Annex XVII

AGREEMENT BETWEEN CHINA AND THE EXECUTIVE COMMITTEE OF THE MULTILATERAL FUND FOR THE CFCS/CTC/HALON ACCELERATED PHASE-OUT PLAN IN CHINA

1. This Agreement represents the understanding of China (the "Country") and the Executive Committee with respect to the Accelerated Phase-out Plan (APP) of production and controlled use of ozone depleting substances in the sectors set out in Appendix 1-A (the "Substances") by July 1, 2007 for CFC production and consumption and by January 1, 2010 for halon 1301, in compliance with Protocol schedules. This Agreement supplements the Agreements between the Executive Committee and China entered into (1) at the 23rd Meeting for phase-out of halons in the halon sector, (2) at the 27th Meeting for the phase-out of CFC production in China, and (3) at the 35th Meeting for the phase-out of CFCs in the polyurethane foam sector in China.

2. The Country agrees to phase-out the production and the controlled use of the Substances in accordance with the annual phase-out targets set out in row 1 to 9 of Table 1 in Appendix 2-A (the "Targets") of this Agreement. The other conditions in the existing agreements on phase-out of the Substances for the different sector plans in China will not be changed with one exception for the Halon Sector Plan[1], and sector annual programmes will be prepared. The annual phase-out targets will, at a minimum, correspond to the reduction schedules mandated by the Montreal Protocol. 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 production and controlled use of phase-out of CFCs and halon-1301, with the exception of the two remaining sector plans which are under preparation, i.e. phasing out CFCs in the manufacturing of metered dose inhalers (MDIs) and phasing out CFCs in the pharmaceutical aerosols.

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 rows 2, 5, and 7 of Table 2 in Appendix 2-A (the "Funding") to the Country. 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 production limits for each Substance as indicated in row 1, 5 and 7 and consumption limits as indicated in row 2, 3, 6 and 8 in Table 1 in Appendix 2-A. It will also accept independent verification by the relevant Implementing Agency of achievement of these production limits as described in paragraph 8 of this Agreement.

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[1] Condition E "China also agrees that, after full conversion, that at least 3.59 million extinguishers produced in China will, in 2005, be either CO_2 extinguishers or extinguishers using a technology that is at least as expensive. If that is not the case, funding will be requested to be refunded based on a rate of US $3.08 per unit shortfall of CO_2 or equivalent fire extinguishers. " in the general conditions of the Halon Agreement at the 23rd ExCom Meeting will be waived. Instead, in case of any shortfall, the equivalent amount of this refund will remain in China for capacity building to help China to comply with the Montreal Protocol commitments for activities in the China Convention Compliance Center.

5. The Executive Committee will not provide the Funding in accordance with the Funding Disbursement Schedule unless the Country satisfies the following conditions at least 30 days prior to the applicable Executive Committee meeting set out in the Funding Disbursement Schedule:

(a) that the Country has met the Target for the applicable year;

(b) that the meeting of these Targets has been independently verified as described in paragraph 8;

(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 8.

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 have the flexibility to reallocate the approved funds, or part of the funds according to the evolving circumstances to achieve the goals prescribed under this Agreement. Reallocations which are considered as major changes should be accounted for in the verification report and reviewed by the Executive Committee.

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 fulfill the obligations under this Agreement. The Country also agrees to establish policies and enforcement mechanisms to control illegal ODS related activities as set out in Appendix 9-A. In line with the request of the Government of United States of America, which is the bilateral agency for the accelerated phase-out programme, 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 Lead IA will be responsible, with the cooperation of the Government of the United States of America in respect of the accelerated phase-out programme, 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 programme of the Multilateral Fund. The Executive Committee agrees, in principle, to provide the Lead IA with the fees set out in rows 3, 6, 8 and 10 of Table 2 in Appendix 2-A.

9. Should the Country, for any reason, not meet the Targets for the elimination of the Substance 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 Disbursement Schedule. In the discretion of the Executive Committee, funding will be reinstated according to a revised Funding Disbursement 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 Disbursement 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 production or/and consumption not achieved in any one year.

10. 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 production sector projects or any other related activities in the Country.

11. 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 access by the Lead IA to information necessary to verify compliance with this Agreement.

12. 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.

