

## **Annex XXVIII**

### **UPDATED AGREEMENT BETWEEN THE GOVERNMENT OF NIGERIA AND THE EXECUTIVE COMMITTEE OF THE MULTILATERAL FUND FOR THE REDUCTION IN CONSUMPTION OF HYDROCHLOROFLUOROCARBONS IN ACCORDANCE WITH STAGE II OF THE HCFC PHASE-OUT MANAGEMENT PLAN**

#### **Purpose**

1. This Agreement represents the understanding of the Government of Nigeria (the “Country”) 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 112.09 ODP tonnes by 1 January 2025 in compliance with Montreal Protocol schedule.
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 that exceeds the level defined in row 1.2 of Appendix 2-A 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 that exceeds the level defined in rows 4.1.3, 4.2.3 and 4.3.3 (remaining consumption eligible for funding).
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 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. The Country agrees to implement this Agreement in accordance with the stage II of the HCFC phase-out management plan (HPMP) approved (“the Plan”). 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 of this Agreement. The aforementioned verification will be commissioned by the relevant bilateral or implementing agency.

#### **Conditions for funding release**

5. The Executive Committee will only provide the Funding in accordance with the Funding Approval Schedule when the Country satisfies the following conditions at least eight weeks in advance of the applicable Executive Committee meeting set out in the Funding Approval Schedule:
  - (a) That the Country has met the Targets set out in row 1.2 of Appendix 2-A for all relevant years. Relevant years are all years since the year in which this Agreement was approved. Years for which there are no due country programme implementation reports at the date of the Executive Committee meeting at which the funding request is being presented are exempted;
  - (b) That the meeting of these Targets has been independently verified for all relevant years, unless the Executive Committee decided that such verification would not be required;
  - (c) That the Country had submitted a Tranche Implementation Report in the form of Appendix 4-A (“Format of Tranche 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; and

- (d) That the Country has submitted a Tranche Implementation Plan in the form of Appendix 4-A 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.

### **Monitoring**

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 Tranche Implementation Plans in accordance with their roles and responsibilities set out in the same appendix.

### **Flexibility in the reallocation of funds**

7. The Executive Committee agrees that the Country may have the flexibility to reallocate part or all of the approved 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 either in a Tranche Implementation Plan as foreseen in sub-paragraph 5(d) above, or as a revision to an existing Tranche Implementation Plan to be submitted eight weeks prior to any meeting of the Executive Committee, for its approval. Major changes would relate to:
  - (i) Issues potentially concerning the rules and policies of the Multilateral Fund;
  - (ii) Changes which would modify any clause of this Agreement;
  - (iii) Changes in the annual levels of funding allocated to individual bilateral or implementing agencies for the different tranches;
  - (iv) Provision of funding for activities not included in the current endorsed Tranche Implementation Plan, or removal of an activity in the Tranche Implementation Plan, with a cost greater than 30 per cent of the total cost of the last approved tranche; and
  - (v) Changes in alternative technologies, on the understanding that any submission for such a request would identify the associated incremental costs, the potential impact to the climate, and any differences in ODP tonnes to be phased out if applicable, as well as confirm that the Country agrees that potential savings related to the change of technology would decrease the overall funding level under this Agreement accordingly;
- (b) Reallocations not categorized as major changes may be incorporated in the approved Tranche Implementation Plan, under implementation at the time, and reported to the Executive Committee in the subsequent Tranche Implementation Report;
- (c) Any enterprise to be converted to non-HCFC technology included in the Plan and that would be found to be ineligible under the policies of the Multilateral Fund (i.e., due to

foreign ownership or establishment post the 21 September 2007 cut-off date), would not receive financial assistance. This information would be reported as part of the Tranche Implementation Plan;

- (d) The Country commits to examining the possibility of using pre-blended systems with low-global warming potential blowing agents instead of blending them in-house, for those foam enterprises covered under the Plan, should this be technically viable, economically feasible and acceptable to the enterprises;
- (e) The Country agrees, in cases where HFC technologies have been chosen as an alternative to HCFCs, and taking into account national circumstances related to health and safety: to monitor the availability of substitutes and alternatives that further minimize impacts on the climate; to consider, in the review of regulations standards and incentives adequate provisions that encourage introduction of such alternatives; and to consider the potential for adoption of cost-effective alternatives that minimize the climate impact in the implementation of the HPMP, as appropriate, and inform the Executive Committee on the progress accordingly in tranche implementation reports; and
- (f) Any remaining funds held by the bilateral or implementing agencies or the Country under the Plan will be returned to the Multilateral Fund upon completion of the last tranche foreseen under this Agreement.

