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

Nineteenth Meeting
Montreal, 8-10 May 1996

CHANGE OF OWNERSHIP OF APPROVED PROJECTS

The Executive Committee decided to consider at its Nineteenth Meeting "what action should be taken when a locally-owned company for which a project had been approved became significantly foreign- (i.e., non-Article 5) owned, before or after the signature of the project document or grant agreement with the implementing agency" (Decision 18/14 (d)).

In response to this decision, UNDP, jointly with UNIDO and the World Bank, have proposed the following draft decision for consideration by the Executive Committee:

"Regarding partial or complete shift in ownership of an Article 5 enterprise to a non-Article 5 entity after project approval by the Executive Committee, the Executive Committee decided:

a) Where, following project approval by the Executive Committee, an implementing agency is notified ex-post facto that an ownership shift occurred in the period after project submission to the Fund Secretariat but before formal approval by the Executive Committee, the implementing agency shall, where such company is fully sold to a non-eligible entity, cancel the project and return the grant funds to the Multilateral Fund, or, shall reduce the grant component to correspond to the share of national ownership in which case the implementing agency will need to obtain from the enterprise concerned an official commitment/guarantee to full project implementation and provision of counterpart funds, since only partial funding will be provided through the Multilateral Fund.

b) Where an ownership shift occurs after Executive Committee approval but before signature of the project document or grant/sub-grant agreement, the implementing agency shall, where such company is fully sold to a non-eligible entity, cancel the project and return the grant funds to the Multilateral Fund, or, shall reduce the grant component to correspond to the share of national ownership in which case the implementing agency will need to obtain from the enterprise concerned an official commitment/guarantee to full project implementation and provision of counterpart funds, since only partial funding will be provided through the Multilateral Fund.

c) Where an ownership shift occurs after the implementing agency and the Government/ company have already signed the project document or grant/sub-grant agreement but before the equipment procurement process has started, implementing agencies shall, where such company is fully sold to a non-eligible entity, cancel the project and return the grant funds to the Multilateral Fund, or, shall reduce the grant component to correspond to the share of national ownership in which case the implementing agency will need to obtain from the enterprise concerned an official commitment/guarantee to full project implementation and provision of counterpart funds, since only partial funding will be provided through the Multilateral Fund.

d) Where an ownership shift occurs after the implementing agency and the Government/ company have signed the project document or grant/sub-grant agreement and the equipment procurement process is underway and financial obligations raised and/or servicing contracts have been entered into, implementing agencies shall continue project implementation as usual, consistent with their legal obligations.

e) Implementing agencies should ensure that all project documents and grant/sub-grant agreements include a condition that, should a partial or complete shift in ownership of an Article 5 enterprise to a non-Article 5 entity occur following project approval by the Executive Committee, the grant component shall be reduced or cancelled in accordance with the above-specified circumstances, and unutilized funds returned by the implementing agency to the Multilateral Fund."