

Annex XXI

AGREEMENT BETWEEN THE GOVERNMENT OF BRAZIL AND THE EXECUTIVE COMMITTEE OF THE MULTILATERAL FUND FOR THE REDUCTION IN CONSUMPTION OF HYDROCHLOROFLUOROCARBONS

1. This Agreement represents the understanding of the Government of Brazil and the Executive Committee with respect to the reduction of controlled use of the ozone-depleting substances (ODS) set out in Appendix 1-A (“The Substances”) to a sustained level of 1,194.8 ODP tonnes by 1 January 2015 in compliance with Montreal Protocol schedule, with the understanding that this figure is to be revised one single time, once the baseline consumption for compliance has been established based on Article 7 data.
2. The Country agrees to meet the annual consumption limits of the Substances as set out in row 1.2 of Appendix 2-A (“The Targets, and Funding”) in this Agreement as well as in the Montreal Protocol reduction schedule for all Substances mentioned in Appendix 1-A. The Country accepts that, by its acceptance of this Agreement and performance by the Executive Committee of its funding obligations described in paragraph 3, it is precluded from applying for or receiving further funding from the Multilateral Fund in respect to any consumption of the Substances which exceeds the level defined in row 1.2 of Appendix 2-A (“Maximum allowable total consumption of Annex C, Group I Substances”) as the final reduction step under this Agreement for all of the Substances specified in Appendix 1-A, and in respect to any consumption of each of the Substances which exceeds the level defined in rows 4.1.3, 4.2.3, 4.3.3, 4.4.3 and 4.5.3 (remaining eligible consumption).
3. Subject to compliance by the Country with its obligations set out in this Agreement, the Executive Committee agrees in principle to provide the funding set out in row 3.1 of Appendix 2-A (“The Targets, and Funding”) to the Country. The Executive Committee will, in principle, provide this funding at the Executive Committee meetings specified in Appendix 3-A (“Funding Approval Schedule”).
4. In accordance with sub-paragraph 5(b) of this Agreement, the Country will accept independent verification of the achievement of the annual consumption limits of the Substances as set out in row 1.2 of Appendix 2-A (“The Targets, and Funding”) of this Agreement. The aforementioned verification will be commissioned by the relevant bilateral or implementing agency.
5. The Executive Committee will not provide the Funding in accordance with the Funding Approval Schedule unless the Country satisfies the following conditions at least 60 days prior to the applicable Executive Committee meeting set out in the Funding Approval Schedule:
 - (a) That the Country has met the Targets for all relevant years. Relevant years are all years since the year in which the hydrochlorofluorocarbons phase-out management plan (HPMP) was approved. Exempt are years for which no obligation for reporting of country programme data exists at the date of the Executive Committee Meeting at which the funding request is being presented;
 - (b) That the meeting of these Targets has been independently verified, except if the Executive Committee decided that such verification would not be required;
 - (c) That the Country had submitted annual implementation reports in the form of Appendix 4-A (“Format of Implementation Reports and Plans”) covering each previous calendar year, that it had achieved a significant level of implementation of activities initiated with previously approved tranches, and that the rate of disbursement of funding available from the previously approved tranche was more than 20 per cent;

