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Executive Committee of the
Interim Multilateral Fund for the
Implementation of the Montreal Protocol

Fourth Meeting
Nairobi, 17-18 June 1991

DRAFT AGREEMENT

BETWEEN

THE EXECUTIVE COMMITTEE OF THE INTERIM MULTILATERAL FUND

FOR THE IMPLEMENTATION OF THE MONTREAL PROTOCOL

AND

THE UNITED NATIONS ENVIRONMENT PROGRAMME

Background

The Interim Multilateral Fund has been established by the Contracting Parties to the Montreal Protocol to provide financial and technical assistance to Parties operating under paragraph 1 of Article 5 of the Montreal Protocol to comply with the control measures of the Montreal Protocol. The Interim Multilateral Fund shall operate under the authority of the Parties who shall decide on its overall policies.

The United Nations Environment Programme (UNEP) has agreed to serve as an Implementing Agency of the Interim Multilateral Fund. The specific purpose of this Agreement is to specify modalities of cooperation with the Executive Committee of the Interim Multilateral Fund, acting on behalf of the Parties to the Montreal Protocol, in implementing the programmes which will be entrusted by the Executive Committee to UNEP.

Definitions

For the purposes of this Agreement:

- (a) "Parties" means the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer;
- (b) "Protocol" means the Montreal Protocol on Substances that Deplete the Ozone Layer;
- (c) "Fund" means the Interim Multilateral Fund established under the Montreal Protocol on Substances that Deplete the Ozone Layer;
- (d) "Executive Committee" means the Executive Committee of the Interim Multilateral Fund.

Scope of Cooperation

The Executive Committee will provide financing for UNEP to cooperate and assist the Parties by undertaking the following:

- (a) political promotion of the objectives of the Protocol;
- (b) research and data-gathering, according to the provisions of the Protocol; and
- (c) assistance in clearing house functions. The clearing house functions will comprise the following activities:
 - (i) assist Parties operating under paragraph 1 of Article 5 of the Protocol, through country-specific studies and other technical cooperation, to identify their needs for cooperation;

- (ii) facilitate technical co-operation to meet these identified needs;
- (iii) disseminate information and relevant materials, hold workshops and training sessions and other related activities for the benefit of Parties that are developing countries; and
- (iv) facilitate and monitor other multilateral regional and bilateral co-operation available to Parties that are developing countries.

UNEP shall apply only those considerations relevant to effective and economically efficient programmes and projects which are consistent with any criteria adopted by the Parties, and guidelines adopted by the Executive Committee.

NOW THEREFORE, UNEP and the Executive Committee hereby agree as follows:

A. Operational Procedures

1. UNEP agrees to co-operate with the Executive Committee and eligible Parties in the areas detailed under Scope of Cooperation above, and for this purpose a work programme and budget will be presented annually by UNEP to the Executive Committee for its approval. The work programme and budget shall be made available in sufficient time prior to the meeting of the Executive Committee at which the work programme is to be considered. The work programmes shall identify the nature of the activity for which financing is requested, its timing and duration, cost details, participants, and expected outcome of the activity. The work programme shall be accompanied by a budget for proposed activities. In preparing its work programme, UNEP shall take into consideration requests by Parties operating under paragraph 1 of Article 5 of the Protocol for assistance in implementing their proposed programme of activities under the Protocol. Funds for these support activities shall be included in the annual work programme.
2. In developing its work programme, UNEP shall consult with the World Bank and the UNDP before making proposals to the Executive Committee on matters of interest to them and will pay due regard to their views. UNEP shall keep the other Implementing Agencies continuously and adequately informed in a timely manner of its activities covered by these arrangements as they affect the other Agencies.
3. UNEP shall co-operate with the Secretariat of the Fund to provide Parties with information on funding available for relevant projects, to secure the necessary contacts, and to co-ordinate, when requested by the interested Party, projects financed from other sources with activities financed under the Protocol.

4. In discharging its responsibilities, UNEP will use, as appropriate, its Headquarters Secretariat, its Regional Offices, its Specialized Offices, especially its Industry and Environment Office.

B. Financial Provisions

5. Upon approval by the Executive Committee of the programme of activities proposed by UNEP, UNEP will administer and manage the approved projects under a specific Trust Fund established in accordance with:

- a) the financial rules, regulations and procedures of the Environment Fund of UNEP;
- b) the application of considerations relevant to effective and economically efficient implementation of programmes and projects that are consistent with any criteria adopted by the Parties; and
- c) the guidelines for the implementation of activities supported by the Fund as adopted by the Executive Committee; and

6. The Executive Committee shall approve the transfer to UNEP of resources allocated by the Committee for the implementation of the activities approved by it. At the specific request of the recipient countries operating under paragraph 1 of Article 5 of the Protocol and when technically justified, eligible in-kind support can be provided in the form of expert personnel, technology, technical documentation and training under projects or programmes implemented by UNEP. Such inputs shall be incorporated in the relevant project documents.

