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

Twelfth Meeting
Montreal, 28-30 March 1994

PROMISSORY NOTES: REPORT FROM THE TREASURER

(Payment of Contributions to the Multilateral Fund
Using Promissory Notes)

1. At its eleventh meeting, held in Bangkok, from 10 to 12 November 1993, the Executive Committee decided that "in the future, promissory notes did constitute committable resources and that the deposit of a promissory note would be considered to be payment of a country's contribution to the Fund. Promissory notes would be encashed on a fixed schedule with the option of accelerated encashment on demand by the Treasurer in light of needs on a pro rata basis. If there was a need for an accelerated encashment, notes deposited prior to 1994 should be encashed before accelerated encashment of notes deposited in 1994 or after was required. The scheduling of draw-down from 1994 promissory notes would begin in 1995. If notes deposited before 1994 were encashed in totality in 1994, the draw down from 1994 promissory notes could begin in 1994."[1]

2. At the same meeting, the Executive Committee requested the Treasurer to "submit a draft schedule of promissory notes at the next meeting of the Executive Committee, taking into account" the paragraph quoted above.[2]

3. Pursuant to that request, the Treasurer and the Fund Secretariat have held consultations with the implementing agencies to consider the question of scheduling of draw-downs from the promissory notes and to determine the mechanism for operating with such notes in transferring funds for projects approved by the Executive Committee and in the eventual commitment of the resources. These consultations addressed the need to provide a flexible encashment schedule to suit the requirements and to ensure equally balanced utilization of promissory notes. A further consideration was the need to amend the present agreements between the implementing agencies and the Executive Committee.

4. With regard to the commitability of promissory notes, the Treasurer's interpretation is that the promissory notes deposited by the Parties would, together with the cash contributions, constitute the resources available to the Executive Committee when it comes to approve projects for the implementing agencies. The Treasurer would effect cash fund transfers to the implementing agencies based on projections of the cash requirements for the approved projects. The Treasurer would ensure that the promissory notes established prior to 1994 would be exhausted before any post-1994 notes were drawn down. When drawing on those established in 1994 and onwards an equitable draw-down between the promissory notes would be observed.

5. In calculating the resources available to the Executive Committee for the approval of projects, the income part will consist of cash contributions (including encashed promissory notes), interest income, miscellaneous income, bilateral assistance, and unencashed promissory notes. The expenditure part will consist of expenditures and commitments by the Fund Secretariat, commitments for projects approved by the Executive Committee for the implementing agencies, and commitments for the bilateral projects approved by the Executive

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1 *Report of the eleventh meeting of the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol (UNEP/Ozl.Pro/ExCom/11/36), para. 128.*

2 *Ibid., para. 129.*

Committee. The excess of income over claims will be the resources available for the additional approvals by the Executive Committee. Annex I presents the table format to be presented to the Executive Committee for its information on the programmable resources available.

6. It has been noted that there are considerable difficulties in arriving at the projected cash requirements for the whole Multilateral Fund programme. The general experience of financial institutions in investment projects suggests an implementation period of up to five years. The limited experience of the Multilateral Fund investment projects, however, seems to point towards a shorter average period of about three years, but it is not possible to be more specific at this time. The implementing agencies should be encouraged by the Executive Committee to project their cash requirements accurately, and eventually these projections, with a safety margin, would form the basis for establishing an encashment schedule for the promissory notes.

7. The most realistic initial schedule of encashment of promissory notes would appear to be one extending over a period of three years. Annex II presents a proposed schedule of encashment of promissory notes based on this assumption. In accordance with the Executive Committee's decision referred to in paragraph 1 above, this schedule is subject to accelerated encashment on demand. It is important to note in this connection that, regardless of the encashment schedule established, the total amount of the promissory note becomes a programmable resource immediately upon deposit. In this way, the use of promissory notes differs fundamentally from the payment of cash contributions in staggered installments, in that the Executive Committee is not authorized to commit the totality of such contributions in advance. It is therefore important that Parties opting to pay their contributions in cash continue to do so in advance of, or early in, the year to which they relate.

8. In order to facilitate their establishment, the Treasurer believes that there is need first to have some broad standard design for the promissory notes. Secondly, the promissory notes deposited by any Party should cover at least one year's contribution and, if more than one year's contribution is deposited, a caveat should be incorporated limiting the encashment to the applicable year's contribution, in case of accelerated draw-down. Annex III provides a sample promissory note, which the Executive Committee may wish to examine with a view to recommending any appropriate common format to be used by all Parties wishing to pay their contributions in this way. It would be understood that the encashment schedule for the notes would be that established by the Executive Committee, with the option of accelerated encashment by the Treasurer in the light of needs and on a pro rata basis.

