

Annex IX

AGREEMENT BETWEEN THE GOVERNMENT OF KYRGYZSTAN AND THE EXECUTIVE COMMITTEE OF THE MULTILATERAL FUND FOR THE TERMINAL CFC PHASE-OUT MANAGEMENT PLAN (TPMP)

1. This Agreement represents the understanding of the Government of Kyrgyzstan (the “Country”) and the Executive Committee with respect to the complete phase-out of controlled use of the ozone-depleting substances set out in Appendix 1-A (the “Substances”) in the refrigeration sector, prior to 1 January 2010 in compliance with Protocol schedules.
2. The Country agrees to phase out the use of the Substances in Annex A (Group I) of the Montreal Protocol in accordance with the annual phase-out targets set out in row 5 of Appendix 2-A (the “Targets”) in this Agreement. 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 the Substances for the refrigeration sector as described in the TPMP document.
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 9 of Appendix 2-A (the “Funding”) to the Country, commencing with the entry into force of an import/export licensing system to monitor and control trade in ozone depleting substances. The Executive Committee will, in principle, provide this funding at the Executive Committee meetings specified in Appendix 3-A (the “Funding Approval Schedule”).
4. The Country will meet the consumption limits for each of the Substances as indicated in Appendix 2-A. It will also accept independent verification by the relevant implementing agency of achievement of these consumption limits as described in paragraph 9 of this Agreement.
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 30 days prior to the applicable Executive Committee meeting set out in the Funding Approval Schedule:
 - (a) That the Country has met the Targets for the applicable year;
 - (b) That the meeting of these Targets will be independently verified if requested by the Executive Committee consistent with paragraph (d) of decision 45/54;
 - (c) That the Country has substantially completed all actions set out in the last annual implementation programme; and
 - (d) That the Country has submitted and received endorsement from the Executive Committee for an annual implementation programme in the form of Appendix 4-A (the “Annual Implementation Programmes”) in respect of the year for which funding is being requested.

6. The Country will ensure that it conducts accurate monitoring of its activities under this Agreement. The institutions set out in Appendix 5-A (the “Monitoring”) will monitor and report on that monitoring in accordance with the roles and responsibilities set out in Appendix 5-A. This monitoring will also be subject to independent verification as described in paragraph 9.

7. While the Funding was determined on the basis of estimates of the needs of the Country to carry out its obligations under this Agreement, the Executive Committee agrees that the Country may use the Funding for other purposes that can be demonstrated to facilitate the smoothest possible phase-out, consistent with this Agreement, whether or not that use of funds was contemplated in determining the amount of funding under this Agreement. Any changes in the use of the Funding must, however, be documented in advance in the Country’s Annual Implementation Programme, endorsed by the Executive Committee as described in sub paragraph 5(d) and be subject to independent verification as described in paragraph 9.

8. Specific attention will be paid to the execution of the activities in the servicing sector, in particular:

- (a) The Country would use the flexibility available under this Agreement to address specific needs that might arise during project implementation;
- (b) The technical assistance programme for the refrigeration servicing sub sectors would be implemented in stages so that resources can be diverted to other activities such as, additional training or procurement of servicing tools, in cases where the proposed results are not achieved, and will be closely monitored in accordance with Appendix 5-A of this Agreement; and
- (c) The Country and the implementing agencies will take full account of the requirements of decisions 41/100 and 49/6 during the implementation of the TPMP.

9. The Country agrees to assume overall responsibility for the management and implementation of this Agreement and of Activities undertaken by it or on its behalf to fulfil the obligations under this Agreement. UNEP has agreed to be the lead implementing agency (the “Lead IA”) and UNDP has agreed to be cooperating implementing agency (the “Cooperating IA”) under the lead of the Lead IA in respect of the Country’s activities under this Agreement. The Lead IA will be responsible for carrying out the activities listed in Appendix 6-A, including but not limited to independent verification. The Country also agrees to periodic evaluations, which will be carried out under the monitoring and evaluation work programs of the Multilateral Fund. The Cooperating IA will be responsible for carrying out the activities listed in Appendix 6-B. The Executive Committee agrees, in principle, to provide the Lead IA and the Cooperating IA with the fees set out in rows 10 and 11 of Appendix 2-A.

