual so that it could be written in close collaboration with the Executive Director
	Develop draft Investment Guidelines	Done	Investment guidelines will be reviewed under the lead of the Executive Director in close collaboration with an investment consultant

Objectives/Activities	Sub-activities	Achievements	Reason for deviation
	Prepare the first board meeting	Done	
	Training for board members	Not done	Board members already have management experience; no requests for specific training; in addition, on the job training was provided by international lawyers during the development of the Charter and bylaws
Additional activities	Tendering and recruitment of Executive director	Done	was seen as of utmost importance, especially in order to carry out fundraising activities
	Setting up financial administration	Done	Financial administration has been crucial for operation of the CPAF
	Set up bank accounts and invest endowment capital	Done	Short term investment of endowment capital required

7. Future challenges



Subalpine Woodlands © WWF Caucasus PO

The CPAF has major challenges to face in the future, which are related to achieving the financial goals of the fund, the establishment of grant making procedures, communications, and fulfilling administrative requirements. In the long-run, it is very important to transfer more responsibilities to regional representatives in the fund structure in order to ensure strong local buy-in.

Financial requirements:

- Secure the target endowment capital of CPAF, currently set at € 50 million. Use CPAF as a positive example to show that conservation trust funds can be capitalized and therefore represent an adequate instrument for improving PA management effectiveness.
- Ensure that administrative costs of CPAF do not have to be covered by return of investment form endowment
- Approve investment guidelines that have enough flexibility for an asset manger to obtain high investment returns.

Grant making procedures:

- Negotiate framework agreements for grant making with each of the 3 governments: Agreements should regulate the basic grant making requirements, while more specific issues are regulated within specific grant agreements after the board has made a commitment to fund a particular project proposal;
- Define the CPAF's grant making procedures (application requirements, decision process; terms for funding commitments etc.)
- Establish criteria for good protected area management plans;
- Define monitoring procedures, both for the funds released by CPAF and for the matching fund contributions of the 3 governments;
- Define procedures for evaluating the management effectiveness of PAs receiving funds from the CPAF;
- Provide technical assistance for governments with funding application procedures.

Administrative issues:

- Hire an asset manager and ensure proper investment of capital;
- Develop technical expertise in protected area management within CPAF;
- Limit administrative expenses to a minimum, while at the same time ensuring proper functioning of CPAF;
- Ensure proper reporting to tax and foundation authorities.

Communication

- Provide transparent communication about the CPAF, including its grant making decisions and its finances;

- Develop adequate promotional material for fundraising and communication purposes;
- Publicly promote the CPAF by disseminating information about successfully implemented pilot projects
- Maintain close communications and dialogue with national governments, NGOs and PA managers.

Increase regional participation:

- Encourage stronger participation of representatives from the region in the CPAF structure. The governments of Azerbaijan and Armenia have avoided this because of their political conflicts, but this should change once the conflict is settled.
- Re-evaluate future possibilities for supporting protected areas in the Russian, Turkish or Iranian parts of the Caucasus Ecoregion, once the conditions set forth in the CPAF Charter have been met.

8. Lessons Learned

Greater Caucasus Mountains, © WWF Germany, F. Mörschel

Because the CPAF has only just recently been established and has not yet started to make grants, it is difficult to come up with a long list of “lessons learned”. It is still too early to judge how the structure which has been designed over a 4-year period will work in practice. However, it is hoped that the following lessons which have been learned during the process of designing and establishing the CPAF may also prove to be useful in the future for designing other conservation trust funds:

1. It may be justifiable to establish a conservation trust fund even if all of the “essential pre-conditions” or “factors for success” of a trust fund are not present, in a case where there is very high biodiversity and the high threat to that biodiversity; a high degree of interest by governments in establishing a conservation trust fund; a high degree of interest and commitment by at least some major international donors; and the potential for achieving broader political objectives (such as promoting increased cooperation between hostile countries) through the establishment of the trust fund.

2. It is important to conduct a PA financing gap analysis in order to calculate how large the capital of a trust fund needs to be, if the purpose of the trust fund is to cover a percent of the gap in financing the recurrent management costs of priority PAs in a country or region.

3. When defining the geographical area for which an ecoregional trust fund will make grants, political and financial constraints may limit the trust fund to only covering a part of the ecoregion as it is biologically defined. Conversely, if geopolitical conditions change or if the trust fund later acquires much greater financial resources, then it may be possible to redefine and expand the geographical area for which the fund makes grants.

4. It may not be politically feasible to base the amount of grant funding that each country receives from an ecoregional or transboundary conservation trust fund on purely ecological criteria, such as the relative total size of each country’s protected areas. It may also be necessary (or even desirable) to consider other factors, such as the percentage of the basic management costs of its protected areas that each country funds, in order to ‘reward’ (i.e., or give an “incentive” to) countries for demonstrating a greater commitment to supporting protected areas.

5. Political, legal and tax considerations all play a major role in deciding whether to legally establish a conservation trust fund in the country whose biodiversity the fund is intended to conserve (which would normally be the best choice), or in an “offshore” location that has clearer and more favorable laws and tax exemptions for non-profits foundations, and where the government will not try to interfere in

the foundations operations. Furthermore, in the case of a regional, multi-country conservation trust fund, it may be more politically acceptable to local stakeholders for the trust fund to be established in a 'neutral' country that is not part of the region, than for the trust fund to be established in any single one of the countries for which the trust fund is being established.

6. In the case of a conservation trust fund that has been legally established with an amount of capital that is much less than what the fund needs in order to carry out its mission, priority should be given to fundraising experience over nature conservation experience when choosing the fund's first executive director. It can also be an advantage for the executive director to have a legal background and experience, because this is very helpful for drafting investment guidelines for the fund; designing administrative and accounting systems for the fund; and negotiating framework agreements between the fund and national government agencies for disbursement and monitoring of grants made by the fund to support protected areas. Later on, when the fund is substantially capitalized and fully operational, priority can be given to nature conservation experience over fundraising and legal experience when choosing the fund's subsequent executive directors.

7. The challenges and the staff resources required for setting up the administrative structure of a conservation trust fund can easily be underestimated. The process of making a conservation trust fund operational can require a substantial amount of time and effort from all the board members, and considerably increase the working burden of all persons who are involved, at least until an executive director is hired.

8. In order to limit the amount of legal fees that might otherwise have to be paid to lawyers for drafting a conservation trust fund's Articles of Incorporation and By-laws, it can be useful to prepare a "term sheet" summarizing the detailed views of donors, the government and other major stakeholders, on all of the legal, institutional and financial issues that need to be decided. A term sheet can serve as an evolving framework for systematically elaborating, discussing and reaching agreement on all of these issues, so that the work of outside lawyers is minimized, by giving them very detailed instructions about what should go into the formal legal documents which they are being asked to draft. This process may also be facilitated if some of the people who are involved in designing the trust fund have a legal background themselves, because then they can identify and address many of the key legal issues from the very beginning.