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

Seventh Meeting
Montreal, 23-26 June 1992

ESTABLISHMENT OF A FINANCIAL MECHANISM UNDER ARTICLE 10 OF THE AMENDED MONTREAL PROTOCOL

1. The Twentieth ratification to the Amendment to the Montreal Protocol, adopted by the Second Meeting of the Parties to the Protocol in London in June 1990 was received on 12 May 1992 and the amendment enters into force on 10 August 1992. According to Article 10 of the Montreal Protocol, the Parties shall establish a Financial Mechanism including a Multilateral Fund and an Executive Committee. The purpose of the Multilateral Fund is to provide financial and technical co-operation, including the transfer of technologies, to Parties operating under Paragraph 1 of Article 5 of this Protocol to enable their compliance with the control measures set out in Articles 2A-2E of the Protocol. Accordingly, the Parties to the Protocol at their Fourth Meeting to be held in Copenhagen in November 1992 will consider this issue and establish the Mechanism.

2. Pending the entry into force of the Amendment, the Second Meeting of the Parties to the Montreal Protocol established for a three-year period from 1 January 1991 to 31 December 1993 an Interim Financial Mechanism by its Decision II/8. The Interim Financial Mechanism has all the features of the Financial Mechanism stipulated in the Article 10 of the amended Protocol including (a) the Multilateral Fund (b) the Executive Committee (c) contributions to the Fund and (d) implementing agencies. The Second Meeting of the Parties also accepted the offer of Canada to host the Executive Committee meetings as necessary during the interim period, to support participation of developing countries in these meetings and to assume administrative costs of those initiatives.

3. Decision II/8 also formulated the indicative list of categories of incremental costs, terms of reference of the Executive Committee, scale of contribution by the Parties based on the UN scale of assessments, terms of reference of the Interim Multilateral Fund and the provisional budget for the Fund Secretariat for 1991.

4. The indicative list of categories of incremental costs applicable to the Financial Mechanism to be set up is under consideration by the Open-ended Working Group of the Parties to the Protocol. The scale of contributions by the Parties to the Fund and the budget for the Fund Secretariat for future years will be considered by the Parties at their Fourth Meeting.

5. The Fourth Meeting of the Parties may wish to review the terms of reference of the Multilateral Fund and of the Executive Committee in the light of experience gained.

6. The terms of reference of the Executive Committee include the following:

(a) The number of members and the manner of their selection.

(b) Manner of selection of the Chairman and Vice-Chairman.

(c) Decision-making process by the Executive Committee.

(d) Functions of the Executive Committee.

(e) Languages of the Meetings of the Executive Committee.

(f) Number of meetings per year and the Rules of Procedure.

The terms of reference are contained in Annex IV, Appendix II to the Decision II/8 of the Second Meeting of the Parties (UNEP/OzL.Pro.2/3), which provides (in paragraph 6) that "before the end of that three-year period, the terms of reference of the Executive Committee shall be reviewed by the meeting of the Parties".

7. The terms of reference of the Interim Multilateral Fund contain the following:

(a) Size of the fund for the years 1991-1993.

(b) Roles of the implementing agencies and reporting by the implementing agencies to the Executive Committee.

(c) Budget and contributions to the Fund.

(d) Administration of the Fund.

These are contained in Annex IV, Appendix IV to the Decision II/8 of the Second Meeting of the Parties (UNEP/OzL.Pro.2/3).

8. The Executive Committee may wish to consider the above and provide recommendations regarding the Financial Mechanism.

Appendix II

TERMS OF REFERENCE OF THE EXECUTIVE COMMITTEE

1. The Executive Committee of the Parties is established to develop and monitor the implementation of specific operational policies, guidelines and administrative arrangements including the disbursement of resources, for the purpose of achieving the objectives of the Multilateral Fund under the Financial Mechanism.

2. The Executive Committee shall consist of seven Parties from the group of Parties operating under paragraph 1 of Article 5 of the Protocol and seven Parties from the group of Parties not so operating. Each group shall select its Executive Committee members. The members of the Executive Committee shall be formally endorsed by the Meeting of the Parties.

3. The Chairman and Vice-Chairman shall be selected from the fourteen Executive Committee members. The office of Chairman is subject to rotation, on an annual basis, between the Parties operating under paragraph 1 of Article 5, and the Parties not so operating. The group of Parties entitled to the chairmanship shall select the Chairman from among their members of the Executive Committee. The Vice-Chairman shall be selected by the other group from within their number.