9. The exercise by a Party of its right to use up to 20 per cent of its contribution to finance bilateral projects under the terms of the Multilateral Fund should be the prerogative of the Party concerned, and the possibility of offsetting any bilateral assistance against the promissory notes has been provided for in the sample promissory note. The recommended procedure would be for the Party to take the necessary action after the Executive Committee has approved the bilateral assistance.

10. The final standard form selected by the Executive Committee will need to be finalized and/or approved by the United Nations Office of Legal Affairs before it is introduced for use.

11. Three of the four implementing agencies - the United Nations Development Programme (UNDP), the United Nations Environment Programme (UNEP), and the United Nations Industrial Development Organization (UNIDO) - have indicated their preference for having cash resources equal to at least the projected annual cash requirements so that at all times their annual commitments will be covered by cash in hand. The new projects for which approval of the Executive Committee will be sought will include the initial year's cash requirements which they would expect the Treasurer to transfer to them immediately after the approval. The subsequent years' annual cash requirements will be indicated as additional requirements, which would subsequently be incorporated in the cash advance requests by the agencies for the years in question.

12. The fourth implementing agency - the World Bank - on the other hand, has pointed out that the guarantee of resource availability is fundamental in its activities. The World Bank will not agree to commit itself to projects based on the strength of the Treasurer holding promissory notes against which cash is to be transferred in accordance with agreed projected cash requirements. It would only accept going ahead with commitments for which it itself is holding the funds to cover the entirety of the costs, whether in cash or in the form of promissory notes drawn by the donor countries.

13. The Executive Committee may wish to consider the difficulties the World Bank has expressed in accepting the promissory notes held by the Treasurer as being sufficient guarantee of resource availability for it to proceed with commitments, and recommend an appropriate course of action for the Treasurer to pursue.

14. There may be no need to revise all the current agreements between the implementing agencies and the Executive Committee. For example, the current agreement with the World Bank clearly stipulates that the transfer to the World Bank of funds contributed by the Parties "will be in cash in United States dollars or at the requests of the Executive Committee by the deposit of notes or similar obligation denominated in United States dollars and issued by the government of a Party or the depository designated by such Party." The World Bank definitely does not see any need to change the agreement.

15. With regard to the other implementing agencies, namely UNDP, UNIDO and UNEP, their current agreements with the Executive Committee would need to be amended to reflect the change in cash transfers to yearly requirements from the currently stipulated total cash funds for the approved projects. In the agreement the fact that the balance of resources will always be held separately for the stated purpose by the Treasurer in the form of promissory notes may have to be incorporated as an assurance that the risk is minimal.

16. The Treasurer's requirements for operating a promissory notes system of contributions will mostly be in terms of additional personnel in the Contributions Unit and the Finance Section of UNEP. These will be the main administrative units involved in the procedural aspects of keeping track of and recording receipts of the promissory notes and their eventual draw-down. The exact extent and level of the posts will be determined later when firm decisions on how to proceed with promissory notes are made by the Executive Committee. These will then be presented to the Executive Committee for its approval.

Annex I

TABLE OF FLOW AND USE OF RESOURCES

MULTILATERAL FUND UNDER THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER

DESCRIPTIONS OF ITEMS	DOLLARS US
(1)INCOME RESOURCES	
(a) 1991-199X cumulative cash contributions	
(b) 1991-199X cumulative interest earnings	
(c) 1991-199X cumulative miscellaneous income	
(d) 1991-199X unencashed promissory notes	
(e) 1991-199X bilateral assistance income [equals item (i)]	
(f) TOTAL INCOME (a)+(b)+(c)+(d)+(e)	
(2) CLAIMS ON RESOURCES	
(g) Multilateral Fund Secretariat expenditures/commitments	
(h) Commitments for projects approved by the Executive Committee	
(i) Bilaterally assisted projects [equals item (e)]	
(j) TOTAL CLAIMS (g)+(h)+(i)	
(3) FUND BALANCE FOR EXCOM'S APPROVALS (f) - (j)	

NB: Following approval by the Executive Committee, the bilateral assistance income (e) goes straight to the beneficiary projects as expenditures (i) and does not go through the Treasurer. The Treasurer merely notes such approvals and adjusts the Party's pledges accordingly.