- (d) That the Country has submitted and received approval from the Executive Committee for an annual implementation plan in the form of Appendix 4-A (“Format of Implementation Reports and Plans”) covering each calendar year until and including the year for which the funding schedule foresees the submission of the next tranche or, in case of the final tranche, until completion of all activities foreseen; and
 - (e) That, for all submissions from the 68th Meeting onwards, confirmation has been received from the Government that an enforceable national system of licensing and quotas for HCFC imports and, where applicable, production and exports is in place and that the system is capable of ensuring the Country's compliance with the Montreal Protocol HCFC phase-out schedule for the duration of this Agreement.
6. The Country will ensure that it conducts accurate monitoring of its activities under this Agreement. The institutions set out in Appendix 5-A (“Monitoring Institutions and Roles”) will monitor and report on implementation of the activities in the previous annual implementation plans in accordance with their roles and responsibilities set out in Appendix 5-A. This monitoring will also be subject to independent verification as described in paragraph 4 above.
7. The Executive Committee agrees that the Country may have the flexibility to reallocate the approved funds, or part of the funds, according to the evolving circumstances to achieve the smoothest reduction of consumption and phase-out of the Substances specified in Appendix 1-A.
- (a) Reallocations categorized as major changes must be documented in advance in an annual implementation plan and approved by the Executive Committee as described in sub-paragraph 5(d) above. Major changes would relate to issues potentially concerning the rules and policies of the Multilateral Fund; changes which would modify any clause of this Agreement; changes in the annual levels of funding allocated to individual bilateral or implementing agencies for the different tranches; and provision of funding for programmes or activities not included in the current endorsed annual implementation plan, or removal of an activity in the annual implementation plan, with a cost greater than 30 per cent of the total cost of the tranche;
 - (b) Reallocations not categorized as major changes may be incorporated in the approved annual implementation plan, under implementation at the time, and reported to the Executive Committee in the annual implementation report;
 - (c) Any enterprise to be converted to non-HCFC technology included in the approved HPMP and that would be found to be ineligible under the guidelines of the Multilateral Fund (i.e., due to foreign ownership or establishment post the 21 September 2007 cut-off date), will not receive assistance. This information would be reported to the Executive Committee as part of the Annual Implementation Plan; and
 - (d) Any remaining funds will be returned to the Multilateral Fund.
8. Specific attention will be paid to the execution of the activities in the refrigeration servicing sub-sector, in particular:
- (a) The Country would use the flexibility available under this Agreement to address specific needs that might arise during project implementation; and
 - (b) The Country and the bilateral and implementing agencies involved will take full account of the requirements of decisions 41/100 and 49/6 during the implementation of the plan.

9. The Country agrees to assume overall responsibility for the management and implementation of this Agreement and of all activities undertaken by it or on its behalf to fulfil the obligations under this Agreement. UNDP has agreed to be the lead implementing agency (the “Lead IA”) and the Government of Germany has agreed to be the cooperating implementing agency (the “Cooperating IA”) under the lead of the Lead IA in respect of the Country’s activities under this Agreement. The Country agrees to evaluations, which might be carried out under the monitoring and evaluation work programmes of the Multilateral Fund or under the evaluation programme of any of the agencies taking part in this Agreement.

10. The Lead IA will be responsible for carrying out the activities of the overall plan with the changes approved as part of the subsequent submissions, including but not limited to independent verification as per sub-paragraph 5(b). This responsibility includes the necessity to co-ordinate with the Cooperating IA to ensure appropriate timing and sequence of activities in the implementation. The Cooperating IA will support the Lead IA by implementing the activities listed in Appendix 6-B under the overall co-ordination of the Lead IA. The Lead IA and Cooperating IA have reached consensus on the arrangements regarding inter-agency planning, reporting and responsibilities under this Agreement to facilitate a co-ordinated implementation of the Plan, including regular co-ordination meetings. The Executive Committee agrees, in principle, to provide the Lead IA and the Cooperating IA with the fees set out in rows 2.2 and 2.4 of Appendix 2-A.

11. Should the Country, for any reason, not meet the Targets for the elimination of the Substances set out in row 1.2 of Appendix 2-A or otherwise does not comply with this Agreement, then the Country agrees that it will not be entitled to the Funding in accordance with the Funding Approval Schedule. At the discretion of the Executive Committee, funding will be reinstated according to a revised Funding Approval Schedule determined by the Executive Committee after the Country has demonstrated that it has satisfied all of its obligations that were due to be met prior to receipt of the next tranche of funding under the Funding Approval Schedule. The Country acknowledges that the Executive Committee may reduce the amount of the Funding by the amount set out in Appendix 7-A in respect of each ODP kg of reductions in consumption not achieved in any one year. The Executive Committee will discuss each specific case in which the Country did not comply with this Agreement, and take related decisions. Once these decisions are taken, this specific case will not be an impediment for future tranches as per paragraph 5 above.

12. The Funding of this Agreement will not be modified on the basis of any future Executive Committee decision that may affect the funding of any other consumption sector projects or any other related activities in the Country.

13. The Country will comply with any reasonable request of the Executive Committee, the Lead IA and the Cooperating IA to facilitate implementation of this Agreement. In particular, it will provide the Lead IA and the Cooperating IA with access to information necessary to verify compliance with this Agreement.

14. The completion of the HPMP and the associated Agreement will take place at the end of the year following the last year for which a maximum allowable total consumption has been specified in Appendix 2-A. Should at that time activities be still outstanding which were foreseen in the Plan and its subsequent revisions as per sub-paragraph 5(d) and paragraph 7, the completion will be delayed until the end of the year following the implementation of the remaining activities. The reporting requirements as per sub-paragraphs 1(a), 1(b), 1(d), and 1(e) of Appendix 4-A continue until the time of the completion if not specified by the Executive Committee otherwise.

15. All of the conditions set out in this Agreement are undertaken solely within the context of the Montreal Protocol and as specified in this Agreement. All terms used in this Agreement have the meaning ascribed to them in the Montreal Protocol unless otherwise defined herein.

APPENDICES

APPENDIX 1-A: THE SUBSTANCES

Substance	Annex	Group	Starting point for aggregate reductions in consumption (ODP tonnes)
HCFC-22	C	I	792.0
HCFC-141b	C	I	521.7
HCFC-142b	C	I	5.6
HCFC-123	C	I	0.3
HCFC-124	C	I	7.7
Total	C	I	1,327.3

APPENDIX 2-A: THE TARGETS, AND FUNDING

		2011	2012	2013	2014	2015	Total
1.1	Montreal Protocol reduction schedule of Annex C, Group I substances (ODP tonnes)	n/a	n/a	1,327.3	1,327.3	1,194.8	n/a
1.2	Maximum allowable total consumption of Annex C Group I substances (ODP tonnes)	n/a	n/a	1,327.3	1,327.3	1,194.8	n/a
2.1	Lead IA (UNDP) agreed funding (US \$)	4,456,257	3,400,000	3,000,000	3,000,000	1,650,000	15,506,257
2.2	Support costs for Lead IA (US \$)	334,219	255,000	225,000	225,000	123,750	1,162,969
2.3	Cooperating IA (Germany) agreed funding (US \$)	1,209,091	2,472,727	0	0	409,091	4,090,909
2.4	Support costs for Cooperating IA (US \$)	153,000	262,000	0	0	45,000	460,000
3.1	Total agreed funding (US \$)	5,665,348	5,872,727	3,000,000	3,000,000	2,059,091	19,597,166
3.2	Total support costs (US \$)	487,219	517,000	225,000	225,000	168,750	1,622,969
3.3	Total agreed costs (US \$)	6,152,567	6,389,727	3,225,000	3,225,000	2,227,841	21,220,135
4.1.1	Total phase-out of HCFC-22 agreed to be achieved under this Agreement (ODP tonnes)						51.5
4.1.2	Phase-out of HCFC-22 to be achieved in previously approved projects (ODP tonnes)						0
4.1.3	Remaining eligible consumption for HCFC-22 (ODP tonnes)						740.6
4.2.1	Total phase-out of HCFC-141b agreed to be achieved under this Agreement (ODP tonnes)						168.8
4.2.2	Phase-out of HCFC-141b to be achieved in previously approved projects (ODP tonnes)						0
4.2.3	Remaining eligible consumption for HCFC-141b (ODP tonnes)						353.0
4.3.1	Total phase-out of HCFC-142b agreed to be achieved under this Agreement (ODP tonnes)						0.0
4.3.2	Phase-out of HCFC-142b to be achieved in previously approved projects (ODP tonnes)						0.0
4.3.3	Remaining eligible consumption for HCFC-142b (ODP tonnes)						5.6
4.4.1	Total phase-out of HCFC-123 agreed to be achieved under this Agreement (ODP tonnes)						0.0
4.4.2	Phase-out of HCFC-123 to be achieved in previously approved projects (ODP tonnes)						0.0
4.4.3	Remaining eligible consumption for HCFC-123 (ODP tonnes)						0.3
4.5.1	Total phase-out of HCFC-124 agreed to be achieved under this Agreement (ODP tonnes)						0.0
4.5.2	Phase-out of HCFC-124 to be achieved in previously approved projects (ODP tonnes)						0.0
4.5.3	Remaining eligible consumption for HCFC-124 (ODP tonnes)						7.7