### **Considerations for the refrigeration servicing sector**

8. Specific attention will be paid to the execution of the activities in the refrigeration servicing sector included in the Plan, 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 relevant bilateral and/or implementing agencies would take into consideration relevant decisions on the refrigeration servicing sector during the implementation of the Plan.

### **Bilateral and implementing agencies**

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. The United Nations Development Programme (UNDP) has agreed to be the lead implementing agency (the “Lead IA”) and the United Nations Industrial Development Organization (UNIDO) and the Government of Italy have agreed to be the cooperating implementing agencies (the “Cooperating IAs”) 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 the Lead IA and/or Cooperating IAs taking part in this Agreement.

10. The Lead IA will be responsible for ensuring co-ordinated planning, implementation and reporting of all activities under this Agreement, including but not limited to independent verification as per sub-paragraph 5(b). The Cooperating IAs will support the Lead IA by implementing the Plan under the overall co-ordination of the Lead IA. The roles of the Lead IA and Cooperating IAs are contained in Appendix 6-A and Appendix 6-B, respectively. The Executive Committee agrees, in principle, to provide the Lead IA and the Cooperating IAs with the fees set out in rows 2.2, 2.4 and 2.6 of Appendix 2-A.

### **Non-compliance with the Agreement**

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 (“Reductions in Funding for Failure to Comply”) 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 decisions are taken, the specific case of non-compliance with this Agreement will not be an impediment for the provision of funding 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 decisions 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, and the Lead IA and the Cooperating IAs to facilitate implementation of this Agreement. In particular, it will provide the Lead IA and the Cooperating IAs with access to the information necessary to verify compliance with this Agreement.

### **Date of completion**

14. The completion of the Plan and the associated Agreement will take place at the end of the year following the last year for which a maximum allowable total consumption level has been specified in Appendix 2-A. Should at that time there still be activities that are outstanding, and which were foreseen in the last Tranche Implementation Plan and its subsequent revisions as per sub-paragraph 5(d) and paragraph 7, the completion of the Plan 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 will continue until the time of the completion of the Plan unless otherwise specified by the Executive Committee.

### **Validity**

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.

16. This Agreement may be modified or terminated only by mutual written agreement of the Country and the Executive Committee of the Multilateral Fund.

17. This updated Agreement supersedes the Agreement reached between the Government of Nigeria and the Executive Committee at the 81st meeting of the Executive Committee of the Multilateral Fund.

## APPENDICES

### APPENDIX 1-A: THE SUBSTANCES

| Substance                                           | Annex | Group | Starting point for aggregate reductions in consumption (ODP tonnes) |
|-----------------------------------------------------|-------|-------|---------------------------------------------------------------------|
| HCFC-22                                             | C     | I     | 248.5                                                               |
| HCFC-141b                                           | C     | I     | 96.4                                                                |
| Sub-total                                           |       |       | 344.9                                                               |
| HCFC-141b contained in imported pre-blended polyols | C     | I     | 53.2                                                                |
| Total                                               | C     | I     | 398.2                                                               |

