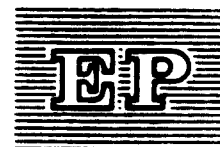




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OPEN-ENDED WORKING GROUP OF THE PARTIES TO
THE MONTREAL PROTOCOL

First session of the first meeting
Nairobi, 21-25 August 1989

FINAL REPORT

I. INTRODUCTION

1. The first session of the first meeting of the Open-ended Working Group of the Parties to the Montreal Protocol was held at UNEP headquarters in Nairobi from 21 to 25 August 1989 to develop modalities for financial and other mechanisms to enable developing countries to meet the requirements of the Montreal Protocol in accordance with Decisions 5 and 13 of the First Meeting of the Parties to the Montreal Protocol held in Helsinki from 2 to 5 May 1989.

II. ORGANIZATIONAL MATTERS

A. Opening of the meeting

2. The meeting was opened by the Executive Director of UNEP. In his opening statement, he first identified the needs of developing countries; their reticence to ratify the Montreal Protocol was due to lack of the resources necessary to meet its requirements without serious disruption of their development efforts; what they needed was concessional funding and outright grants additional to existing aid programmes. He emphasized the need for strong North-South partnership. The Executive Director then drew attention to the questions the Working Group would have to address at its present and, if necessary, future meetings in order to emerge with recommendations on financial mechanisms: (i) the overall 'price tag' to developing countries for compliance; (ii) the breakdown of such costs; (iii) possible sources of funds; and (iv) financial and other modalities required to defray costs. Referring to the informal consultation he had arranged in Geneva with a small number of financial experts under the chairmanship of Mr. Y. J. Ahmad, he described the four possible options for institutional arrangements that had emerged from these talks: (i) an international trust fund to which donor countries would pledge contributions and which would be serviced by a

financial and technical secretariat; (ii) an International Environmental Facility (IEF), a sort of clearing-house mechanism to identify and match available bilateral and multilateral funding with individual projects in developing countries; (iii) a pilot investment programme ECOVEST to engage in capital accumulation, risk spreading and arranging access by developing countries to environmentally sound technology and investment, and (iv) an independent financial corporation whose equity capital would comprise contributions from all potential clients and donors with the purpose of providing direct grants or reducing interest rates of long-term commercial loans. The Executive Director indicated that the mechanisms designed for the Montreal Protocol would probably provide the blueprint for mechanisms to control greenhouse gas emission and for adaptation to climate change.

3. The meeting was attended by delegations from 22 Contracting Parties: Australia, Belgium, Canada, Egypt, Finland, France, Germany, Federal Republic of, Ghana, Japan, Kenya, Mexico, Netherlands, Nigeria, Norway, Portugal, Sweden, Switzerland, United Kingdom, United States of America, Union of Soviet Socialist Republics and Venezuela, as well as the European Economic Community (EEC). In addition, the following twelve non-contracting countries sent delegations: Brazil, China, Djibouti, India, Kuwait, Malaysia, Malawi, Morocco, Philippines, Republic of Korea, Sudan and United Republic of Tanzania. Eight organizations were also represented: United Nations Development Programme (UNDP), United Nations Centre for Human Settlement (UNCHS) - Habitat, the United Nations Conference on Trade and Development (UNCTAD), the World Bank, the Environmental Liaison Centre (ELC), the International Chamber of Commerce (ICC), the Natural Resources Defense Council (NRDC) and Friends of the Earth (FoE).

B. Election of Officers

4. The Executive Director of UNEP proposed that when electing its officers, the meeting should take into account the fact that the two coming meetings of the Working Group on the integration of the assessment reports and proposals for adjustments and amendments to the Protocol (28 August to 5 September 1989 in Nairobi) and the Working Group on work plans required by the Protocol and the Contracting Parties (18 to 22 September 1989 in Geneva) were closely related to the subject now under discussion. He then proposed that the following countries would provide officers for the three meetings:

	<u>21-25 August</u>	<u>28 August - 5 September</u>	<u>18-22 September</u>
Chairman -	Finland	Germany, Federal Republic of	Mexico
Vice-Chairman	Japan	USA	Norway
Vice-Chairman	Ghana	USSR	Canada
Rapporteur	EEC	Maldives	Switzerland

One delegation noted that the question of having a Working Group meeting in Geneva was unexpected and so their participation in this meeting could be problematical.