APPENDIX 3-A: FUNDING APPROVAL SCHEDULE

1. Funding for the future tranches will be considered for approval not earlier than the second meeting of the year specified in Appendix 2-A.

APPENDIX 4-A: FORMAT OF IMPLEMENTATION REPORTS AND PLANS

1. The submission of the Implementation Report and Plan for each tranche request will consist of five parts:

- (a) A narrative report regarding the progress since the approval of the previous tranche, reflecting on the situation of the Country in regard to phase out of the Substances, how the different activities contribute to it and how they relate to each other. The report should further highlight successes, experiences and challenges related to the different activities included in the Plan, reflecting on changes in the circumstances in the Country, and providing other relevant information. The report should also include information about and justification for any changes vis-à-vis the previously submitted tranche plan, such as delays, uses of the flexibility for reallocation of funds during implementation of a tranche, as provided for in paragraph 7 of this Agreement, or other changes. The narrative report will cover all relevant years specified in sub-paragraph 5(a) of the Agreement and can in addition also include information about activities in the current year;
- (b) A verification report of the HPMP results and the consumption of the Substances mentioned in Appendix 1-A, as per sub-paragraph 5(b) of the Agreement. If not decided otherwise by the Executive Committee, such a verification has to be provided together with each tranche request and will have to provide verification of the consumption for all relevant years as specified in sub-paragraph 5(a) of the Agreement for which a verification report has not yet been acknowledged by the Committee;
- (c) A written description of the activities to be undertaken until the planned submission of the next tranche request, highlighting their interdependence, and taking into account experiences made and progress achieved in the implementation of earlier tranches. The description should also include a reference to the overall plan and progress achieved, as well as any possible changes to the overall plan foreseen. The description should cover the years specified in sub-paragraph 5(d) of the Agreement. The description should also specify and explain any revisions to the overall plan which were found to be necessary;
- (d) A set of quantitative information for the report and plan, submitted into a database. As per the relevant decisions of the Executive Committee in respect to the format required, the data should be submitted online. This quantitative information, to be submitted by calendar year with each tranche request, will be amending the narratives and description for the report (see sub-paragraph 1(a) above) and the plan (see sub-paragraph 1(c) above), and will cover the same time periods and activities; it will also capture the quantitative information regarding any necessary revisions of the overall plan as per sub-paragraph 1(c) above. While the quantitative information is required only for previous and future years, the format will include the option to submit in addition information regarding the current year if desired by the Country and the Lead IA; and
- (e) An Executive Summary of about five paragraphs, summarizing the information of above sub-paragraphs 1(a) to 1(d).