Appendix 1-A. The substances

1. The common names of the ODS to be phased out under the Agreement will be listed here.

Annex A:	Group I	CFC-11, CFC-12, CFC-113, CFC-114, CFC-115
Annex A	Group II	Halon 1301
Annex B	Group I	CFC-13
Annex B	Group II	CTC

Appendix 2-A. The targets, and funding

Table 1: ODS Phase-out Targets

(ODP tonnes)	Baseline	2004	2005	2006	2007	2008	2009	2010
CFCs [1]								
Montreal Protocol Reduction Schedule (Production)	47,004	47,004	23,502	23,502	7,050.6	7,050.6	7,050.6	0[2]
Montreal Protocol Reduction Schedule (Consumption)	57,819	57,819	28,910	28,910	8,673	8,673	8,673	0[2]
1. Max allowable CFCs production		25,300	18,750	13,500	7,400[3]	550	550	0[2]
2. Max allowable CFCs total consumption		25,300	18,750	13,500	7,400	550	550	0[2]
3. Max allowable CFC-11 consumption limit in PU Foam Sector		10,500	9,000	7,000	400	0		
4. Max. allowable net CFC exports [4]		NL[5]	NL[5]	400	200	100	50	0
CTC								
Montreal Protocol Reduction Schedule (Production)	29,367.4		4,405	4,405	4,405	4,405	4,405	0
Montreal Protocol Reduction Schedule (Consumption)	55,903		8,385	8,385	8,385	8,385	8,385	0
5. Max allowable sum of production and imports of CTC [6]		54,857	38,686	32,044	22,724	12,768	13,415	12,217 [7]
6. Max allowable CTC as CFC feedstock		39,306	28,446	21,276	11,396	847 [8]	847 [8]	0 [9]
Halon								
Montreal Protocol Reduction Schedule (Production)	40,993	40,993	20,497	20,497	20,497	20,497	20,497	0
Montreal Protocol Reduction Schedule (Consumption)	34,187	34,187	17,094	17,094	17,094	17,094	17,094	0
7. Max allowable halon 1301 production		2000	2000	1000	1000	1000	1000	0
8. Max allowable halon 1301 consumption and export [10]		1500	1500	1000	1000	1000	1000	0
9. Max. allowable net halon 1301 export		NL[5]	NL[5]	200	200	100	100	0

Note:
1. CFCs include Annex A Group I and Annex B Group I.
2. Except for essential uses as agreed by the Parties.
3. Production based on the MP plus 10% allowed for basic domestic needs.
4. Net exports defined as exports-imports.
5. Not limited (NL): No limits on export/import of CFCs.
6. Not including CTC production for non-ODS feedstock.
7. 12,217 equals 11,997 (Row 2) plus 220 (Row 4) in the existing agreement for CTC/PA phase-out (Phase I).
8. Estimated CTC production (770 MT) used as CFC production (550 MT CFCs) to meet MDI consumption. In case of import of MDI quality CFC, the national production of CFC and CTC will reduce accordingly to ensure that the national consumption for CFC and CTC stay within the agreed consumption levels.
9. Not including CTC as CFC feedstock for CFC production for essential use.
10. For consistency with the halon 1301 production phase-out, China will limit use of halon 1301 to military and essential use (to be approved by the Parties) and limit export of halon 1301 to Article 5 countries as given in the table above (include essential uses).

Table 2: Multilateral Fund Support (in US$ thousands)

	2004	2005	2006	2007	2008	2009	2010
CFC production sector							
1. Total annual funding in the existing agreement for CFC production phase-out	13,000	13,000	13,000	13,000	13,000	13,000	-
2. Total adjusted annual funding for the APP	**13,000**	**13,000**	**13,000**	**24,000**	**7,500**	**7,500**	-
3. Programme support cost (7.5%)	975.00	975.00	975.00	1.800	562.5	562.5	-
Foam sector							
4. Total annual funding in the existing agreement for the PU foam sector	10,903	10,903	3,320	2,676	1,767	1,767	-
5. Total adjusted annual funding for the APP	**10,903**	**10,903**	**3,320**	**2,676**	**1,767**	**1,767**	**-**
6. Programme support cost as per the existing agreement for the foam sector plan	961.27	961.27	282.80	240.84	159.03	159.03	-
7. Agreed new funding for the APP [1]	**5,000**	**5,000**	**0**	**0**	**0**	**0**	**-**
8. Agreed programme support cost for the APP (7.5%)	375.00	375.00	0	0	0	0	-
9. Total agreed funding	**28,903**	**28,903**	**16,320**	**26,676**	**9,267**	**9,267**	**-**
10. Total agreed support cost	**2,311.27**	**2,311.27**	**1,257.80**	**2,040.84**	**721.53**	**721.53**	-

Note:
1. This finding request includes only compensation for early phase-out of CFC and halon 1301, and some capacity building activities. It excludes fund request for early phase-out of CTC which would be requested separately in the CTC/PA II sector plan which is under preparation.