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5. The meeting agreed on the following officers:

Chairman: H.E. Mr. Ilkka Ristimäki, Finland

Vice-chairmen: Mr. Masukane Mukai, Japan
Mr. Seth Osafo, Ghana

Rapporteur: Mr. Georges Estievenart, EEC

C. Adoption of the Agenda

6. The meeting adopted the following agenda:

1. Opening of the meeting;
2. Organization of the meeting;
 - (a) Election of the officers;
 - (b) Adoption of the agenda.
3. Consideration of options on Financial Mechanisms:
 - (a) Note by the Executive Director;
 - (b) Report of the Informal Working Group of Experts on the Financial Mechanisms (Geneva, 3-7 July 1989);
 - (c) Other proposals on financial mechanisms brought to the attention of the meeting by the representatives of the Parties.
4. Other matters.
5. Adoption of the report.
6. Closure of the meeting.

III. SUBSTANTIVE MATTERS

7. The Chairman proposed that the substantive discussion be organized as follows:

- A. General debate;
- B. Definition of types of technology transfer;
- C. Overall cost of technology transfer needed by developing countries;
- D. Beneficiaries of the resources to be made available;
- E. Sources of financing;
- F. Financial mechanisms and other modalities.

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8. The Senior Adviser to the Executive Director elaborated on the issues to be addressed by the Working Group, emphasizing the importance of the magnitude of the funding and transfers required for determining the nature, scope and implementation procedures for financial mechanisms to assist the developing countries. He described the existing estimates and views on the total cost with reference to the McKinsey study and the Economic Panel Assessment. He also described the possible cost curve in which there was an initial sharp rise and an eventual stabilization and then decline. He outlined the elements of the cost as follows: (a) the costs of using or manufacturing high-price CFC substitutes; (b) the costs of amortization; (c) the cost of adjustments in industries using CFCs and halons as inputs; and (d) the higher costs of importation of equipment and goods using the substitutes.

A. General Debate

9. In the general debate, several delegations concurred with the view that not enough data and information was currently available to determine the magnitude of the cost of assistance and to decide on specific mechanisms. Country specific feasibility studies to examine the options and costs of reducing the use of CFCs in developing countries were proposed and widely supported. The needs of each developing country would vary, depending on its current use of the ozone-depleting substances, future demands and its general economic situation. The need to identify the concrete needs of the developing countries was emphasized. It was pointed out that such feasibility studies should contribute to determining the total cost of the assistance required. Several delegations emphasized that such studies should not delay the development of financial mechanisms necessary to ensure compliance with the requirements of the Protocol. Several delegations stated that the use of existing bilateral and multilateral mechanisms should be examined. Several delegations were supportive of the concept of an International Environmental Facility, which was viewed as clearing-house mechanism. One delegation supported this type of mechanism as a first step which could rapidly be made. Some delegations, on the other hand, strongly advocated the setting up of a trust fund to be located with UNEP or any other suitable organization, with legally enforceable obligations of contributions by the developed countries that are Parties to the Montreal Protocol. Some delegations also stressed that the financial mechanisms that would be established must be designed taking into account the need for the development of mechanisms to finance measures to prevent climate change.

B. Transfer of Technology

10. After a discussion on the question of transfer of technology the Chairman of this meeting of the Working Group set up a drafting group to list the activities that could be undertaken in developing countries in compliance with the Montreal Protocol related to "transfer of technology". On the basis of the drafting group's work, the Working Group agreed on the following recommendations.

11. In the context of international financial mechanisms "transfer of technology" meant "facilitating access to environmentally safe alternative substances and technologies for Parties that are developing countries and assist them to make expeditious use of such alternatives (Art. 5, Para. 2) by meeting the incremental costs associated with transition from the controlled substances to alternatives and substitutes".

12. Incremental costs that might be covered by the international financial mechanism would include, but were not limited to the following:

(a) Production

(i) Cost of conversion of existing production facilities:

- Cost of patents and designs and incremental cost of royalties;
- Capital cost of conversion;
- Cost of retraining of personnel;

(ii) Cost of scrapping existing plants:

- Loss of investments in productive capacity of controlled substances either identified now or to be identified in the future before a cut-off date that will require definition;
- Loss of employment: (It was noted that this might prove difficult to measure and administer a method of measurement needed to be defined. However, the question of whether or not the cost of unemployment needed to be covered required further consideration);

(iii) Cost of establishing new production facilities for substitutes of capacity equivalent to that of the scrapped plants:

- Cost of patents and designs and incremental cost of royalties;
- Capital cost;
- Cost of training;

(iv) Cost due to capacities rendered idle so as to comply with the Montreal Protocol.