10. Should the Country, for any reason, not meet the Targets for the elimination of the Substances in Annex A (Group I) of the Montreal Protocol 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 instalment of Funding under the funding approval

schedule. The Country acknowledges that the Executive Committee may reduce the amount of the Funding by the amounts set out in Appendix 7-A in respect of each ODP tonne of reductions in consumption not achieved in any one year.

11. The funding components 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.

12. The Country will comply with any reasonable request of the Executive Committee and the Lead 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.

13. All of the agreements 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 Protocol unless otherwise defined herein.

APPENDICES

APPENDIX 1-A: THE SUBSTANCES

Annex A:	Group I	CFC-11, CFC-12, CFC-113
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APPENDIX 2-A: THE TARGETS, AND FUNDING

PROJECT DATA	2006	2007	2008	2009	2010	Total
1. Montreal Protocol limits	36.4	10.9	10.9	10.9	0.0	
2. Annual phase-out from ongoing RMP projects	0.0	0.0	0.0	0.0	0.0	15.2
3. Annual phase-out newly addressed (TPMP)	1.0	1.0	2.0	3.0	0.0	7.0
4. TOTAL ODS CONSUMPTION TO BE PHASED OUT	1.0	1.0	2.0	3.0	0.0	22.3
5. RESULTING CFC TARGETS TO BE ACHIEVED	7.0	6.0	5.0	3.0	0.0	22.3
6. Total ODS consumption to be phased-in (HCFCs)					N/A	N/A
Project costs (US \$):						
7. Funding for UNDP (incl MDI strategy)	194,000	63,000	60,000	0	0	317,000
8. Funding for lead agency UNEP	142,600	65,100	25,300	0	0	233,000
9. Total project funding	336,600	128,100	85,300	0	0	550,000
Support costs (US \$)						
10. Support cost for UNDP (7.5%)	14,550	4,725	4,500	0	0	23,775
11. Support cost for lead agency UNEP (13%)	18,538	8,463	3,289	0	0	30,290
12. Total support costs	33,088	13,188	7,789	0	0	54,065
13. TOTAL COST TO MULTILATERAL FUND (US \$)	369,688	141,288	93,089	0	0	604,065

APPENDIX 3-A: FUNDING APPROVAL SCHEDULE

1. Funding will be considered for approval at the third meeting of the year of the annual implementation programme. In case the Executive Committee requires verification of the

achievements of the targets in the TPMP, it is understood that the approval or disbursement of the tranche might be delayed until the verification is completed and has been reviewed.

APPENDIX 4-A: FORMAT OF ANNUAL IMPLEMENTATION PROGRAMME

1. Data

Country	_____
Year of plan	_____
# of years completed	_____
# of years remaining under the plan	_____
Target ODS consumption of the preceding year	_____
Target ODS consumption of the year of plan	_____
Level of funding requested	_____
Lead implementing agency	_____
Co-operating agency(ies)	_____

2. Targets

Indicators		Preceding year	Year of plan	Reduction
Supply of ODS	Import			
	Total (1)			
Demand of ODS	Manufacturing			
	Servicing			
	Stockpiling			
	Total (2)			

3. Industry Action

Sector	Consumption preceding year (1)	Consumption year of plan (2)	Reduction within year of plan (1)-(2)	Number of projects completed	Number of servicing related activities	ODS phase-out (in ODP tonnes)
Manufacturing						
Total						
Servicing						
Refrigeration						
Total						
Grand total						

4. Technical Assistance

Proposed Activity:	_____
Objective:	_____
Target Group:	_____
Impact:	_____

5. Government Action

Policy/Activity Planned	Schedule of Implementation
Type of policy control on ODS import: servicing, etc	
Public awareness	
Others	

6. Annual Budget

Activity	Planned Expenditures (US \$)
Total	

7. Administrative Fees

APPENDIX 5-A: MONITORING INSTITUTIONS AND ROLES

1. All the monitoring activities will be coordinated and managed through the project "Monitoring and Management Unit" (PMU), which is included within this TPMP.

