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

Second session of the second meeting
Geneva, 26 February-5 March 1990
Item 3 of the provisional agenda

NOTE BY THE EXECUTIVE DIRECTOR

I. Background

1. In accordance with decisions 5 (d) and 13 of the First Meeting of the Parties to the Montreal Protocol, held in Helsinki from 2-5 May 1989, a session of the Open-ended Working Group of the Parties to the Montreal Protocol was held in Nairobi from 21-25 August to develop modalities for financial and other mechanisms to enable developing countries to meet the requirements of the Montreal Protocol.
2. At that session, the Working Group identified the need to have more information to assess such mechanisms adequately. In this regard, the Working Group identified the necessity of carrying out a number of studies (see paragraphs 14, 36, 37, 38, and 39 of the Final Report of that session, UNEP/OzL.Pro.WG.I(1)/3, which was enclosed with the invitation to this session) and making the results available to this session of the Working Group. In accordance with these recommendations, the Secretariat commissioned three studies, which were undertaken by the consultants Metroeconomica (United Kingdom), Development Alternatives (India) and Dr. Rudolf Schmidt (Federal Republic of Germany):
 - (a) Two Studies on the assumptions and methodologies underlying estimates of the costs of conversion for developing countries from ozone-depleting substances; and
 - (b) Study on the role that a new or an existing institution might play in meeting the objectives of the Montreal Protocol in developing countries.

3. At the Working Group session in August, the Parties also recognized that the needs of developing countries would vary with their current use of ozone-depleting substances, future demands for such substances and their substitutes, and their general economic situation. At that session, too, the Working Group emphasized the need to identify the concrete needs of the developing countries. In this regard the Working Group agreed that country-specific studies would be helpful in arriving at accurate estimates of the total costs of developing countries' compliance with the Protocol. It was agreed that these national studies should be carried out in a number of developing countries representing the following different categories of producers and users of ozone-depleting substances:

- (1) Producers of CFCs and/or halons;
- (2) Manufacturers of products using or containing CFCs and/or halons;
- (3) Importers of products using or containing CFCs and/or halons.

4. Consequently, the Secretariat contacted the Governments of 16 developing countries and asked them to initiate country studies based on the terms of reference developed by the Working Group. Several of these studies have been initiated with the support of certain developed countries.

5. The latest information on the status of country studies that are undertaken is the following:

<u>Country study</u>	<u>Time of output</u>
Mexico, Egypt and Brazil	Cost estimates in March; reports in April 1990
India	Mid-February 1990
China	Very preliminary estimates available; refined study may take six more months
Venezuela	Report in April 1990
Kenya	Report in June 1990
Malaysia	Report in June 1990

In addition to the countries listed above, Panama has expressed interest in an expert study of this nature.

6. The Executive Director convened an informal consultation on financial mechanisms in Nairobi from 22-24 January 1990 in accordance with the timetable for meetings relating to the Montreal Protocol, which was agreed upon by the Bureau of the Protocol. At this informal consultation, the reports on the two studies, referred to in paragraph 2 above, were presented. These reports have been distributed in English and summaries of their respective contents are

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available in languages to the Working Group at this session as meeting documents UNEP/OzL.Pro. WG.II(1)/3, /4 /5 and /6. In addition, a Note by the Executive Director entitled Transfer of technology and international financing of global environmental concerns was distributed in English. The Note is also available at this meeting.

7. Experts from the following countries participated in the consultations in their personal capacity: Brazil, Canada, Colombia, China, India, Japan, Malaysia, Netherlands, Norway, United Kingdom, United States of America and Venezuela.

8. Members of the Bureau of the Montreal Protocol (Finland, Kenya, Mexico, New Zealand and the Union of Soviet Socialist Republics) were also present in their personal capacities.

9. This Note benefits significantly from these informal consultations.

II. Introduction

A. Financing to solve global environmental problems (Global partnership)

10. An effective response to our global environmental problems must be based on acceptance of the principle of global interdependence and a sense of shared responsibility. Although it is essential to recognize that it is dangerous to punish countries for inadvertant mistakes of the past, developing countries cannot be expected to make legally binding commitments to minimize or repair damages caused mainly by the developed countries unless the developed countries make equally binding commitments to transfer the necessary technology and fund the incremental costs incurred by the developing countries. In other words, what is needed is to identify global means for a global response to a global problem.

11. Success in transferring technology will depend upon finding new approaches and modalities for ensuring the flow of the additional financial resources necessary to sharing the available technologies. The problems of patents, royalty payments, and propriety rights that are in the hands of industries will have to be solved taking into account the investments made by these industries in developing the technologies, as well as their natural desire to receive equitable returns on their investments. The transfer of technology does include development of their own indigenous technology.

12. The level of financial resources required is clearly beyond the levels of existing development assistance. Additional resources are needed, but the cost is not excessive if we consider the grave consequences of inaction. With scientifically established data on these consequences, it seems timely to redefine development needs in environmental terms.

