

Annex XXXIX

**AGREEMENT BETWEEN THE GOVERNMENT OF VIET NAM
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 Viet Nam (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 100 per cent of the baseline consumption level and 90 per cent of the baseline consumption level by 1 January 2013 and 1 January 2015, respectively. In this context, the baseline consumption level is defined as the average consumption level of Annex C, Group I chemicals in 2009 and 2010.
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”; the Target) 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 the Substances which exceed the level defined in rows 4.1.3, 4.2.3 and 4.3.3 (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 2.1 of Appendix 2-A (“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. The Country will meet the consumption limit as indicated in row 1.2 of Appendix 2-A. It will also accept independent verification, to be commissioned by the relevant bilateral or implementing agency, of achievement of this consumption limit as described in sub-paragraph 5(b) 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 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 tranche implementation reports in the form of Appendix 4-A (“Format of Tranche Implementation Report and Plan”) 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 a tranche implementation plan in the form of Appendix 4-A (“Format of Tranche 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 tranche implementation plan 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 sub-paragraph 5(b).

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 phase-down and phase-out of the Substances specified in Appendix 1-A. Reallocations categorized as major changes must be documented in advance in a Tranche Implementation Plan and approved by the Executive Committee as described in sub-paragraph 5(d). Major changes would relate to reallocations affecting in total 30 per cent or more of the funding of the last approved tranche, issues potentially concerning the rules and policies of the Multilateral Fund, or changes which would modify any clause of this Agreement. 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 Tranche Implementation Report. Any remaining funds will be returned to the Multilateral Fund upon closure of the last tranche of the plan.

8. 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 World Bank has agreed to be the lead implementing agency (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.

9. The Lead IA will be responsible for carrying out the activities of the plan as detailed in the first submission of the HPMP with the changes approved as part of the subsequent tranche submissions, including but not limited to independent verification as per sub-paragraph 5(b). The Executive Committee agrees, in principle, to provide the Lead IA with the fees set out in row 2.2 of Appendix 2-A.

10. 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 amounts set out in Appendix 7-A in respect of each ODP kilogramme (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.

11. 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.

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 with access to information necessary to verify compliance with this Agreement.

13. 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 Appendix 4-A (a), (b), (d) and (e) continue until the time of the completion if not specified by the Executive Committee otherwise.

14. 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 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	166
HCFC-123	C	I	0.02
HCFC-141b	C	I	219.8*
Total starting point			385.82**

* This figure includes 55.2 ODP tonnes of controlled HCFC-141b and the 2007-2009 average figure of HCFC-141b contained in imported pre-blended polyol by Viet Nam (164.56 ODP tonnes).

** The starting point is based on an estimated consumption baseline which is an average of the 2009 and 2010 consumption of Annex C, Group I chemicals in line with Executive Committee decision 60/44 plus the 2007-2009 average HCFC-141b content of imported pre-blended polyol.

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	221.2	221.2	199.1	n/a
1.2	Maximum allowable total consumption of Annex C, Group I substances (ODP tonnes)	n/a	n/a	221.22	221.22	199.10	n/a
2.1	Lead IA World Bank agreed funding(US \$)	3,054,423	0	5,663,016	0	1,046,381	9,763,820
2.2	Support costs for Lead IA(US \$)	229,082	0	424,726	0	78,479	732,287
3.1	Total agreed funding (US \$)	3,054,423	0	5,663,016	0	1,046,381	9,763,820
3.2	Total support cost (US \$)	229,082	0	424,726	0	78,479	732,287
3.3	Total agreed costs (US \$)	3,283,505	0	6,087,742	0	1,124,860	10,496,107
4.1.1	Total phase-out of HCFC-22 agreed to be achieved under this agreement (ODP tonnes)						0
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)						166.00
4.2.1	Total phase-out of HCFC-123 agreed to be achieved under this agreement (ODP tonnes)						0
4.2.2	Phase-out of HCFC-123 to be achieved in previously approved projects (ODP tonnes)						0
4.2.3	Remaining eligible consumption for HCFC-123 (ODP tonnes)						0.02
4.3.1	Total phase-out of HCFC-141b agreed to be achieved under this agreement (ODP tonnes)						140.10
4.3.2	Phase-out of HCFC-141b to be achieved in previously approved projects (ODP tonnes)						0
4.3.3	Remaining eligible consumption for HCFC-141b (ODP tonnes)						79.70

*Figures based on Article 7 data, which are rounded to one decimal point.

APPENDIX 3-A: FUNDING APPROVAL SCHEDULE

1. Funding for the future tranches will be considered for approval not earlier than the first 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 Plan will consist of five parts:
 - (a) A narrative report regarding the progress in 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 in the next tranche, 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 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 National Ozone Office (NOO) of the Ministry of Natural Resources and Environment (MONRE) is responsible for managing and co-ordinating Viet Nam's overall ODS phase-out programme, including all phase-out activities and measures controlling Annex C, Group I substances (HCFCs). The management and implementation of this Agreement will be undertaken by the HPMP Project Management Unit (PMU) which falls under the direct authority of the NOO.

2. The HPMP PMU and the NOO will collaborate and co-ordinate with the Ministry of Industry and Trade (MOIT) and the Customs Bureau to institute and implement the import/control system for HCFCs; review annual HCFC import/export license applications to ensure that the list of end-users are provided by importers/exporters; and establish and publish the annual import quotas for HCFCs for the period 2012 through 2015.

3. In order to monitor and evaluate the progress of Agreement implementation, the PMU will assist the NOO to:

- (a) Develop a management information system that captures and tracks all relevant and required data on the importation of Annex C, Group I substances (HCFCs) on an annual basis;

- (b) Update the data on the actual amount of imported HCFCs in cooperation with the Customs Bureau on a quarterly basis;
- (c) Monitor and report any incidents of illegal import of HCFCs;
- (d) Monitor progress of HCFC phase-out on the demand side by direct oversight of sub-project implementation;
- (e) compile periodic progress reports of HPMP implementation and HCFC phase-out achievements for sharing with MONRE, MOIT, the Customs Bureau and the Ministry of Planning and Investment and its local bureaus; and
- (f) Prepare Tranche Implementation Reports and Plans according to the schedule set forth in Appendix 2-A.

4. MONRE along with its government partner agencies (MOIT, the Customs Bureau and Ministry of Planning and Investment) will be responsible for reviewing PMU reports and data and instituting control and policy measures which facilitate HCFC control and reductions according to the Agreement.

APPENDIX 6-A: ROLE OF THE LEAD IMPLEMENTING AGENCY

1. The Lead IA will be responsible for a range of activities including:
 - (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) Assisting the Country in preparation of the Tranche 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 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 tranches and the overall Plan as specified in Appendix 4-A as well as project completion reports for submission to the Executive Committee;
 - (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 Tranche Implementation Plan and accurate data reporting;
 - (i) 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, the allocation of the reductions to the different budget items;

- (j) Ensuring that disbursements made to the Country are based on the use of the indicators;
and
- (k) 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 party 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 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 \$139 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.