Appendix 3-A. Funding approval schedule

1. Funding will be considered for approval at the first meeting of the calendar year of the Annual Implementation Programme.

Appendix 4-A. Format of Annual Implementation Programme

1. Data

	Country	
	Year of plan	
	# of years completed	
	# of years remaining under the plan	
	Target CFC/CTC/halon 1301 production of the preceding year	
	Target CFC/CTC/halon 1301 production of the year of plan	
	Target CFC-11 consumption of the preceding year in the foam sector	
	Target CFC-11 consumption of the year of plan in the foam sector	
	Level of funding requested	
	Lead implementing agency	

2. Targets

Indicators		**Preceding year**	**Year of plan**	**Reduction**
Supply of ODS	Production (CFCs/CTC/halon 1301)			
	Import (CFCs/CTC)			
	Total (1) (CFCs/CTC/halon 1301)			
Demand of ODS	Foam (CFC-11)			
	CFC feedstock (CTC)			
	halon 1301			
	Total (2) (CFCs/CTC/halon 1301)			

3. **Industry Action**

Sector	Production preceding year (1)	Production year of plan (2)	Reduction within year of plan (1)-(2)	Number of projects completed	ODS phase-out (in ODP tonnes)
CFCs					
CTC					
Halon 1301					
Total					

Sector	Consumption preceding year (1)	Consumption year of plan (2)	Reduction within year of plan (1)-(2)	Number of projects completed	ODS phase-out (in ODP tonnes)
Foam					
Total					

4. **Technical Assistance**

Proposed Activity: ______________________________
Objective: ______________________________
Target Group: ______________________________
Impact: ______________________________

5. **Government Action**

Policy activity planned	**Schedule of implementation**
Policy control on ODS production, consumption, import and export	
Public awareness	
Others	

6. **Annual Budget**

Activity	**Planned expenditures (US $)**
Total	

Appendix 5-A. Monitoring institutions and roles

1. The Government of China agrees to ensure accurate monitoring of the ODS phase-out under this Agreement. The ODS production and consumption figures provided under this Agreement will be consistent with China's reports to the Ozone Secretariat under Article 7 of the Montreal Protocol. The Government of China also agrees to allow independent verification conducted by the World Bank, and in addition, external evaluation as may be directed by the Executive Committee, to verify that annual ODS production levels correspond to those agreed. Verification of CFC-11 consumption in the foam sector will be done according to the existing agreement for the PU foam sector.

2. Since the implementation of this CFC/Halon Accelerated Phase-out Plan consists of the implementation of originally independent phase-out plans of (1) CFC production, (2) CFC consumption in the PU foam sector, and (3) CTC and PA (Phase I), a consolidated reporting of all those plans (see the table as below) is required. Under this CFC/Halon Accelerated Phase-out Plan, the World Bank as lead agency will facilitate an Executive Summary each year on implementation status of the APP and all sector plans active in the year covered by the verification. The list below shows ongoing sector plans with verification obligations.

Sector Plans in China	Implementing Agency
1. Halon Sector Plan	World Bank
2. CFC Production Sector Plan	World Bank
3. Foam Sector Plan (CFC-11)	World Bank
4. Tobacco Sector Plan (CFC-11)	UNIDO
5. Solvent Sector Plan (CFC-113, CTC and TCA)	UNDP
6. CTC and PA Sector Plan (phase I) (CTC and CFC-113)	World Bank
7. TCA Sector Plan	World Bank
8. Refrigeration Servicing Sector Plan (CFC)	UNIDO
9. CTC and PA Sector Plan (phase II) (under preparation)	World Bank
10. Pharmaceutical Aerosol Sector Plan (under preparation)	World Bank
11. MDI Sector Plan (preparation to start)	UNIDO

3. In addition to monitoring of the implementation through the responsible agencies as well as the lead agency, the Project Management Office (PMO) affiliated to the China State Environmental Protection Administration (SEPA) as well as other state governments will monitor implementation, being supervised by the China Leading Group of Ozone Layer Protection.

4. The implementation part of the Executive Summary Report to be submitted to the Executive Committee will provide an overall assessment of the ODS production and consumption for the year concerned, using the definition of the Montreal Protocol on production and consumption. This should be based on verification results from cooperating implementing agencies who implement sector plans and should include the verified import and export data on the relevant controlled substances. The release of funding under the existing ODS Phase-out Plans will be subject to the acceptance of the annual implementation programmes of each individual sector plan as part of the consolidated Executive Summary Report.