4. Decisions by the Executive Committee shall be taken by consensus whenever possible. If all efforts at consensus have been exhausted and no agreement reached, decisions shall be taken by a two-thirds majority of the Parties present and voting, representing a majority of the Parties operating under paragraph 1 of Article 5 and a majority of the Parties not so operating present and voting.

5. The meetings of the Executive Committee shall be conducted in those official languages of the United Nations required by members of the Executive Committee. Nevertheless the Executive Committee may agree to conduct its business in one of the United Nations official languages.

6. Costs of Executive Committee meetings, including travel and subsistence of Committee participants from Parties operating under paragraph 1 of Article 5, shall be disbursed from the Multilateral Fund as necessary.

7. The Executive Committee shall ensure that the expertise required to perform its functions is available to it.

8. The Executive Committee shall meet at least twice a year.

9. The Executive Committee shall adopt other rules of procedure on a provisional basis and in accordance with paragraphs 1 to 8 of these terms of reference. Such provisional rules of procedure shall be submitted to the next annual meeting of the Parties for endorsement. This procedure shall also be followed when such rules of procedure are amended.

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10. The functions of the Executive Committee shall include:

(a) To develop and monitor the implementation of specific operational policies, guidelines and administrative arrangements, including the disbursement of resources;

(b) To develop the three-year plan and budget for the Multilateral Fund, including allocation of Multilateral Fund resources among the agencies identified in paragraph 6 of decision II/8;

(c) To supervise and guide the administration of the Multilateral Fund;

(d) To develop the criteria for project eligibility and guidelines for the implementation of activities supported by the Multilateral Fund;

(e) To review regularly the performance reports on the implementation of activities supported by the Multilateral Fund;

(f) To monitor and evaluate expenditure incurred under the Multilateral Fund;

(g) To consider and, where appropriate, approve country programmes for compliance with the Protocol and, in the context of those country programmes, assess and, where applicable, approve all project proposals or groups of project proposals where the agreed incremental costs exceed $500,000;

(h) To review any disagreement by a Party operating under paragraph 1 of Article 5 with any decision taken with regard to a request for financing by that Party of a project or projects where the agreed incremental costs are less than $500,000;

(i) To assess annually whether the contributions through bilateral co-operation, including particular regional cases, comply with the criteria set out by the Parties for consideration as part of the contributions to the Multilateral Fund;

(j) To report annually to the meeting of the Parties on the activities exercised under the functions outlined above, and to make recommendations as appropriate;

(k) To nominate, for appointment by the Executive Director of UNEP, the Chief Officer of the Fund Secretariat, who shall work under the Executive Committee and report to it; and

(l) To perform such other functions as may be assigned to it by the Meeting of the Parties.

Appendix IV

TERMS OF REFERENCE FOR THE INTERIM MULTILATERAL FUND

A. Establishment

1. An interim Multilateral Fund, of $160 million, which could be raised by up to $80 million during the three-year period when more countries become Parties to the Protocol, hereinafter referred to as "the Multilateral Fund", shall be established.

B. Roles of the implementing agencies

2. Under the overall guidance and supervision of the Executive Committee in the discharge of its policy-making functions:

(a) Implementing agencies shall be requested by the Executive Committee, in the context of country programmes developed to facilitate compliance with the Protocol, to co-operate with and assist the Parties within their respective areas of expertise; and

(b) Implementing agencies shall be invited by the Executive Committee to develop an inter-agency agreement and specific agreements with the Executive Committee acting on behalf of the Parties.

Implementing agencies shall apply only those considerations relevant to effective and economically efficient progammes and projects which are consistent with any criteria adopted by the Parties.

3. Specifically,

(a) The United Nations Environment Programme shall be invited by the Executive Committee to co-operate and assist in political promotion of the objectives of the Protocol, as well as in research, data gathering and the clearing-house functions;

(b) The United Nations Development Programme and such other agencies which, within their areas of expertise, may be able to assist, shall be invited by the Executive Committee to co-operate and assist in feasibility and pre-investment studies and in other technical assistance measures;

(c) The World Bank shall be invited by the Executive Committee to co-operate and assist in administering and managing the programme to finance the agreed incremental costs;

(d) Other agencies, in particular regional development banks, shall also be invited by the Executive Committee to co-operate with and assist it in carrying out its functions.