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 TPMP. This organization, along with the cooperating IA will also undertake the challenging task of monitoring illegal ODS imports and exports with advisements made to the appropriate national agencies through the National Ozone Office.

Verification and reporting

3. Under this component there are two independent types of verification as follows:

- (a) In accordance with Decision 45/54, the Executive Committee reserves the right for independent verification in case the Executive Committee selects Kyrgyzstan for related auditing as per decision 45/54.
- (b) Verification for monitoring and in accordance to the TPMP and the TPMP Annual Implementation Programme objectives will be coordinated and managed through the project "Monitoring and Management Unit", which is included within this TPMP. Kyrgyzstan and the Lead IA will jointly design the verification procedures.

Frequency of verification and reporting

4. The monitoring reports will be produced and verified each year to be submitted to the last meeting of the Executive Committee. These reports will produce the input for the yearly implementation reports required by the Executive Committee.

5. The activities related to the ozone layer protection and implementation of the Montreal Protocol are coordinated by the Ministry of Ecology and Emergency Situations through its NOU of Kyrgyzstan. This involves:

- (a) Monitoring of the progress of implementation of projects and activities funded by the MLF;
- (b) Formulating guidelines and regulations necessary for policy implementation;
- (c) Supporting public awareness initiatives and campaigns promoting ozone layer protection at the equipment owner/consumer level, and
- (d) Interaction with other ministries and departments, industry representatives and implementing agencies for information dissemination related to the impact of policy and regulatory measures.

6. The TPMP activities will be implemented by a PMU team that is to support the NOU at the Ministry of Ecology and Emergency Situations. The NOU will be responsible for monitoring of the implementation of all activities of the TPMP.

7. In order to achieve the targets set out in the TPMP it is essential that the PMU team with support from the NOU continuously coordinates the implementation of the measures, monitor the developments on the market and have the flexibility to adapt to market changes. Monitoring of the impact of all measures will be carried out during the whole implementation period and corrective actions will be taken if any of the measures does not achieve the intended results.

8. A key factor for success is that the PMU team has sufficient manpower and competency to supervise the implementation and initiate and participate in the necessary discussion with trade authorities during the development of updated legislation, the Code of Practice, and the improved re-use scheme. Due to the type of actions required, it is necessary that relevant authorities within the Kyrgyzstan Government, as well as the private sector and relevant trade associations, be involved and consulted in the implementation of the TPMP. To strengthen the ongoing movement towards non ODS technology and improved servicing practices in the industry the PMU team will provide technical guidance, seek funding and generally provide an enabling environment to the companies. To ensure input of international experiences and to support the regulatory process, it is suggested that USD 8,000 under this component is set aside for technical assistance.

9. The monitoring, management and evaluation support component of the PMU team of the phase-out plan will for example include the following activities for the duration of the plan:

- (a) Management and co-ordination of the Plan implementation with the various Government policy actions pertaining to the refrigeration servicing sector;
- (b) Establishment of a policy development and enforcement programme, covering various legislative, regulatory, incentive, disincentive and punitive actions to enable the Government to exercise the required mandates in order to ensure compliance by the industry with the phase-out obligations;
- (c) Development and implementation of training, awareness and capacity-building

activities for key Government departments, legislators, decision-makers and other institutional stakeholders, to ensure a high-level commitment to the Plan objectives and obligations;

- (d) Informing the refrigeration trade of the availability of funds under this TPMP;
- (e) Developing and maintaining, in cooperation with the trade, a database of refrigeration and MAC certified technicians including names and addresses of service providers that have already received advice and recommendations on the allocation of annual import quotas of all Annex A, Group I, chemicals;
- (f) Preparing an annual progress report of overall implementation of the TPMP in accordance with Executive Committee procedures and requirements pertaining to this task;
- (g) Coordinating and implementing, together with the trade, the awareness raising and targeted information activities;
- (h) Development of business criteria for refrigerant recycling/reclamation centers in collaboration with relevant authorities and trade representatives;
- (i) Monitoring of the established recycling/reclamation centers i.e. collecting data at a regular basis on how much CFC etc is being reused;
- (j) Local distribution of servicing equipment and recovery and recycle/ reclamation machines, which are to be procured through UNDP and delivered to the country;
- (k) Development of selection criteria for demonstration projects, coordination and implementation of the demonstration projects including sufficient transfer of knowledge to other similar companies;
- (l) Arrangement for the workshops for industry and servicing trades on the possibilities of ODS substitution and recycling as well as for presenting the results of the demonstration projects.