### APPENDIX 2-A: THE TARGETS, AND FUNDING

| Row   | Particulars                                                                                                                    | 2018      | 2019   | 2020      | 2021   | 2022   | 2023      | 2024   | 2025      | Total     |
|-------|--------------------------------------------------------------------------------------------------------------------------------|-----------|--------|-----------|--------|--------|-----------|--------|-----------|-----------|
| 1.1   | Montreal Protocol reduction schedule of Annex C, Group I substances (ODP tonnes)                                               | 310.41    | 310.41 | 224.19    | 224.19 | 224.19 | 224.19    | 224.19 | 112.09    | n/a       |
| 1.2   | Maximum allowable total consumption of Annex C, Group I substances (ODP tonnes)                                                | 310.41    | 310.41 | 224.19    | 224.19 | 224.19 | 167.81    | 167.81 | 112.09    | n/a       |
| 2.1   | Lead IA (UNDP) agreed funding (US \$)                                                                                          | 2,600,000 | 0      | 1,400,000 | 0      | 0      | 2,600,000 | 0      | 1,610,472 | 8,210,472 |
| 2.2   | Support costs for Lead IA (US \$)                                                                                              | 182,000   | 0      | 98,000    | 0      | 0      | 182,000   | 0      | 112,733   | 574,733   |
| 2.3   | Cooperating IA (Government of Italy) agreed funding (US \$)                                                                    | 269,025   | 0      | 234,400   | 0      | 0      | 0         | 0      | 0         | 503,425   |
| 2.4   | Support costs for Cooperating IA (US \$)                                                                                       | 34,937    | 0      | 30,472    | 0      | 0      | 0         | 0      | 0         | 65,377    |
| 2.5   | Cooperating IA (UNIDO) agreed funding (US \$)                                                                                  | 176,837   | 0      | 0         | 0      | 0      | 0         | 0      | 0         | 176,837   |
| 2.6   | Support costs for Cooperating IA (US \$)                                                                                       | 15,915    | 0      | 0         | 0      | 0      | 0         | 0      | 0         | 15,915    |
| 3.1   | Total agreed funding (US \$)                                                                                                   | 3,045,862 | 0      | 1,634,400 | 0      | 0      | 2,600,000 | 0      | 1,610,472 | 8,890,734 |
| 3.2   | Total support costs (US \$)                                                                                                    | 232,852   | 0      | 128,472   | 0      | 0      | 182,000   | 0      | 112,733   | 656,025   |
| 3.3   | Total agreed costs (US \$)                                                                                                     | 3,278,714 | 0      | 1,762,872 | 0      | 0      | 2,782,000 | 0      | 1,723,205 | 9,546,759 |
| 4.1.1 | Total phase-out of HCFC-22 agreed to be achieved under this Agreement (ODP tonnes)                                             |           |        |           |        |        |           |        |           | 70.43     |
| 4.1.2 | Phase-out of HCFC-22 to be achieved in the previous stage (ODP tonnes)                                                         |           |        |           |        |        |           |        |           | 10.62     |
| 4.1.3 | Remaining eligible consumption for HCFC-22 (ODP tonnes)                                                                        |           |        |           |        |        |           |        |           | 167.45    |
| 4.2.1 | Total phase-out of HCFC-141b agreed to be achieved under this Agreement (ODP tonnes)                                           |           |        |           |        |        |           |        |           | 41.90     |
| 4.2.2 | Phase-out of HCFC-141b to be achieved in the previous stage (ODP tonnes)                                                       |           |        |           |        |        |           |        |           | 54.50     |
| 4.2.3 | Remaining eligible consumption for HCFC-141b (ODP tonnes)                                                                      |           |        |           |        |        |           |        |           | 0.00      |
| 4.3.1 | Total phase-out of HCFC-141b contained in imported pre-blended polyols agreed to be achieved under this Agreement (ODP tonnes) |           |        |           |        |        |           |        |           | 28.30     |
| 4.3.2 | Phase-out of HCFC-141b contained in imported pre-blended polyols achieved in the previous stage (ODP tonnes)                   |           |        |           |        |        |           |        |           | 25.00     |
| 4.3.3 | Remaining eligible consumption for HCFC-141b contained in imported pre-blended polyols (ODP tonnes)                            |           |        |           |        |        |           |        |           | 0.00      |

### APPENDIX 3-A: FUNDING APPROVAL SCHEDULE

1. Funding for the future tranches will be considered for approval at the second meeting of the year specified in Appendix 2-A.

#### **APPENDIX 4-A: FORMAT OF TRANCHE IMPLEMENTATION REPORTS AND PLANS**

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

- (a) A narrative report, with data provided by tranche, describing the progress achieved since the previous report, reflecting 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 include the amount of ODS phased out as a direct result from the implementation of activities, by substance, and the alternative technology used and the related phase-in of alternatives, to allow the Secretariat to provide to the Executive Committee information about the resulting change in climate relevant emissions. The report should further highlight successes, experiences, and challenges related to the different activities included in the Plan, reflecting any changes in the circumstances in the Country, and providing other relevant information. The report should also include information on and justification for any changes vis-à-vis the previously submitted Tranche Implementation Plan(s), 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;
- (b) An independent verification report of the Plan results and the consumption of the Substances, 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 during the period covered by the requested tranche, highlighting implementation milestones, the time of completion and the interdependence of the activities, and taking into account experiences made and progress achieved in the implementation of earlier tranches; the data in the plan will be provided by calendar year. The description should also include a reference to the overall Plan and progress achieved, as well as any possible changes to the overall Plan that are foreseen. The description should also specify and explain in detail such changes to the overall plan. This description of future activities can be submitted as a part of the same document as the narrative report under sub-paragraph (b) above;
- (d) A set of quantitative information for all Tranche Implementation Reports and Plans, submitted through an online database; and
- (e) An Executive Summary of about five paragraphs, summarizing the information of the above sub-paragraphs 1(a) to 1(d).