4. The Executive Committee shall draw up reporting criteria and shall invite the implementing agencies to report regularly to it in accordance with those criteria.

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5. The Executive Committee shall invite the implementing agencies, in fulfilling their responsibilities in respect of the Multilateral Fund, to consult each other regularly. It shall also invite the heads of the agencies, or their representatives, to meet at least once a year to report on their activities and consult on co-operative arrangements.

6. The implementing agencies shall be entitled to receive support costs for the activities they undertake having reached specific agreements with the Executive Committee.

C. Budget and contributions

7. The Multilateral Fund shall be financed in accordance with paragraph 7 of decision II/8. In addition, contributions may be made by countries not Party to the Protocol, and by other governmental, intergovernmental, non-governmental and other sources.

8. The contributions referred to in paragraph 7 above are to be based on the scale of contributions set out in Appendix III. Bilateral, and in particular cases, regional co-operation by a country not operating under paragraph 1 of Article 5 may, according to criteria adopted by the Parties, be considered as a contribution to the Multilateral Fund up to a total of twenty per cent of the total contribution by that Party set out in Appendix III.

9. All contributions other than the value of bilateral and agreed regional co-operation referred to in paragraph 8 above shall be in convertible currency or, in certain circumstances, in kind and/or in national currency.

10. Contributions from States that become Parties not operating under paragraph 1 of Article 5 after the beginning of the financial period of the mechanism shall be calculated on a pro rata basis for the balance of the financial period.

11. Contributions not immediately required for the purposes of the Multilateral Fund shall be invested under the authority of the Executive Committee and any interest so earned shall be credited to the Multilateral Fund.

12. Budget estimates, setting out the income and expenditure of the Multilateral Fund prepared in United States dollars, shall be drawn up by the Executive Committee and submitted to the regular meetings of the Parties to the Protocol.

13. The proposed budget estimates shall be dispatched by the Fund Secretariat to all Parties to the Protocol at least sixty days before the date fixed for the opening of the regular meeting of the Parties to the Protocol at which they are to be considered.

14. After entry into force of the Amendment to the Protocol, the Financial Mechanism shall be established by the Parties at their next regular meeting and any resources remaining in the interim Multilateral Fund shall be transferred to the multilateral fund established under that mechanism.

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D. Administration

15. The World Bank shall be invited by the Executive Committee to co-operate with and assist it in administering and managing the programme to finance the agreed incremental costs of Parties operating under paragraph 1 of Article 5. Should the World Bank accept this invitation, in the context of an agreement with the Executive Committee, the President of the World Bank shall be the Administrator of this programme, which shall operate under the authority of the Executive Committee.

16. The Executive Committee shall encourage the involvement of other agencies, in particular the regional development banks, in carrying out its functions effectively in relation to the programme to finance the agreed incremental costs.

17. The Fund Secretariat operating under the Chief Officer, co-located with the United Nations Environment Programme (UNEP) at a place to be decided by the Executive Committee, shall assist the Executive Committee in the discharge of its functions. The Multilateral Fund shall cover Secretariat costs, based on regular budgets to be submitted for decision by the Executive Committee.

18. In the event that the Chief Officer of the Fund Secretariat anticipates that there may be a shortfall in resources over the financial period as a whole, he shall have discretion to adjust the budget approved by the Parties so that expenditures are at all times fully covered by contributions received.

19. No commitments shall be made in advance of the receipt of contributions, but income not spent in a budget year and unimplemented activities may be carried forward from one year to the next within the financial period.

20. At the end of each calendar year, the Chief Officer of the Fund Secretariat shall submit to the Parties accounts for the year. The Chief Officer shall also, as soon as practicable, submit the audited accounts for each period so as to coincide with the accounting procedures of the implementing agencies.

21. The Fund Secretariat and the implementing agencies shall co-operate with the Parties to provide 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.

22. The financing of activities or other costs, including resources channelled to third party beneficiaries, shall require the concurrence of the recipient Governments concerned. Recipient Governments shall, where appropriate, be associated with the planning of projects and programmes.

23. Nothing shall preclude a beneficiary Party operating under paragraph 1 of Article 5 from applying for its requirements for agreed incremental costs solely from the resources available to the Multilateral Fund.

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