10. To perform these tasks, a close collaboration between the PMU team and the NOU at the Ministry of Ecology and Emergency Situations of Kyrgyzstan will be established.

Project's Organization

11. The Ministry of Ecology and Emergency Situations will be an implementing partner for the project. It will designate a National Project Director from the NOU of Kyrgyzstan who will be the liaising person between the Ministry and UNEP and UNDP. A project manager will be recruited through a transparent and competitive process. He/She will be responsible for day-to-day management of the project with assistance from a small project support group. One of the options is that the PMU team would be hosted by the National Ozone Unit under the Ministry of Ecology and Emergency Situations.

12. The PMU composed of representatives of the NOU, of the Ministry of Ecology and Emergency Situations and UNEP will be established. This board will have a general oversight

function, give guidance to the project and make key decisions for the project. It will meet at least once in a quarter. UNEP will assign its staff to provide project policy and technical guidance.

Monitoring, Evaluation and Audit:

13. The PMU will provide overall oversight to the project. UNEP will conduct periodic monitoring of the project against defined benchmarks and indicators and financial work plan.

14. Project Manager will be responsible for day-to-day monitoring of project activities and experts work. During Project Inception Phase he/she will develop detailed work plan, including project monitoring and evaluation and financial work plans. She/he will provide brief monthly progress reports to UNEP and more detailed quarterly and annual reports to UNEP and PMU. The manager will organize and coordinate the final review of the project outcomes by the PMU and, in cooperation with UNEP, prepare a final project review report, including lessons learned.

15. Project consultants will, in agreement with and under the overall coordination of the project manager, deliver task reports.

16. The project will undergo periodic audits by a certified auditor according to UNEP rules and regulations.

APPENDIX 6-A: ROLE OF THE LEAD IA

1. The Lead IA will be responsible for a range of activities to be specified in the project document along the lines of 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 phase-out plan;
- (b) Providing verification to the Executive Committee that the Targets have been met and associated annual activities have been completed as indicated in the Annual Implementation Programme. For this undertaking, separate funding will be provided by the Executive committee to the Lead IA;
- (c) Assist the country in Preparation of the Annual Implementation Programme;
- (d) Ensure that the achievements in previous Annual Implementation Programmes are reflected in the future Annual Implementation Programme;
- (e) Reporting on the implementation of the Annual Implementation Programme of the preceding year and preparing for Annual Implementation Programme for the year of submission for submission to the Executive Committee, commencing with the 2007 Annual Implementation Programme combined with the Report on the 2006 Annual Implementation Programme;
- (f) Ensuring that appropriate independent technical experts carry out the technical reviews undertaken by the Lead IA;

- (g) Carrying out required supervision missions;
- (h) Ensuring the presence of an operating mechanism to allow effective, transparent implementation of the Annual Implementation Programme and accurate data reporting;
- (i) Verification for the Executive Committee that consumption of the Substances has been eliminated in accordance with the Targets;
- (j) Coordinating the activities of the Cooperating IAs, if any;
- (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.

APPENDIX 6-B: ROLE OF COOPERATING IA UNDP

1. The Cooperating IA, will:
 - (a) Provide policy development assistance when required;
 - (b) Assist the Government of Kyrgyzstan in the implementation and verification of the activities funded for by the Lead IA; and
 - (c) Provide reports to the Lead IA on these activities, for inclusion in the consolidated reports.

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

1. In accordance with paragraph 10 of the Agreement, the amount of funding provided may be reduced by US \$10,000 per ODP tonne of reductions in consumption not achieved in the year.