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OPEN-ENDED WORKING GROUP OF THE
PARTIES TO THE MONTREAL PROTOCOL

Tenth Meeting
Nairobi, 5-8 July 1994

NOTE BY THE SECRETARIAT TO THE WORKING
GROUP AT ITS TENTH MEETING

1. The Open-Ended Working Group of Parties is to consider issues on the agenda as communicated to the Parties in document UNEP/OzL.Pro/WG.1/10/1 and make recommendations to the sixth meeting of the Parties, to be held in Nairobi from 3-7 October 1994.

*Agenda item 3: Review under section II, paragraph 4 of
decision IV/18 of the Fourth Meeting of the Parties
to the Montreal Protocol*

2. In its decision IV/18, section II, paragraph 4, the Fourth Meeting of the Parties, held in Copenhagen from 23-25 November 1992, decided:

"To evaluate and review, by 1995, the Financial Mechanism established by Article 10 of the Protocol and section I of the present decision, with a view to ensuring its continued effectiveness, taking into account chapters 9, 33 and 34, and all other relevant chapters, of Agenda 21 as adopted by the United Nations Conference on Environment and Development, held in Rio de Janeiro in June 1992".

3. In decision V/12, the Fifth Meeting of the Parties, held in Bangkok from 17-19 November 1993, decided:

"To request the Open-ended Working Group of the Parties at its tenth meeting to prepare the terms of reference and modalities for a report to meet the requirements of section II, paragraph 4, of decision IV/18 of the Fourth Meeting of the Parties to the Montreal Protocol".

4. Agenda 21, adopted by the United Nations Conference on Environment and Development in June 1992, addresses the pressing problems of today and aims at preparing the world for the challenges of the next century. Agenda 21 has detailed the social and economic dimensions of the problems, the programmes necessary for conservation and management of resources for development, the methods of strengthening the role of major groups and the means of implementation.

5. The financial mechanism established by Article 10 of the Montreal Protocol and section I of decision IV/18 aims at achieving the objectives of the Protocol by means of the structures and modalities specified in the Protocol. In regard to the terms of reference and modalities for a report

the Fourth Meeting of the Parties, the Secretariat offers for the consideration of the Open-ended Working Group the suggestions set out in paragraphs 6-13 below.

TERMS OF REFERENCE

Purpose

6. The purpose of the evaluation is:

(a) To assess the progress and expected results of the Financial Mechanism established and its adequacy to fulfil the objectives set for the Mechanism by the Montreal Protocol;

(b) To compare the following aspects of the Financial Mechanism with those of other, similar financial mechanisms that are capable of achieving the objectives of the Montreal Protocol;

(i) the adequacy and the effectiveness of the:

- organizational structure, procedures and management;
and
- country programme and project identification,
preparation, appraisal, approval and implementation;
and

(ii) consistency of its management with the spirit of the provisions of Article 10 of the Montreal Protocol as amended;

(iii) administrative costs;

(c) To recommend the future course of action in regard to the Financial Mechanism.

METHODOLOGY

7. The evaluation will consider:

(a) The response of the Mechanism to global and national assessments, strategies, priorities and action plans;

(b) The appropriateness and expected impact of the portfolio of the projects sanctioned pertaining to each sector;

(c) The capacity of the implementing agencies and the manner and extent to which the expertise and strength of each have been utilized;

(d) The effectiveness of the interaction between the implementing agencies and the Parties operating under Article 5, paragraph 1 in promoting rapid achievement of the objectives of the Montreal Protocol;

(e) The effectiveness of the Mechanism in achieving its objectives, compared to other similar mechanisms.

SOURCE OF DATA FOR EVALUATION

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8. The evaluation will be based on:
- (a) A file review of representative projects;
 - (b) Structured interviews of the major players involved; and
 - (c) A few field visits to projects where implementation is under way.

ORGANIZATION

9. The Open-ended Working Group/sixth meeting of the Parties will select 6-8 Parties who will appoint a panel of 6-8 experts, headed by a Chairman, based on their expertise concerning the Montreal Protocol, project implementation, international cooperation, international financial mechanisms, etc. Membership could be distributed geographically or in any other manner. This Panel will provide guidance to the evaluation process and prepare the final report, with the recommendations. The Panel can meet twice or three times and, to the extent necessary, may also travel.

10. The Panel of experts will be assisted by two or three consultants, selected according to the standard procedures of UNEP. The consultants will assist in collecting and analysing information about the Financial Mechanism and other similar financial mechanisms and in the preparation of the report. The Ozone Secretariat will function as the secretariat for the evaluation process.

11. A draft report, in English, and an executive summary of that report in all United Nations languages will be communicated by the Panel to all Parties, other concerned United Nations organizations, (United Nations Development Programme, UNEP, United Nations Industrial Development Organization, World Bank) and to the non-governmental organizations that participated in the Fourth or Fifth Meetings of the Parties to the Protocol and their comments will be invited, to be submitted within 30 days. The Panel will take the comments into account while finalizing the report. A summary of the comments will be annexed to the final report.

TIMETABLE

12. The evaluation will be completed in six months, by 31 March 1995, so that a meeting of the Open-ended Working Group can consider it in 1995 and place their recommendations before the seventh meeting of the Parties in 1995. In order to meet this deadline, it is essential that the tenth meeting of the Open-ended Working Group decide (a) the terms of reference; (b) the modalities; (c) the organization; (d) if they agree to paragraphs 9-11 above, the panel; and (e) the mode of financing the evaluation, and permit the Secretariat to proceed with the evaluation process in anticipation of the approval by the sixth meeting of the Parties, to be held in Nairobi from 3-7 October 1994. It will be useful if the distinguished representatives of Governments that participate possess a mandate to take a decision on these issues.