Annex II

PROPOSED ENCASHMENT SCHEDULE
FOR PROMISSORY NOTES*

MULTILATERAL FUND UNDER THE MONTREAL PROTOCOL
ON SUBSTANCES THAT DEPLETE THE OZONE LAYER

ENCASHMENT DATES	1994 PORTION SCHEDULED	1995 PORTION SCHEDULED	1996 PORTION SCHEDULED
1 January 1995	1/6th 1994		
1 July 1995	1/6th 1994		
1 January 1996	1/6th 1994	1/6th 1995	
1 July 1996	1/6th 1994	1/6th 1995	
1 January 1997	1/6th 1994	1/6th 1995	1/6th 1996
1 July 1997	1/6th 1994	1/6th 1995	1/6th 1996
1 January 1998		1/6th 1995	1/6th 1996
1 July 1998		1/6th 1995	1/6th 1996
1 January 1999			1/6th 1996
1 July 1999			1/6th 1996

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* In accordance with the Executive Committee's decision at its eleventh meeting (see UNEP/Ozl.Pro/ExCom/11/36, para. 128), this schedule would be subject to acceleration in the light of needs. As also decided by the Committee, the schedule begins in 1995; if, however, notes deposited before 1994 were encashed in totality in 1994, the draw-down from 1994 notes could begin in 1994.

Annex III

SAMPLE PROMISSORY NOTE

MULTILATERAL FUND UNDER THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER

1. For the value received, the _________ (*name of the Party*) hereby promises to pay to the United Nations Environment Programme, "**Treasurer**" of the Multilateral Fund under the Montreal Protocol on Substances that Deplete the Ozone Layer ("**the Fund**"), on demand the sum of up to United States dollars _________ *(annual contribution of the Party)* without interest as the balance of the Party's contribution to the Fund for the year __________ *(the year for which the contribution is applicable).*

2. This sum shall be paid, in full or in part, on demand, to the UN Fund for the Montreal Protocol on the Ozone Layer Account No. 015-002349, Chemical Bank, United Nations, New York, NY 10017, United States of America, on receipt of notification made by the Treasurer in writing, or by duly authenticated cable or telex addressed to the Depository. If payment of a part only of the above sum shall be made, a notation of such payment shall be endorsed on the reverse of this note or, at the option of the Treasurer, a new note, in substantially the same form as this note, for the sum remaining to be paid hereon shall be executed and delivered in substitution for this note.

3. The sum remaining to be paid hereon may also at any time be reduced in accordance with the following procedure. The Treasurer may, from time to time, in consequence of the Party's having decided on any occasion to exercise its right under the Fund to use up to 20 per cent of its contribution to the Fund to finance projects bilaterally under the terms of the Fund, and having agreed with the Party the amount concerned on each occasion, inform the Depository of the amount so agreed and instruct the Depository to endorse the note to the effect that its remaining value has been reduced by that amount. A notation of such reduction shall be endorsed on the reverse of this note or, at the option of the Treasurer, a new note, in substantially the same form as this note, for the sum remaining to be paid hereon shall be executed and delivered in substitution for this note.

4. This note is non-negotiable.

Date:- __ / __ / 199_

Signature:- ______________________________

DESIGNATION OF OFFICER SIGNING
TITLE OF OFFICER SIGNING
DEPARTMENT/AGENCY REPRESENTING THE PARTY

Appendix

NOTIFICATION OF PROMISSORY NOTE DEPOSIT

MULTILATERAL FUND UNDER THE MONTREAL PROTOCOL ON SUBSTANCES THAT DEPLETE THE OZONE LAYER

1. With reference to paragraph 128 of the report of the eleventh meeting of the Executive Committee of the Multilateral Fund under the Montreal Protocol on Substances that Deplete the Ozone Layer (the "**Executive Committee**"), held in Bangkok, Thailand, on 10-12 November 1993, the ________________ (*name of the Party*) (the "**Party**") hereby notifies the United Nations Environment Programme (UNEP) as Treasurer (the "**Treasurer**") of the Multilateral Fund under the Montreal Protocol on Substances that Deplete the Ozone Layer, (the "**Fund**"), of its intention to deposit non-negotiable, non-interest-bearing demand notes of the ______________ (*the name of a Depository*) representing its contribution to the **Fund**.

2. The notes will be denominated in ______________ (*United States dollars*) in the aggregate principal amount of ______________ (*the Party's annual contribution*).

3. The **Party** represents that the notes (a) will be irrevocable, (b) will be duly executed and delivered in accordance with applicable laws and regulations, (c) when signed on behalf of the **Party** and received by the Depository, will constitute valid and binding obligations of the **Party** in accordance with their terms, and (d) will be lawfully held by the Depository for the account of and subject to the order of the Trustee.

Date:- __ / __ / 199_

Signature:- ________________________________

DESIGNATION OF OFFICER SIGNING
TITLE OF OFFICER SIGNING
DEPARTMENT/AGENCY REPRESENTING THE PARTY