



**United Nations
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EXECUTIVE COMMITTEE OF
THE MULTILATERAL FUND FOR THE
IMPLEMENTATION OF THE MONTREAL PROTOCOL
Thirty-third Meeting
Montreal, 28-30 March 2001

**GENERAL PRINCIPLES FOR AGREEMENTS BETWEEN
GOVERNMENTS AND IMPLEMENTING AGENCIES ON
NEW AND RENEWED INSTITUTIONAL STRENGTHENING PROJECTS
(FOLLOW-UP TO DECISION 32/15)**

Introduction

1. At the 32nd Meeting and pursuant to Decision 30/7(c), the four implementing agencies submitted proposals for amending their agreements with Article 5 governments for the implementation of the institutional strengthening projects. The Executive Committee requested each of the agencies to further revise/modify the proposed amendments in accordance with the directives of Decision 32/15. It further requested the Sub-Committee on Monitoring, Evaluation and Finance to review the matter at its next meeting in the light of comments received from the implementing agencies on the legal aspects of the proposed changes.

2. The Secretariat received responses from all 4 agencies and presented them in this document, attaching the responses as appropriate.

UNDP

3. In its proposal submitted to the 32nd Meeting to amend its existing agreements with Article 5 governments, UNDP would include the entire Decision 30/7 (b) in a separate section of each agreement entitled “Special considerations”. However the Executive Committee requested UNDP “to insert a chapeau worded as follows: ‘The [Government/Ministry] and UNDP commit to cooperate to ensure that:’”, when incorporating para. (b) of the decision in the separate section.

4. In its response, UNDP informs that it is not in a position to comply with the request and argues that the responsibility of implementing the provisions of the decision lies with the Ozone Unit and that UNDP can not “ensure” that any government do so. As a result UNDP remains with the proposal it submitted to the 32nd Meeting. In addition, UNDP will also introduce under “Legal Context” in the cover page of their agreements a standard sentence: “The Government of should strive to implement Executive Committee Decision 30/7 (b) under the title ‘Special Considerations’ in the Plan of Action attached.” Relevant pages of agreements on institutional strengthening projects from 7 countries are provided by UNDP as samples.

5. Both UNDP’s response and the relevant pages of the UNDP/Ghana Agreement, one of the 7 samples from UNDP, are attached in Annex I.

UNEP/UNIDO

6. UNEP and UNIDO use the same format for their agreements for institutional strengthening projects and proposed the same amendments to the 32nd Meeting to accommodate the requirements of Decision 30/7 (b). As part of their proposal, they would incorporate the following elements of the decision in section 3.3, “Assumptions” of their model agreement, namely:

- (i) The National Ozone Unit is given a clear mandate and responsibility to carry out the day-to-day work in order to prepare, coordinate and, where relevant, implement the government's activities to meet its commitments under the

Montreal Protocol; this also requires access to decision-makers and enforcement agencies;

- (ii) The National Ozone Unit's position, capacities, and continuity of officers, resources and lines of command within the authority in charge of ozone issues are such that the National Ozone Unit can carry out its task satisfactorily;
- (iii) A specified high-level officer or a post within the authority is given overall responsibility for supervising the work of the National Ozone Unit and ensuring that action taken is adequate to meet commitments under the Protocol;
- (iv) Annual work plans for the National Ozone Unit are prepared and integrated in the authorities' internal planning processes.

7. However the Executive Committee requested UNEP and UNIDO to move these elements from section 3.3, "Assumptions", of the revised model agreement as currently proposed to section 6.4.1, "General terms and conditions". After consulting their legal departments and other departments concerned, both organizations confirm their acceptance of the request and, subject to the outcome of the discussion at the 33rd Meeting would amend their model agreement accordingly and apply the new format in all future institutional strengthening agreements and renewals.

The World Bank

8. In its submission to the 32nd Meeting, the World Bank proposed introducing a standard amendment letter to its current agreement with countries to accommodate the requirements of Decision 30/7(b). Upon reviewing the Bank's proposal, the Executive Committee felt that the phrase "acceptable to the Bank" in the following provision in the amendment letter went beyond the requirement of the decision, namely:

“(ii) appoint a high-level official in (*the national authority*) acceptable to the Bank, to exercise the overall supervision of the performance of the national ozone office”

and requested “the World Bank to revise the proposed amendment letter in order to ensure consistency with Decision 30/7”.