7. Any interest income derived from contributions to the trust fund shall be credited to the fund in accordance with UNEP procedures.

8. The Trust Fund shall be charged with a percentage of all project expenditures made from the Trust Fund, which amount shall, in accordance with UNEP regulations, rules and directives, be utilized by UNEP in reimbursement for support services provided by any selected implementing agencies other than UNEP and/or by UNEP itself. The amount required for such costs shall be specified in the approved project documents and work programmes.

9. The accounts of the resources transferred to UNEP shall be subject to the internal and external audit procedures applicable to the United Nations.

10. UNEP will present to the Executive Committee, with the six monthly and financial reports referred to in paragraph 18 of this Agreement, any requests for meeting unforeseen increases in costs of the implementation of the approved activities.

11. UNEP shall not be required to start any activity supported by the Fund before the transfer of resources according to paragraph 6 above.

12. If unforeseen increases in expenditures or commitments are expected or realized, UNEP shall submit through the Chief Officer of the Fund Secretariat to the Executive Committee on a timely basis a supplementary estimate detailing the further financing that will be necessary. The Executive Committee shall use its best efforts to obtain the additional funds required.

13. UNEP may agree to co-financing arrangements, on terms determined consistently with the financial provisions in this agreement, in cases in which such financing is to be provided for purposes of the Protocol.

14. UNEP shall continue to hold all unutilised contribution payments until all commitments and liabilities incurred in the implementation of the projects have been satisfied and project activities brought to an orderly conclusion. Upon completion of its activities and fulfillment of its obligations, UNEP shall return all unused resources to the Fund unless otherwise agreed.

C. Ownership and Disposal of Property

15. Ownership of equipment, supplies and other property financed from the contribution shall vest in UNEP for the duration of the specific project or programme activity. Following the completion of the above specified project or programme activity, ownership shall be transferred to the appropriate institution or agency in the recipient country in accordance with the relevant policies and procedures of UNEP, taking into account recommendations that may be received from the Chief Officer of the Fund Secretariat.

D. Participation in Meetings

16. The Executive Director of UNEP, or his representative, shall be invited to participate in meetings of the Executive Committee to report and consult on UNEP's activities under these arrangements.

E. Reports

17. As approved by the Executive Committee and in accordance with UNEP accounting and reporting procedures, UNEP shall submit to the Executive Committee through the Fund Secretariat the following reports:

- a) semi-annual progress reports on substantive project activities;
- b) an annual report on implementation of activities of prior approved work programmes and activities related to country programmes;
- c) an annual report of the status of UNEP activities related to country programmes;
- d) an annual report on income and expenditures for the previous years; and
- e) a revision of the current year's budget where necessary and the following year's budget and workplan.

18. UNEP shall contribute to the annual report to be prepared by the Fund Secretariat on the interagency work programme and coordination of activities.

19. The Executive Committee will review periodically performance reports on UNEP's implementation of activities supported by the Fund and will monitor and evaluate expenditures incurred. The Executive Committee will transmit its findings to UNEP for comment and follow-up.

F. Settlement of Disputes

20. Any dispute, controversy or claims arising out of, or in connection with this Agreement, or any breach thereof shall, unless it is settled by direct negotiation, be settled by arbitration, in accordance with the UNCITRAL Arbitration Rules as at present in force. UNEP and the Executive Committee agree to be bound by any arbitration award rendered in accordance with this section as the final adjudication of any dispute.

G. General Provision

21. Nothing in or relating to any provision in the Arrangement shall be deemed a waiver, expressed or implied, of the privileges and immunities of the United Nations, including UNEP.

H. Amendment or Termination of Agreement

22. The present arrangements may be amended by agreement in writing between the Executive Committee and UNEP.

23. These arrangements will terminate at the option of either the Executive Committee or UNEP upon six months' written notice. The financial provisions governing termination of the agreement are specified in paragraph 14 above.

I. Effective Date Upon Signature

24. This Agreement will become effective upon signature.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto, have signed the present agreement in two copies.

For the Executive Committee:

For the United Nations
Environment Programme:

Signature:

Signature:

Name:

Name:

Title:

Title:

Date:

Date: