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

Eighth Meeting
Montreal, 19-21 October 1992

AGREEMENT

BETWEEN

THE EXECUTIVE COMMITTEE OF THE INTERIM MULTILATERAL FUND FOR THE IMPLEMENTATION OF THE MONTREAL PROTOCOL

AND

THE UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION

Background

An Interim Multilateral Fund has been established by the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer. Operating under the authority of the Parties, it will provide financing of agreed incremental costs and a framework of needed technical co-operation including the transfer of technologies to developing countries, which are the Parties operating under paragraph 1 of Article 5 of the Montreal Protocol, to enable their compliance with the control measures set out in Articles 2A to 2E of the Protocol.

The Parties established an Executive Committee to develop and monitor the implementation of specific operational policies, guidelines and administrative arrangements, including disbursement of resources for the purpose of achieving the objectives of the Interim Multilateral Fund. The Executive Committee requested implementing agencies, in the context of country programmes developed to facilitate compliance with the Protocol, to co-operate with and assist the Parties within their respective area of expertise. In addition to the United Nations Development Programme (UNDP), the International Bank for Reconstruction and Development (World Bank) and the United Nations Environment Programme (UNEP), the United Nations Industrial Development Organization (UNIDO) has been invited by the Executive Committee, to consolidate its activities in order to define a programme for submission to the Executive Committee with the aim of being assigned as an Implementing Agency of the Interim Multilateral Fund and concluding a specific Agreement with the Executive Committee.

Definitions

The Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer will hereafter be referred to as the "Parties".

The Interim Multilateral Fund for the Implementation of the Montreal Protocol will hereafter be referred to as the "Fund".

The Executive Committee for the Fund will hereafter be referred to as the "Executive Committee" and will correspond to the term "Donor" referred to in model United Nations Industrial Development Organization Trust Fund agreements.

The Secretariat of the Fund will hereafter be referred to as the "Fund Secretariat".

The United Nations Industrial Development Organization, as an Implementing Agency, will hereafter be referred to as "UNIDO".

In discussion of the related Work Programmes of other Implementing Agencies, the United Nations Development Programme will hereafter be referred to as "UNDP", the International Bank of Reconstruction and Development as "World Bank", and the United Nations Environment Programme as "UNEP".

Scope of Co-operation

The Executive Committee of the Fund has informed UNIDO of its willingness to contribute funds (hereafter referred to as "the contribution") to UNIDO in order to co-operate and assist in project development and implementation comprising pre-investment studies and in other technical assistance measures. UNIDO shall apply only those considerations relevant to effective and economically efficient programmes and projects which are consistent with the criteria adopted by the Parties and guidelines adopted by the Executive Committee.

The contributions referred to in paragraph A.1 below shall be utilized to finance projects which UNIDO, with the concurrence of both the Executive Committee and the Party concerned operating under paragraph 1 Article 5 of the Protocol, deems appropriate. UNIDO is prepared, through a Special Account established under its financial regulations and rules, to receive and administer the afore-said contributions under the terms of this Agreement and in accordance with UNIDO's financial regulations and rules.

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

A. Financial Provisions

1. UNIDO shall establish a Special Account in accordance with its financial regulations and rules and administrative instructions or directives for the receipt and administration of the afore-said contribution, including interest accruing. Accordingly, personnel shall be engaged and administered; equipment, supplies and services purchased; and contracts entered into in accordance with such regulations, rules and directives.

2. The Executive Committee shall place at the disposal of UNIDO the contributions to a Special Account for agreed activities. To this effect, the Executive Committee shall transfer the agreed amounts in fully convertible currencies for each activity in full, on approval, to the UNIDO/OPF Dollar Account Number 0422-01004/00, Creditanstalt Bankverein, Vienna International Centre, A-1400 Vienna, Austria.

3. All financial accounts and statements shall be expressed in United States dollars, and there shall be no accounting or reporting in other currencies. For the purpose of recording receipts and/or payments, all transactions shall be converted into United States dollars at the official United Nations rate of exchange applicable on the date of receipt and/or payment.

4. The contributions shall be utilized by UNIDO for the purpose of meeting the costs of the projects as set out in the relevant project documents and work programmes as well as the costs of support services relating thereto as specified in paragraph 5 below.

5. The Special Account shall be charged with a percentage of all project expenditures made from the Special Account which shall, in accordance with UNIDO regulations,

rules and directives, be utilized by UNIDO and would include other support services as required. The amounts required, as well as agency support costs, shall be specified in the approved project documents and work programmes.

6. Any interest income derived from contributions to the Special Account shall be credited to the Special Account in accordance with the financial regulations, rules and directives of UNIDO.

7. The Special Account shall be administered by UNIDO in accordance with UNIDO regulations, rules and directives, applying its standard procedures for the execution of its projects. Project management and expenditures shall be governed by the regulations, rules and directives of UNIDO.

8. The implementation of the responsibilities of UNIDO pursuant to this Agreement and the relevant project documents and/or work programmes will depend on the timely receipt by UNIDO of the contribution in accordance with paragraph 2 above. The Executive Committee undertakes to meet the actual costs of the services approved by UNIDO in accordance with this Agreement and the work programme. UNIDO shall commence and continue to implement projects only on receipt of a sufficient contribution.

9. The aggregate of the amounts budgeted for the projects and work programmes shall not exceed the total resources available under this Agreement.

10. If UNIDO considers that changes between the components and/or budget lines in the projects or work programme are necessary in order to meet the objectives of the project concerned, UNIDO may effect such changes, provided the total amount of the project budget in the projects or work programme is not exceeded.

11. If the contribution-payments referred to in Paragraph 2 above are not received in accordance with the payment schedule as specified in the work programme, or if the additional financing required in accordance with paragraph 10 above is not forthcoming from the Executive Committee or other sources, the assistance to be provided pursuant to this Agreement may be reduced, suspended or terminated by UNIDO. No commitments shall be made by UNIDO prior to the receipt of these contribution-payments.

12. Income not spent in a budget year may be carried forward from one year to the next within the financial validity of this Agreement.

13. The accounts shall be subject exclusively to the internal and external auditing procedures provided in the financial regulations, rules and directives of UNIDO.

14. UNIDO reserves the right only to accept a regional or eligible bilateral contribution under the Fund, by a country not operating under paragraph 1 of Article 5, where the provided services can be effectively utilized by the recipient country.

15. 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 UNIDO. Such inputs shall be incorporated in the relevant project documents.

16. UNIDO shall notify the Chief Officer of the Fund Secretariat and the Executive Committee when all activities relating to the purposes for which the Special Account was established have been completed.

17. Notwithstanding the completion of the projects financed from the Special Account, UNIDO shall continue to hold unutilized contribution-payments until all commitments and liabilities incurred in implementation of the projects have been satisfied and project activities brought to an orderly conclusion.

18 If the unutilized contribution-payments are insufficient to meet such commitments and liabilities, UNIDO shall notify the Chief Officer of the Fund Secretariat and will consult both with the Chief Officer and the Executive Committee on the manner in which such commitments and liabilities may be satisfied.

19. UNIDO shall notify the Executive Committee when the purposes for which the contributions were provided have been realized and the approved projects have been operationally completed.

20. In the event of termination of this Agreement, UNIDO shall continue to hold unutilized contribution-payments until all commitments and liabilities incurred in implementation of the projects and programmes have been satisfied and project and programme activities brought to an orderly conclusion.

21. Any contribution-payments that remain unexpended after such commitments and liabilities have been satisfied shall be transferred to the Executive Committee through the Chief Officer of the Fund Secretariat. Thereafter UNIDO's responsibilities under this Agreement shall be considered terminated.

B. Operational Procedures

22. As specified by the Parties and on the invitation of the Executive Committee, UNIDO shall consult regularly with the other implementing agencies and, in particular, with UNDP, the World Bank and UNEP to facilitate programme coordination and prevent duplication of activities.

23. UNIDO as requested by the Executive Committee, in the context of projects developed to facilitate compliance with the Protocol will co-operate with and assist the Parties within its respective areas of expertise.

24. UNIDO, jointly with the Fund Secretariat and other 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.

25. The financing of activities or other costs, including resources channelled to third party beneficiaries, shall require the concurrence of the recipient Government concerned. The recipient Government shall be fully associated with the planning of the projects and programmes.

26. The annual UNIDO work programme under this Agreement, including proposed budgets, will be submitted through the Chief Officer of the Fund Secretariat to the Executive Committee for approval. Upon approval of the work programme by the Executive Committee, UNIDO shall implement projects in accordance with the work programme and, as appropriate, in accordance with the legal arrangements to be concluded between UNIDO and the recipient governments.

27. In the design and selection of projects UNIDO will follow the Executive Committee's criteria for project eligibility and its guidelines for the implementation of activities supported by the Fund.

28. The Executive Committee will assess and, where applicable, approve those project proposals or group of project proposals formulated by UNIDO independently or by UNIDO in co-operation with other Implementing Agencies, and, where the agreed incremental costs exceed US $500,000.

29. The Executive Committee will review any disagreement by a Party operating under paragraph 1 of Article 5 with any decision taken with regard to a request for financing of a project or projects where the agreed incremental costs are less than US $500,000 and where UNIDO is involved in whole or in part as an implementing agency.

C. Ownership and Disposal of Property

30. Ownership of equipment, supplies and other property financed from the contribution shall vest in UNIDO for the duration of the specific project or programme activity. Following operational completion of the project, the ownership shall be transferred to the appropriate institution or agency in the recipient country in accordance with the

relevant policies and procedures of UNIDO, taking into account recommendations that may be received from the Chief Officer of the Fund Secretariat.

D. Participation at Meetings

31. The Director-General of UNIDO, or his designated representative, will participate as appropriate in meetings of the Executive Committee to report and consult on UNIDO's activities under these arrangements.

E. Reports

32. As approved by the Executive Committee and in accordance with UNIDO accounting and reporting procedures, UNIDO 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 progress report on implementation of activities of prior approved projects and work programmes;

c) an annual financial statement on the overall status of the Donor's contributions, supported by delivery reports for each project financed from the Special Account;

d) a revision of the current year's budget, where necessary, and the following year's project budgets and work plans;

e) a final report including assessment of the results achieved, upon operational completion of the projects;

f) a final financial report on the implementation of the completed projects, within six months of the end of the year in which the final disbursement was made on account of the projects.

33. UNIDO shall contribute to an annual report to be prepared by the Fund Secretariat on the inter-agency work programme and co-ordination of activities.

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

F. Settlement of Disputes

35. Any dispute, controversy or claims between the Parties to this agreement, 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. The Executive Committee and UNIDO agree to be bound by any arbitration award rendered in accordance with this section as the final adjudication of any dispute.

G. Amendments or Termination of the Agreement

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

37. These arrangements will terminate at the option of either the Executive Committee or UNIDO upon six months written notice. The financial provisions governing termination of the Agreement are specified in paragraphs 20 and 21 above.

H. Effective Date of Agreement

38. This Agreement shall enter into force upon signature.

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

For the Executive Committee:

Signature: ______________________ 22 October 1992
Juan Antonio Mateos C., Chairman

For the United Nations Industrial Development Organization (UNIDO):

Signature: ______________________ 22 October 1992
A. Tcheknavorian-Asenbauer, Director, IOT/DIO