9. Accordingly the World Bank has revised its amendment letter by removing the phrase.

Annex I**UNDP response on the follow-up to ExCom Decision 32/15c (based on Decision 30/7b) dealing with Institutional Strengthening Projects**

1. This responds to ExCom Decision 32/15 (c) which states “to request UNDP, when incorporating para (b) of Decision 30/7 in the separate section of each agreement entitled “Special considerations”, to insert a chapeau worded as follows: “The [Government/Ministry] and UNDP commit to cooperate to ensure that:””
2. UNDP, in its 11 October 2000 fax to you, had proposed that effective the 32nd ExCom Meeting in December 2000, all renewals of UNDP MP Institutional Strengthening projects as well as any new ones approved, would contain in the **Special Considerations** section of the project document the text of ExCom Decision 30/7 (b).
3. We regret to inform you that UNDP cannot agree with what is requested in ExCom Decision 32/15c, namely to insert a chapeau in the Special Considerations section worded as follows: “The [Government/Ministry] and UNDP commit to cooperate to ensure that:” As UNDP explained at length before the MEF SubCommittee, UNDP is in no position to “ensure” that any provisions in Institutional Strengthening projects are met since that responsibility lies solely with the respective Ozone Unit itself as this is a country-driven activity and not a UNDP-directed activity. UNDP can strongly encourage and recommend that the respective Ozone Units follow Decision 30/7(b); however UNDP cannot “ensure” that any Government do so. UNDP thus remains with what it had proposed to the 32nd ExCom Meeting.
4. UNDP could have waited to incorporate appropriate language in Institutional Strengthening renewals until agreement was reached at the 33rd ExCom Meeting. However, UNDP fully supports the objectives of the ExCom Decision 30/7 and agrees that it is important to move ahead on this matter. The 32nd ExCom Meeting in December 2000 approved renewals of Institutional Strengthening for eight countries where UNDP is implementing agency - Brazil, China, Ghana, Indonesia, Iran, Kenya, Malaysia and Trinidad & Tobago. These eight countries combined account for over two-thirds of remaining ODS consumption in Art. 5 Parties. UNDP, therefore, decided to include in the Special Considerations sections of the respective project documents what it had agreed to do at the 32nd ExCom Meeting.
5. In addition to incorporating the wording of ExCom Decision 30/7(b) verbatim into the Special Considerations section of the respective project documents, UNDP has gone further. In the cover page for the project document which is signed by all parties, under the “Legal Context”, UNDP has included the following sentence:

“The Government of should strive to implement Executive Committee Decision 30/7(b) under the title “Special Considerations” in the Plan of Action attached”

6. Copies of the relevant documentation for the Institutional Strengthening renewals as sent to the Governments of Brazil, Ghana, Indonesia, Iran, Kenya, Malaysia and Trinidad & Tobago are attached for the information of the Executive Committee. The project document for China is being finalized, but it too would have similar language.

UNITED NATIONS DEVELOPMENT PROGRAMME

**Project of the Government of Ghana
PROJECT DOCUMENT**

Number and Title: **GHA/01/G64 – Renewal of Institutional Strengthening
(Phase 4)**

Duration: **3 years**
ACC-UNDP Sector/Subsector: **200 Environment/201 Policies Planning & Legislation**
National Implementation Agency: **Environmental Protection Agency (EPA)**
Executing Agency: **National Execution (NEX)**
Estimated Starting Date: **Renewal of Phase 3**
UNDP Inputs: **US\$107,000**

Brief Description: This project proposal is submitted to extend institutional strengthening support to the National Ozone Office for two additional years of operation. The project will allow the National Ozone Office to continue to plan, organize, direct and coordinate all activities required for the implementation of Ghana's strategy in all areas related to the Phaseout of Ozone Depleting Substances under the Montreal Protocol.

Legal Context: This project document shall be instrument referred to in Article 1 of the Standard Basic Agreement between the Government of the Ghana and the UNDP, signed by the parties on 27 November 1978 and shall be governed by normal UNDP practices regarding project revisions/monitoring/evaluation, and by special procurement arrangements applicable to the Montreal Protocol Programme. The project will be implemented in accordance with the Agreement between the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol and UNDP signed on 21 August 1991 and the project proposal approved by the Executive Committee at its 32nd Meeting in December 2000. **The Government of Ghana should strive to implement the ExCom Decision 30/7(b) under the title “Special Consideration” in the Plan of Action attached (see Annex 2 Paragraph 9 of this document).**

<u>On behalf of the</u>	<u>Signature</u>	<u>Name and Title</u>	<u>Date</u>
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Government

UNDP Ghana

Resident Representative

- Under the Environmental Assessment Regulations LI-1652 of 1999, all new cold stores, industries, hotels, etc are required to submit an Environmental Impact Assessment (EIA) before any development can be started. During the review of EIA's for new developments that are likely to use cooling systems, the National Ozone Office plays a key role in the review process, to ensure that only ozone-friendly refrigerants are used.