BUDGET

	(US dollars)
Cost of 12 consultant-months -	150,000
Cost of travel (25 travels)	- 150,000
Conference servicing and contingencies	- 50,000
Total	<u>350,000</u>

13. There is no provision for the above costs in the approved budget of the Secretariat for 1994 or 1995, nor enough financial reserves. Perhaps,

in the interests of speedy action, the above amount could be met from the budget of the Multilateral Fund, initially as a loan to the Trust Fund for the Montreal Protocol and the question could be finally decided by the sixth meeting of the Parties to the Montreal Protocol.

Agenda item 4: Provision of information on the supply of controlled substances to Parties operating under paragraph 1 of Article 5

14. At their Fifth Meeting, the Parties considered the issue of transfer of production rights under Article 2 of the Montreal Protocol, including the provision, by a Party operating under paragraph 1 of Article 5 to the Government of the supplying country, of information concerning the Party's basic domestic needs. For further background on that discussion, see the note by the Secretariat on the transfer of production rights under Article 2 of the Montreal Protocol (UNEP/OzL.Pro.5/8).

15. Also at their Fifth Meeting, the Parties adopted decision V/25 on the provision of information on the supply of controlled substances to Parties operating under paragraph 1 of Article 5 of the Montreal Protocol which states:

- "1. To request Parties operating under paragraph 1 of Article 5 of the Protocol which require controlled substances from another Party to furnish, with effect from 1 January 1995, to the Government of the supplying Party a letter specifying the volume of the substances required and stating that the substances are required for the purposes of meeting their basic domestic needs;
- "2. To request Parties supplying the controlled substances to provide annually to the Secretariat a summary of the requests received from Parties operating under paragraph 1 of Article 5 of the Protocol and to indicate therein whether such Parties receiving the substances have affirmed that the supply is to meet their basic domestic needs;"

16. At the time decision V/25 was adopted, some Parties raised concerns that the purpose of the decision was not clear and that the issue should be re-opened at the Tenth Meeting of the Open-Ended Working Group.

17. Decision V/25 was adopted to resolve issues concerning (a) production of controlled substances after the phase-out dates in countries which are Parties not operating under paragraph 1 of Article 5, or (b) the transfer of such Parties' rights to produce, in order to meet the basic domestic needs of Parties operating under paragraph 1 of Article 5. The question is whether guidelines are needed to ensure that a Party produces and supplies controlled substances only to meet the basic domestic needs of Parties operating under Article 5. For example, should a Party operating under Article 5, paragraph 1 make a formal request to the supplier for the substance and certify that the supply of the substance is to meet basic domestic needs? Should all such requests be reported by producers, through the Secretariat, to the meetings of the Parties?

18. It may be appropriate for the Parties to set some guidelines to ensure that the volume of production by a Party to meet the basic domestic needs of Parties operating under Article 5, paragraph 1 is no greater than the amount needed to satisfy those needs. Therefore, Parties may choose to prescribe that any Party operating under Article 5, paragraph 1 and requiring controlled substances should furnish to the Government of the supplying Party a certificate regarding the volume of each substance required and a statement that the substances are for the purpose of meeting basic domestic needs. The Party supplying the controlled substances may be

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requested to report annually to the Secretariat, giving a summary of the requests received from Parties operating under Article 5, paragraph 1. The Secretariat could analyse this information and place its report before the Implementation Committee and the meetings of the Parties.

Agenda item 5: Classification and reclassification of certain developing countries as operating under paragraph 1 of Article 5

19. At their Fifth Meeting, the Parties to the Montreal Protocol requested the Open-Ended Working Group to analyse the operation of Article 5 with regard to the classification and reclassification of the developing countries to which the Article applies and to propose to the Sixth Meeting of the Parties any clarificatory decisions it deemed necessary. In that regard, a detailed note was circulated at the Fifth Meeting (UNEP/OzL.Pro.5/10 and UNEP/OzL.Pro.5/10/Add.1).

20. The only further developments in this regard since the Fifth Meeting have been:

(a) Bahrain, Brunei Darussalam, Cyprus and Kuwait have told the Secretariat that they wish to exercise their right to avail themselves of the 10-year grace period and would approach the Multilateral Fund to meet the incremental costs of the phase-out. Malta expressed the intention to apply for financial assistance from the Multilateral Fund, but does not intend to avail itself of the 10-year grace period;

(b) Brunei Darussalam and Saudi Arabia have submitted their data for 1991 and are eligible for classification under Article 5;

(c) Republic of Korea has paid \$27,855 for 1993 to the Multilateral Fund, as against the demand for \$919,330, while Singapore has paid its full dues of \$159,883.

21. To sum up, the Open-Ended Working Group of the Parties may wish to consider the following issues and take appropriate decisions:

(a) Should the Secretariat continue to classify developing countries temporarily as operating or not operating under Article 5 where the Parties provide no data or submit incomplete or estimated data?

(b) Should the Executive Committee continue to consider projects (other than country programme preparation) from Parties temporarily classified as operating under Article 5, paragraph 1?

(c) Should Parties be allowed to correct their data? Can a reclassification be made on the basis of corrected data?

(d) What are the principles for consideration of a request by a reclassified Party for a waiver of its contributions for current or previous years, considering that it cannot be made good by collecting from other Parties?

(e) What are the guidelines for the Executive Committee to assist the reclassified Parties?

Agenda items 6 and 7

22. The reports of the Scientific Assessment Panel and of the Technology and Economic Assessment Panel are expected to be ready by end of March 1994. They will be communicated to all Governments immediately after finalization. The Working Group may discuss the recommendations of the Panels with respect to the subitems listed in the agenda under these items.