APPENDIX 5-A: MONITORING INSTITUTIONS AND ROLES

1. The Ministry of Environment (Ministério do Meio Ambiente (MMA) is responsible for the overall coordination of activities to be undertaken in the HCFC Phase-Out Management Plan and acts as the National Ozone Unit. The Brazilian Institute of Environment and Natural Renewable Resources (IBAMA) is the enforcement institution linked to MMA which is responsible for carrying out national policies and legislations regarding the control of ozone depleting substances. The National Ozone Unit (under MMA) monitors at managerial level the consumption of all ozone depleting substances (ODS). IBAMA controls - through the licensing system – the ODS consumption (import and export) and end-user level. The lead and cooperating agencies will be responsible of implementing and monitoring the activities under their responsibility. The Government has offered continuity of activities and endorsement for the projects through the institutional support over the next years.
2. Close monitoring of all activities and coordination between stakeholders is an essential element of the HPMP and key to reach compliance. There will be regular coordination meetings with industry stakeholders, HCFC importers, relevant Government stakeholders (i.e. PROZON), various industrial associations, and all sectors involved, in order to enact the necessary agreements and measures to carry out the investment and non-investment activities on time and in a coordinated manner. In the manufacturing sector the implementation process and the achievement of the phase-out will be monitored through site visits at enterprise level. Yearly monitoring will be carried out through the ODS licensing and quota system. Verification site visits will be undertaken by independent international experts.
3. Yearly monitoring will be carried out through the ODS licensing and quota system. Verification site visits will be undertaken by independent international experts and auditors.

APPENDIX 6-A: ROLE OF THE LEAD IMPLEMENTING AGENCY

1. The Lead IA will be responsible for a range of activities. These can be specified in the project document further, but include at least the following:
 - (a) Ensuring performance and financial verification in accordance with this Agreement and with its specific internal procedures and requirements as set out in the Country's HPMP;
 - (b) Assisting the Country in preparation of the Implementation Plans and subsequent reports as per Appendix 4-A;
 - (c) Providing verification to the Executive Committee that the Targets have been met and associated annual activities have been completed as indicated in the Implementation Plan consistent with Appendix 4-A;
 - (d) Ensuring that the experiences and progress is reflected in updates of the overall plan and in future annual implementation plans consistent with sub-paragraphs 1(c) and 1(d) of Appendix 4-A;
 - (e) Fulfilling the reporting requirements for the annual implementation reports, annual implementation plans and the overall plan as specified in Appendix 4-A for submission to the Executive Committee. The reporting requirements include the reporting about activities undertaken by the Cooperating IA;
 - (f) Ensuring that appropriate independent technical experts carry out the technical reviews;

- (g) Carrying out required supervision missions;
- (h) Ensuring the presence of an operating mechanism to allow effective, transparent implementation of the Implementation Plan and accurate data reporting;
- (i) Co-ordinating the activities of the Cooperating IA, and ensuring appropriate sequence of activities;
- (j) In case of reductions in funding for failure to comply in accordance with paragraph 11 of the Agreement, to determine, in consultation with the Country and the Cooperating IA, the allocation of the reductions to the different budget items and to the funding of each implementing or bilateral agency involved;
- (k) Ensuring that disbursements made to the Country are based on the use of the indicators; and
- (l) Providing assistance with policy, management and technical support when required.

2. After consultation with the Country and taking into account any views expressed, the Lead IA will select and mandate an independent organization to carry out the verification of the HPMP results and the consumption of the Substances mentioned in Appendix 1-A, as per sub-paragraph 5(b) of the Agreement and sub-paragraph 1(b) of Appendix 4-A.

APPENDIX 6-B: ROLE OF THE COOPERATING IMPLEMENTING AGENCY

1. The Cooperating IA will be responsible for a range of activities. These activities are specified in the overall plan further, but include at least the following:

- (a) Providing policy development assistance when required;
- (b) Assisting the Country in the implementation and assessment of the activities funded by the Cooperating IA, and refer to the Lead IA to ensure a co-ordinated sequence in the activities; and
- (c) Providing reports to the Lead IA on these activities, for inclusion in the consolidated reports as per Appendix 4-A.

APPENDIX 7-A: REDUCTIONS IN FUNDING FOR FAILURE TO COMPLY

1. In accordance with paragraph 11 of the Agreement, the amount of funding provided may be reduced by US \$180 per ODP kg of consumption beyond the level defined in row 1.2 of Appendix 2-A for each year in which the target specified in row 1.2 of Appendix 2-A has not been met.