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EXECUTIVE COMMITTEE OF
THE MULTILATERAL FUND FOR THE
IMPLEMENTATION OF THE MONTREAL PROTOCOL
Twenty-eighth Meeting
Montreal, 14-16 July 1999

CONSEQUENCES OF PROJECT CANCELLATIONS

1. At its 27th Meeting, the Executive Committee decided to request the Sub-Committee on Monitoring, Evaluation and Finance to discuss how to deal with all the consequences of project cancellation at its next meeting (Decision 27/9).

2. This paper addresses the consequences of project cancellation in terms of contractual obligations and the possibility of resubmission after project cancellation.

Background

3. A total of 63 of the 2,558 projects approved by the Executive Committee through December 1998 were canceled. These projects represented an approved value of US \$11,808,879 that was to have led to the phase out of 794 ODP tonnes. US \$10,403,079 of these funds was returned to the Multilateral Fund for reprogramming.

4. About half of the projects canceled were investment projects and half were project preparation projects. Very few (2) technical assistance, 1 training, and 2 country programme preparation projects have been canceled.

Contractual obligations

5. In the Report of its 26th Meeting, the Executive Committee suggested that the Sub-Committee on Monitoring, Evaluation, and Finance should consider where additional guidance or decisions were needed to deal with the consequences of canceling projects. For example, the disposition of purchased equipment and the implications of terminating contracts and agreements entered into by the implementing agencies (UNEP/OzL.Pro/ExCom/26/70, para. 32).

6. In order to be able to address the legal and financial consequences for project cancellation including the disposition and ODS phase out it should be recalled that the Committee has taken decisions to address some of these issues. For example:

(a) If a project was canceled due to a change of ownership, the relevant paragraphs of Decision 19/23 apply.

(b) If a project is cancelled due to bankruptcy of an enterprise, the relevant paragraphs of Decision 25/3 apply.

7. All project cancellations to-date have been through mutual agreements between the Implementing Agencies and the Government and/or beneficiaries. .

8. In the absence of any written opinion or legal advice from the Implementing Agencies concerning the consequences of project cancellation, the Secretariat would like to present the following observations for consideration concerning reapplication for funding after project cancellation.

Reapplication for funding after project cancellation

9. At its 26th Meeting, the Executive Committee noted the need to discuss the issue of whether an enterprise or group of enterprises whose projects had been cancelled could reapply, in the future, for funding for another a project (UNEP/OzL.Pro/ExCom/26/70, para. 16). This section of the paper addresses generic reasons for implementation delays that might lead to project cancellation and concludes with recommendations on those situations under which reapplication may or may not be considered.

Project preparation

10. About half of all project cancellations relate to project preparation. These cancellations generally occur when it was determined that there was not an eligible project or that the consumption information was incorrect. Such cancellations are part of the process of project formulation. The fact that the project preparation was cancelled for the above reasons suggests that no further project preparation for the stated purpose would be submitted.

Country programme preparation, technical assistance, and training projects

11. Country programme preparation, technical assistance, and training projects might be resubmitted for approval because the Executive Committee has allowed such projects to be resubmitted and considered on their own merit. As there have been few cancellations for these types of projects, there may not be a need for a decision on these projects at this time.

Investment projects

12. The main reasons indicated by implementing agencies for project cancellations for investment projects, along with comments, descriptions and recommendations for the consideration of the Executive Committee are reflected in Table 1.

Table 1**CATEGORIES OF INVESTMENT PROJECT CANCELLATIONS**

| Reason for cancellation | Descriptions or Comments | Recommendations |
|--|---|------------------------|
| Change of ownership/eligibility | Projects are canceled because the new owner (a transnational) was not eligible. | No reapplication. |
| Bankruptcy | Such companies no longer exist. | No reapplication. |
| Insufficient funding | In these cases, the beneficiary wants more money than approved. | No reapplication. |
| Lack of response from beneficiary | No demonstrable readiness for the beneficiary to move with project. | No reapplication. |
| Request of the company/financial situation | A company may request cancellation because after project approval, it informed the Implementing Agency concerned that it is experiencing financial difficulties which prevent it from implementing the project as approved. | Case-by-case. |
| Persistent project delays | The Committee currently considers cancellation due to delays on a case-by-case basis. | Case-by-case. |

RECOMMENDATIONS

The Executive Committee might wish to consider:

1. Determining that projects that are canceled due to the following reasons should not be allowed to reapply for assistance from the Multilateral Fund:

- Change of ownership/eligibility
- Bankruptcy
- Insufficient funding
- Lack of response from beneficiary

2. Allowing projects that are canceled due to one of the following reasons to reapply for assistance from the Multilateral Fund at a level of funding no greater than previously approved and the decision should be taken on a case-by-case basis.

- Request of the company/financial situation
- Persistent project delays