Annex XIII

JAPAN'S COMMENTS ON CTC PHASE-OUT FOR THE CONSUMPTION AND PRODUCTION SECTORS IN INDIA (UNEP/OzL.Pro/ExCom/41/36)

1. My delegation wishes to introduce its comments on the India CTC phase-out project proposal submitted by the World Bank. Japan is in consultation with our partners, the World Bank, to amend this project proposal and France and Germany are requesting the Japanese comments be reflected in this document.

2. We would also like to amend the budget allocation in Appendix 2-A of document UNEP/OzL.Pro/ExCom/41/36. In the current document in the Japan component, US $2.5 million is allocated to both 2004 and 2005. As the Protocol demands CTCs to be reduced by 85 per cent by 1 January 2005, most CTC phase-out projects had to be completed by the end of 2004 to meet the Protocol mandate. The budget for 2005 should diverted to 2004 and we request that the Japan component budget have US $5 million in 2004 and US $0 in 2005.

3. Appendix 3-A in the same document is about "the Funding Approval Schedule". It says "The annual funding as shown in Appendix 2-A will be considered for approval at the second meeting of the year of the annual plan." Again, many of the phase-out projects have to be completed by the end of 2004. If we are to follow this clause, we have to wait for the funding until July 2004 before starting the projects and complete them by 2005 which is quite a tight schedule. We would like the annual funding approval to be scheduled at the first meeting of the annual plan instead of the second meeting.

4. As regards to programme support for bilateral agencies, we do not consider that the rates of reimbursement for the multi-national implementing agencies apply to bilateral agencies. Although we are aware that the Meeting of the Parties in Cairo called for a lower rate than 13 per cent, we are not of the view that that decision specifically addressed the support costs for bilateral agencies. Pending for a thorough review of the rates of the programme support reimbursement for the bilateral donors, we propose applying a 13 per cent flat rate to bilateral agencies in this project.

5. As regards to the role of lead agency, in Appendix 6-A, we do not agree to the addition of the words "within the preview of the World Bank." We consider the wording is too restrictive and self-contradictory as it means that the World Bank will coordinate overall verification exercises, while it denies its responsibility to exercise such a role on the matters of other competence.

6. We also have to point out, that the provision (where the Parties fail to honour the commitment) is not properly specified. The sentence in paragraph 12 is not strong enough to indicate, that the Executive Committee could not provide the level of funding in the agreement if the country fails to honour its commitment under the agreement. The model provision in paragraph 9 in the standard draft agreement should replace paragraph 12 in this respect.

7. With regards to paragraph 15, this is reproduced from the standard provision annexed to the guidelines for the performance-based agreements in UNEP/OzL.Pro/ExCom/38/57/Rev.1. However, we do not recollect that such an agreement was made in the Executive Committee. Such a provision would seriously undermine the very purpose of the performance-based agreements which is to ensure Article 5 Parties' compliance commitment by a contractual agreement with the Executive Committee for more than what is stated under the Protocol.

8. My delegation would also like to introduce comments on the Secretariat's views of this project:

(a) We do not agree the deletion of the caveat in paragraph 2 retreats "except to the extent the performance target conformed to the response by the Meeting of the Parties to Decision 37/20(a) of the Executive Committee". We believe that this caveat intends to enable the Multilateral Fund to avoid marinating its commitment under the performance-based agreement. If this commitment is literally maintained, the performance-based agreement might result in excessive financing or inorderly financial to such Article 5 country in a state of non-compliance before the Meeting of the Parties takes appropriate measures to bring such Party into compliance. In this regard, it should be noted that Decision XIV/37 of the Meeting of the Parties on the interaction between the Executive Committee and the implementing agencies specifies the Multilateral Fund operates under the authority of the Parties, and it is assumed that any action plan endorsed by the Parties will serve as a guide for the Executive Committee's action regarding Article 5 Parties in non-compliance. It is for this reason that the Executive Committee adopted such a caveat in the guidelines for the performance-based agreement in the Decision 38/65.

(b) Although the Secretariat recommends that our proposal describe the separate targets for 2003 and 2004 on agency and category basis, the Montreal Protocol does not set targets for 2003 and 2004 on CTCs and no target penalty should be imposed for 2003 and 2004 performance.