Appendix 6-A. Role of the lead implementing agency

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 implementation programme

(c) Assisting the Country in preparation of the Implementation Programme;

(d) Ensuring that achievements in previous Implementation Programmes are reflected in future Implementation Programme;

(e) A report on the implementation of the Annual Implementation Programme of the preceding year using the Montreal Protocol definition on production and consumption and the Annual Implementation Programme for the year is to be prepared and submitted to the first meeting of the Executive Committee in each year;

(f) Ensuring that technical reviews undertaken by the Lead IA are carried out by appropriate independent technical experts;

(g) Carrying out required supervision missions;

(h) Ensuring the presence of an operating mechanism to allow effective, transparent implementation of the Implementation Programme and accurate data reporting;

(i) Verification for the Executive Committee that production of the Substances has been eliminated in accordance with the Targets;

(j) Coordinate 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 7-A Reductions in funding for failure to comply

1. In accordance with paragraph 9 of the Agreement, the amount of funding provided may be reduced according to the penalty stipulations in the existing agreements for ODS phase-out in the CFC production, PU foam, halon and the refrigeration servicing sectors.

Appendix 8-Existing Agreements between China and the Executive Committee of the Multilateral Fund on the phase-out of ODS production and consumption

(ODP tonnes)	Baseline	2004	2005	2006	2007	2008	2009	2010
CFCs								
CFCs Production	47,004	25,300	18,750	13,500	9,600	7,400	3,200	0 [1]
Annual national CFC-11 consumption limit in the a greement for the FSP)		13,100	10,400	7,700	4,130	3,800	300	0
Annual CFC-11 consumption limit in PU foam sector as per the agreement for the Foam Sector Plan		11,666	9,646	7,164	3,821	3,553	102	0
CFC-11 consumption limit as per the agreement for the Tobacco sector		500	300	150	0			
CFC-113 consumption control targets as per the agreement for the solvent sector		1,100	500	0 [2]				
CFCs consumption limits in I&C refrigeration Sector for manufacturing				0 [3]				
CFCs consumption limits in domestic refrigeration sector for manufacturing					0 [3]			
Max allowable CFC-113 consumption as per the agreement for the PA sector	17.2	14	14	10.8	8.4	0		
Max allowable CFCs consumption in the servicing sector		5,083	4,572	3,790	2,997	2,317	1,786	1,181
CTC								
Max allowable sum of production and net imports as per the agreement for the PA/CTC Sector Plan for CTC [4]	55,903.8	54,857	38,686	32,044	26,457	23,583	17,592	11,990
Max allowable consumption in the 25 PA Applications as per the agreement for the PA/CTC Sector Plan (Phase I)	3,825	5,049	493	493	493	493	493	220
CTC used as feedstock for CFC production as per the agreement for the PA/CTC Sector Plan (Phase I)	N/A	39,306	28,446	21,276	15,129	11,662	5,042	0 [5]
CTC consumption control targets in solvent sector as per the agreement for the Solvent Sector Plan		0 [2]						
Halons								
Halon 1301 Production	40,993 /34,187 (production/consumption)	6,000	6,000	1,500	1,500	1,500	1,500	0
Halon 1301 Consumption		1,500	1,500	1,000	1,000	1,000	1,000	0
Halon 1211 Production		5,970	5,970	0				
Halon 1211 Consumption		5,670	5,670	0				

Note:
1. Save for any CFC production that may be agreed by the Parties to meet essential uses for China.
2. Save for any CFC-113 consumption or CTC solvent consumption that may be agreed by the Parties to be essential for China after 2010.
3. Not including CFC consumption in servicing sector.
4. Including CTC production for CFC production and ODS feedstock applications but does not include CTC production for non-ODS feedstock.
5. Excluding CTC as CFC feedstock for CFC production for essential uses.

Appendix 9-A. Enforcement and penalties related to illegal production, trade and export in CFCs and Halons

Year of effectiveness	Actions
Jan. 2005	1. China will continue on-site monitoring of the production of CFC until 2010 as currently implemented under the CFC production sector plan. 2. China will strengthen monitoring of the halon 1301 production and sales by quarterly on site review of production and sales records until 2010.
Dec. 2008	1. Issuance of a new regulation by the State Council, for a penalty system which constitutes a significant penalty, e.g. confiscation of any sales value in any illegal ODS production activity and a penalty several times of its sales value.
Dec. 2009	1. Update the Air Pollution Prevention and Control Law with the same level of financial penalties as in the regulatory system mentioned above with addition of prison terms for illegal ODS related activities.