(b) Use as an intermediate good

(i) Cost of conversion of existing equipment manufacturing facilities:

- Cost of patents and designs and incremental cost of royalties;
- Capital cost;
- Cost of retraining.

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(ii) Cost of modification or replacement of user equipment if required by the Montreal Protocol:

- Cost of patents and designs and incremental cost of royalties;
- Capital cost;
- Cost of retraining.

(c) Action at the consumer level

- (i) Training costs for setting up a system for collection, recycling and destruction of ozone-depleting substances controlled by the Montreal Protocol and any future amendment to it;
- (ii) Cost for providing technical assistance to reduce consumption and unintended emission of ozone-depleting substances.

13. In order to comply with Article 5, Paragraph 3, of the Montreal Protocol, some delegations proposed that international co-operation in this field should include free access to scientific information and non-profit transfer to developing countries of the technologies needed as substitutes for the production and use of ozone-depleting substances and that access to these new technologies should not be subject to trade concerns, since ozone-layer depletion was a problem that affected the whole of humanity without distinction.

C. The total cost

14. The Working Group took note of the available estimates of the costs of conversion from ozone-depleting substances from various sources. The Group considered that these estimates provided an initial indication of the range of costs involved, but could not comment on their accuracy in the absence of the details of methodologies followed. The Protocol Secretariat should prepare a paper setting out the methodologies and assumptions underlying these estimates and make it available to all the countries at least six weeks in advance of the next meeting of the Working Group in February 1990.

15. The Working Group felt that country-specific studies would be helpful to get accurate estimates of the total costs and their phasing. These national studies should be carried out on the basis of common methodologies and formats in a number of developing countries representing different categories of producers of ozone-depleting substances, product manufacturers and importers of products.

16. The developing countries considered that it was essential to address the setting up of funding mechanisms even before more accurate cost estimates were available by considering the available estimates as a preliminary basis for further consideration of the matter. It was agreed by the Working Group to tackle both issues concurrently.

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17. Representatives of some industrialized countries indicated that they would be in a position to help with the financing of country studies at short notice if so requested by the relevant Government.

18. The Working Group recommended that such national studies be initiated immediately by developing countries and that the information available be provided to the next meeting of the Working Group and also to the next meeting of the Parties in June 1990. The developing countries should take the necessary steps to initiate the studies.

19. The observer for one organization suggested that the Secretariat could act as a clearing-house mechanism to facilitate information exchange linking the appropriate categories of developing countries and developed countries.

D. Beneficiaries

20. The Working Group reached agreement on three points concerning potential beneficiaries of support to developing countries. While one delegation expressed concern that refusing support to non-parties seeking to eliminate one or several CFC uses could be counter-productive, there was general agreement in the Working Group that financial or other support in complying with the Protocol should be provided only to developing countries which were parties to the Protocol. This was an incentive system built into the provision of the Protocol. Further, one delegation pointed out that the Parties' obligation to provide support under Article 5, Paragraph 2 extended only to other Parties to the Protocol.

21. The Working Group also agreed that any financial or other support provided should be channeled through the Governments of the recipient countries and that agreements between the financing mechanism and the national Governments would determine how support to their various enterprises, whether they are international or joint ventures, would be provided, as it was the Governments which were ultimately responsible for ensuring compliance with the Protocol.

22. Finally, as summarized by the Chairman, the Working Group recognized two main purposes for financial or other support: first, compensation for the incremental costs of transition to substitutes of the ozone-depleting substances, and, second, support which would serve as an incentive to ensure adherence to the Protocol.

E. Sources of Financing

23. The Working Group reached agreement on a number of points concerning the sources of funds for aid to developing countries.

24. Participants agreed that the main source of funds should be official government sources in developed countries.

25. There was wide understanding that the flow of funds should be on a concessionary basis. Some delegations advocated a grant basis.

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26. [While the concept of "additionality" was hard to define, it was agreed (a) the totality of funds flowing to developing countries should show an increase and (b) that there must be burden sharing amongst the industrialized donor countries. However, a formula for burden sharing remained to be identified.]

27. [It was agreed that the private financing available would be provided on commercial, nonconcessionary terms, and that while this funding might play a useful role, it was a role outside of the mechanisms to be decided on by this Working Group. Although no significant concessionary funding could be expected from the private sector, the Working Group would welcome such contributions.]

28. [Finally, the Working Group agreed that it was difficult to find common ground on the notion of raising funds through the imposition of an international tax on CFCs. It was, however, recognized that such a tax should remain an option to be examined further and could become a viable method for individual developed countries to raise funds to be provided to developing countries.]*

F. Financial mechanisms

29. The Chairman opened the debate by outlining some points relating to financial mechanisms. He noted that the understanding of most countries of "international financial and other mechanisms" appeared to be a multilateral mechanism for distributing financial means and support to developing countries.