2. In the event that in a particular year two stages of the HPMP are being implemented in parallel, the following considerations should be taken in preparing the Tranche Implementation Reports and Plans:

- (a) The Tranche Implementation Reports and Plans referred to as part of this Agreement, will exclusively refer to activities and funds covered by this Agreement; and

- (b) If the stages under implementation have different HCFC consumption targets under Appendix 2-A of each Agreement in a particular year, the lower HCFC consumption target will be used as reference for compliance with these Agreements and will be the basis for the independent verification.

#### **APPENDIX 5-A: MONITORING INSTITUTIONS AND ROLES**

1. The National Ozone Unit (NOU) will be monitoring the implementation of the project activities and will prepare a quarterly progress report for the project. The monitoring programme will therefore ensure effectiveness of all the proposed projects within the HPMP through constant monitoring and periodic review of the performance of individual projects. Independent verification will be conducted by a consultant arranged by the Lead IA.

2. The Lead IA will have a particularly prominent role in the monitoring arrangements because of its mandate to monitor ODS imports, whose records will be used as a crosschecking reference in all the monitoring programmes for the different projects within the HPMP. The Lead IA, along with the cooperating IA will also undertake the challenging task of monitoring illegal ODS imports and exports and advise the appropriate national agencies through the NOU.

#### **APPENDIX 6-A: ROLE OF THE LEAD IMPLEMENTING AGENCY**

1. The Lead IA will be responsible for a range of activities, including 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 Tranche Implementation Reports and Plans as per Appendix 4-A;
  - (c) Providing independent verification to the Executive Committee that the Targets have been met and associated tranche activities have been completed as indicated in the Tranche 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 Tranche Implementation Plans consistent with sub-paragraphs 1(c) and 1(d) of Appendix 4-A;
  - (e) Fulfilling the reporting requirements for the Tranche Implementation Reports and Plans and the overall plan as specified in Appendix 4-A for submission to the Executive Committee, and should include the activities implemented by the Cooperating IAs;
  - (f) In the event that the last funding tranche is requested one or more years prior to the last year for which a consumption target had been established, annual tranche implementation reports and, where applicable, verification reports on the current stage of the Plan should be submitted until all activities foreseen had been completed and HCFC consumption targets had been met;
  - (g) Ensuring that appropriate independent technical experts carry out the technical reviews;
  - (h) Carrying out required supervision missions;

- (i) Ensuring the presence of an operating mechanism to allow effective, transparent implementation of the Tranche Implementation Plan and accurate data reporting;
- (j) Co-ordinating the activities of the Cooperating IAs, and ensuring appropriate sequence of activities;
- (k) 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 IAs, the allocation of the reductions to the different budget items and to the funding of the Lead IA and each Cooperating IA;
- (l) Ensuring that disbursements made to the Country are based on the use of the indicators;
- (m) Providing assistance with policy, management and technical support when required;
- (n) Reaching consensus with the Cooperating IAs on any planning, co-ordination and reporting arrangements required to facilitate the implementation of the Plan; and
- (o) Timely releasing funds to the Country/participating enterprises for completing the activities related to the project.

2. After consultation with the Country and taking into account any views expressed, the Lead IA will select and mandate an independent entity 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 AGENCIES**

1. The Cooperating IAs will be responsible for a range of activities. These activities are specified in the Plan, including at least the following:

- (a) Providing assistance for policy development when required;
- (b) Assisting the Country in the implementation and assessment of the activities funded by the Cooperating IAs, and refer to the Lead IA to ensure a co-ordinated sequence in the activities;
- (c) Providing reports to the Lead IA on these activities, for inclusion in the consolidated reports as per Appendix 4-A; and
- (d) Reaching consensus with the Lead IA on any planning, co-ordination and reporting arrangements required to facilitate the implementation of the Plan.

#### **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 \$151.81 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, on the understanding that the maximum funding reduction would not exceed the funding level of the tranche being requested. Additional measures might be considered in cases where non-compliance extends for two consecutive years.

2. In the event that the penalty needs to be applied for a year in which there are two Agreements in force (two stages of the HPMP being implemented in parallel) with different penalty levels, the application of the penalty will be determined on a case-by-case basis taking into consideration the specific sectors that lead to the non-compliance. If it is not possible to determine a sector, or both stages are addressing the same sector, the penalty level to be applied would be the largest.