13. Strong language on all these issues is heard in the Open-ended Working Group of the Parties to the Montreal Protocol on Financial Mechanisms, echoed in Working Group III of the Intergovernmental Panel on Climate Change (IPCC), as well as in the United Nations General Assembly.

14. The industrialized countries, as they themselves have acknowledged, must accept a leading role in repairing the damages they have caused to a large extent. The developing countries face a complex reality of coping with their economic problems, as well as the imminent adverse effects of environmental problems such as the depletion of the ozone layer. If the developing countries participate in the global effort to reduce the global damage, they would have to assume the burden of considerable incremental costs. The developing countries need to be given financial assistance in meeting these incremental costs. Such financial assistance should not be perceived in terms of donors and recipients, but in terms of sharing responsibility and accepting the principle of fair burden-sharing.

15. The financial flows from the developed countries to the developing countries in meeting the incremental costs will not be appropriate if provided on the usual loan terms or from the conventional flow of assistance. The developing countries with economic problems are unlikely to accept a diversion of the existing funds that are earmarked for development purposes.

16. Between now and the Second Meeting of the Parties to the Montreal Protocol, scheduled to be held in June in London, these issues need to be addressed more effectively and imaginatively so that the London meeting opens the path for the badly needed, international co-operation unprecedented in both its type and level required for dealing with other issues such as climate change and several other agreements expected by the time of 1992 United Nations Conference on Environment and Development.

B. User fees as an instrument of global fund-raising

17. Scientists believe that unless the substances that deplete the ozone layer are phased out by the year 2000, the ozone hole will not be repaired.

18. The incremental costs incurred by the developing countries for their compliance with the Montreal Protocol need to be identified and agreed upon. Funds to meet these costs must be raised and channelled through acceptable mechanisms. Preliminary cost estimates to ensure full participation by developing countries to save the ozone layer range from US\$ 2-5 billion over the next 10 years. These figures need to be refined. The greatest sums will be needed during the early 1990s and will taper off to zero towards the end of the decade. To raise the funds necessary to meet these costs, new sources must be tapped, new modalities for fund-raising devised, and new mechanisms for dealing with such funds established.

19. The use of instruments such as fees and charges on consumption would not only provide the additional resources needed, but would also act as an incentive to reduce the consumption of the substances or goods on which charges are levied. On the basis of the twin criteria of simplicity and practicability, one of the instruments that Governments might use for the collection of new funds to protect the ozone layer is the imposition of fees on the use of ozone-depleting substances.

20. Each individual is contributing to the destruction of the ozone layer through air conditioning in cars, houses and offices; refrigerators and foams in homes, offices and ships; and the use of fire extinguishers containing halons. Just as water is considered a resource paid for by its users, air should be considered a resource. In the case of the ozone problem, air is used through the emission of ozone-depleting substances.

21. The total estimated consumption of the substances currently controlled by the Montreal Protocol amounts to around 1.2 million tonnes per year. If we consider a fee of US\$ 1 to be collected for each kilogramme of the substances consumed, US\$ 1.2 billion can be obtained per year. A fee of US\$ 2 per kilogramme would double that revenue. The consumption of the controlled substances by developed countries is around 90 per cent of total global consumption; hence these countries would be contributing the same percentage of the total financial resources raised.

22. The amounts raised by users' fees could be collected and paid into an international fund and used for the protection of the ozone layer - to pay the industries to make patents available, to allow developing countries to buy new substances and technology, and to meet other incremental costs, including the restructuring of existing CFC plants to use substitutes and alternative technologies.

23. In the interests of equity and political acceptability, some adjustments could be considered, among these, deducting the administrative costs of developing countries in collecting such fees. The fee to be charged may be differentiated for various countries, by taking into account their different economic situations, and the specific contributions of each country.

24. It is generally agreed that new modalities of financing should be administratively feasible, create no severe inequities in terms of burden-sharing, and raise no insuperable problems of collection.

25. To reflect equal partnership, every Party consuming ozone-depleting substances should contribute according to its level of consumption or above a certain level of consumption to be determined by the Parties. In addition, All Parties should decide jointly on the allocation of the funds collected.

26. Many problems of detail need to be worked out and practical mechanisms for collection and disbursement identified. At this stage, an agreement in principle, at least, is required to set in motion a process of refining the approach.

27. The imposition of user fees is but one way of raising funds of the magnitude required to assist developing countries and others in need, such as the East European countries, in adhering to and implementing the Montreal Protocol. Other sources could be commitments of lump sums or the earmarking of a certain percentage of GNP. The basic principle of whatever formula is used by any country is that all resources are additional to existing resources.

III. Recommendations

28. On the basis of the ideas that emerged during the informal consultations, the Executive Director would like to present the following recommendations for the Parties' consideration at this session of the Working Group:

A. The funding mechanism

29. It appears that a political commitment to establish a fund and/or a new financial mechanism is essential to ensure the global co-operation needed to protect the ozone layer. Funding for this purpose must be additional to existing development assistance.