30. The Chairman also noted that in addition to multilateral support, many countries provided bilateral support. In this regard, he stressed the importance of ensuring that money from both sources be made available for the purposes of supporting the efforts of developing countries to comply with the Montreal Protocol.

31. He then raised the question of the need to provide the appropriate multilateral and/or bilateral financial mechanisms with a policy framework within which to guide the distribution of funds. In this regard he raised several legal issues relating to the appropriateness of placing the financial mechanisms under the jurisdiction of the Parties to the Protocol.

32. Several delegations expressed the opinion that procedures, policies and decisions relating to the disbursement of funds should be made by the Parties to the Montreal Protocol.

33. Delegations from developing countries expressed the need for the immediate institutionalization of a trust fund to support activities to reduce the production and consumption of controlled substances in developing countries.

* Because of time constraints, the Working Group could not agree on the precise wording of paragraphs 26, 27 and 28.

34. Several delegations expressed the need to make the trust fund a discrete fund that would be administered by UNEP. These delegations expressed a preference for UNEP because of the Organization's experience with the ozone issue and the belief that UNEP, in contrast to other multilateral funding organizations, would give priority to selecting and funding appropriate important projects. In this regard, several delegations held that setting up a "window" in existing multilateral funding organizations would lead to giving lower priority to the ozone issue, as well as to the possibility that funds for ozone protection projects would be disbursed at the expense of the developed countries' normal contributions for general aid projects.

35. The working group agreed on the following with regard for the establishment of a Financial Mechanism:

36. A Trust Fund or another effective mechanism should be created in conjunction with the Secretariat of the Protocol to which countries operating under article 2 of the Montreal Protocol could pledge contributions (financial or otherwise), adequate to meet the incremental costs to developing countries of transition to non-ozone depleting substances or alternative techniques in order to allow developing countries to comply with the requirements of the Montreal Protocol. With the aim of determining the specific characteristics of such a mechanism, the Working Group considered it useful to carry out national studies on technology options and costs to their economies involved in shifting from controlled substances to substitutes or alternatives. Such studies should not delay the creation of an effective financial mechanism, for example a trust fund. These studies should be carried out in a number of developing countries representing different categories of producers of ozone-depleting substances, product manufacturers and importers of products. The results of such studies should be made available to the Contracting Parties as soon as possible. The Working Group recommended that such national studies be initiated immediately and that the information available be provided to the next meeting of the Working Group and the next meeting of Parties, in June 1990.

37. A study should be commissioned which would examine the role that either a new or existing institutions might play in meeting the objectives of the Protocol in developing countries. The study should examine the functional requirements of administering assistance offered by the Montreal Protocol to developing countries, taking into account the fact that financing should be made available as early as possible.

38. The study should examine options for an international financial mechanism, in particular the proposals made in the UNEP Executive Director's paper UNEP/OzL.Pro.Mech.1/2 including the options of a specific new fund, an international environmental facility, ECOVEST, and a trust fund.

39. The study should also examine the potential for using existing institutions separately or in combination including UNDP, UNEP, UNIDO, the World Bank, Regional banks and other relevant institutions having regard, inter alia to:

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- Experience in the field of environmental protection;
- Their experience and policies covering the financing and conversion of major industrial plants and the financing and conversion of small scale industries;
- Their capability to manage support programmes for training in both major industrial and small-scale plants;
- Their ability to administer and control substantial funds;
- Their administrative efficiency.

The study must be completed by 15 January 1990.

40. The study should be presented to the Working Group by the Protocol Secretariat and taken into account by the Working Group in formulating concrete recommendations on an effective financial mechanisms, for example a trust fund.

41. The study contract would be administered by the Protocol Secretariat in consultation with interested governments.

42. Parties would be invited to support the financial cost of the study on a voluntary basis.

IV. OTHER MATTERS

43. The Working Group agreed that a second meeting should be held in late February 1990 to allow the Secretariat sufficient time to prepare for the meeting. The exact date, venue and duration were to be determined by the Secretariat and the information thereon to be communicated to all countries at least two months before the meeting.

V. ADOPTION OF THE REPORT

44. The meeting adopted this report.

VI. CLOSURE OF THE MEETING

45. After a brief statement by the Executive Director, the Chairman declared the meeting closed at 5.30 p.m. on Friday, 25 August 1989.