However, a global legislation that puts limits to the amounts that can be imported should still be enacted. In addition, there are many "second hand" refrigerators and freezers operating on CFC-12 that are entering the country, and the highest Government levels are seriously considering controlling the import of these units. It is estimated that such regulations will be instituted by the end of the year 2000.

More information on the previous activities of the National Ozone Office as provided in Annex 2 of this document.

3. JUSTIFICATION FOR THE PROJECT EXTENSION:

It is estimated that the period 2001-2002 will be critical to continue the phase out of ODS consumption in Ghana, especially in order to facilitate implementation of the 1999 freeze requirements and the CFC 50% reduction measure in 2005 of the Montreal Protocol. To this effect, a Refrigerant Management Plan (RMP) is being proposed at the 32nd meeting of the Executive Committee. Approval of the extension of the Institutional Strengthening is essential to guarantee the success of the actions being proposed in the RMP.

A Plan of Action for the extension is provided in Annex 2 of this document.

4. PROJECT INPUTS.

The distribution of the budget is similar to the distribution during the last few years. Based on the previous account, the Government of Ghana requests the MLF Executive Committee to renew the institutional strengthening for the National Ozone Office for the amount US\$ 107,000 to be broken down as follows:

Budget Line	Components	Project Total	2001	2002
11.01	Professional Staff	43,200	21,600	21,600
13.01	Administrative Staff	9,600	4,800	4,800
16.01	Official Travel	4,200	2,100	2,100
17.01	National Consultants	8,000	4,000	4,000
21.01	Equipment	2,000	1,000	1,000
53.01	Miscellaneous/Oper.Costs	40,000	20,000	20,000
99.00	Total	107,000	53,500	53,500

5. SPECIAL CONSIDERATIONS.

The Executive Committee at its 32nd meeting held in Ouagadougou in December 2000, requested that the Government of Ghana should strive to implement the ExCom Decision 30/7(b) under the title "Special Consideration" in the Plan of Action attached (see Annex 2 Paragraph 9 of this document).

9. Special Considerations

The Executive Committee of the Multilateral Fund under Decision 30/7 (b) has urge Ghana to ensure that:

- i. The National Ozone Unit is given a clear mandate and responsibility to carry out the day-to-day work in order to prepare, coordinate and, where relevant, implement the government's activities to meet its commitments under the Montreal Protocol; this also requires access to decision-makers and enforcement agencies;
- ii. The National Ozone Unit's position, capacities, and continuity of officers, resources and lines of command within the authority in charge of ozone issues are such that the National Ozone Unit can carry out its task satisfactorily;
- iii. A specified high-level officer or a post within the authority is given overall responsibility for supervising the work of the National Ozone Unit and ensuring that action taken is adequate to meet commitments under the Protocol;
- iv. Necessary support structures, such as steering committees or advisory groups are established, involving other appropriate authorities, the private sector and non-governmental organizations, etc;
- v. Personnel and financial resources and equipment provided by the Multilateral Fund are fully allocated to the task of eliminating ODS consumption and production and are made available to the National Ozone Unit;
- vi. Annual work plans for the National Ozone Unit are prepared and integrated in the authorities' internal planning processes;
- vii. A reliable system to collect and monitor data on ozone depleting substances imports, exports and production is established; and
- viii. Measures taken and problems encountered are reported to the Secretariat and/or the implementing agency in charge of the institutional strengthening project when required by the Executive Committee.

10. Planned activities

PLANNED ACTIONS		OBJECTIVE	OUTPUT	2001				2002			
				1	2	3	4	1	2	3	4
General Public Awareness Programmes											
a)	Organise seminars on ozone layer protection for 1st, 2nd and 3rd cycle institutions in the ten regions of Ghana.	To increase the level of awareness of the public on ozone layer depletion and related issues	Increased knowledge on the need to protect the ozone layer	x		x		x		x	