B. Sources of funding

30. A funding mechanism must be universal in nature, as all countries have a joint responsibility and a common interest in reducing ozone depletion. One way of ensuring universal participation is to operate with contributions on an assessed basis. To ensure a fair sharing of responsibilities, such an assessment could be based on annual consumption of ozone-depleting substances or a base year consumption, preferably the latter. In this case, the appropriate year would probably be 1986. Contributions based on actual consumption would lead to rapidly declining contributions from those countries that can reduce their consumption most rapidly. Such countries are likely to be those with the best developed technology and, very probably, wealthiest. There could be merit in agreeing that during the first few years, contributions to the funding should be made voluntary to signify good will before agreement is reached on the concrete scale of assessment. Such contributions, however, must not be merely symbolic.

31. All existing sources of funding should be utilized. A fund should be thought of as a safety net that would provide resources when a project is not supported through existing bilateral or multilateral assistance. Its essential feature must be flexibility. For example, deductions could be made from the assessed contributions for approved additional bilateral assistance and in-kind contributions, such as the provision of technology. Such deductions should be approved by the Parties. This could be facilitated by convening round tables to which bilateral and multilateral donors were invited to express their interest in supporting the need of one or another country.

32. The Working Group may also wish to consider the question of the timing of the contributions, which should correspond to the developing countries' needs. As indicated in paragraph 18 above, larger sums will be needed during the early 1990s tapering off towards the end of the decade.

33. "As to the question of compensating industries that have developed the relevant technologies, it is generally felt that the revenue of user fees should not serve to raise industrial profits. However, this revenue could be used to cover the industries' incremental cost of the research and development of such technologies".

C. The size of the Fund

34. Several estimates of the total cost of introducing substitutes and alternative technologies have been indicated in various studies. It is commonly understood that it will not be possible to calculate an exact figure before the Second Meeting of the Parties. To allow the Contracting Parties to decide on a funding mechanism, it should be sufficient to agree upon the order of the magnitude of the cost. Inability to ensure collection of complete information should not become an obstacle to reaching a decision on a financial mechanism. The range of the total cost should, however, be narrowed as much as possible. Results from the ongoing country-specific studies should help in determining this range.

35. The Working Group may wish to:

(a) Agree upon any additional elements of incremental costs, based on the various studies and consultations since its last meeting;

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(b) Agree at its current meeting on the range of the expected total cost, to be sent to Governments at the end of this meeting to allow them to take concrete decisions at the time of the London meeting; and

(c) Request the consultants to refine their studies further in order to narrow the gap between the highest and the lowest estimates as much as possible before the next meeting of the Working Group in early April, using available country studies. Further refinement could be achieved between the April meeting of the Working Group and the London meeting.

D. Collection of information and development of packages of activities

36. It is generally recognized that additional data collection and long-term planning on how to achieve the technology transfer is important, but it must be repeated that the need for additional information should not become an excuse for failure to decide on a funding mechanism. There is also a need to develop packages of activities which could be financed from available sources of funding or the new fund. These packages should cover different types of projects and strategic plans for individual countries. Examples for such a package could be requested by the Working Group for its next meeting in April 1990.

E. Institutional arrangements

37. As noted in the consultant's study on institutional mechanisms, the administration of the funding mechanism could be a joint venture involving UNEP, UNDP and the World Bank. This would require an expanded secretariat to carry out the daily work. It is generally believed that UNEP, with its catalysis and co-ordination, would be suited for the role of lead organization. The Parties - as the governing body of the fund - should on, the basis of "one Party - one vote", decide on policy issues related to the fund and to project proposals.

38. The experience of the various United Nations should be utilized to supplement each other in the three stages of project development and execution that could be outlined as follows:

- (a) Identification of needs and assistance for project design;
- (b) Review of projects prepared by countries;
- (c) Execution of projects.

39. The Working Group may wish to recommend that the consultant who prepared the study on institutional mechanisms refine it along the lines indicated in paragraphs 37 and 38 above for the next meeting of the Working Group, taking into account the experience of such activities as those carried out under the Tropical Forest Action Plan, the Development Programme for Africa, the OPEC Fund for International Co-operation; and International Fund for Agricultural Development.

(F) Amendments

40. The Working Group should consider how suitable guarantees for technology transfer could be incorporated into the Protocol to ensure that developing countries will be able to meet the requirements of an amended and strengthened Protocol.

(G) User fees

41. The idea of user fees may be considered one of several possible ways for Governments to raise funds. However, it must be remembered that it is the prerogative of each Government to determine how to meet its contribution responsibility. Thus, the proposal for user fees is not one for a world-wide tax system, but should be regarded as an option that each Government may use at its discretion, along with other means.

42. Nonetheless, the concept of user fees has the advantage of making individuals pay for correcting for the problems they cause. It also translates into action the idea of paying for the use of all environmental resources. The increased cost of consumer goods would be marginal and the total cost of substitution could be covered by user fees. Simultaneously, such fees would act as an incentive for reducing the use of ozone-depleting substances and would also ensure that everybody contributes to a truly global partnership.

(H) Proprietary rights and patents

43. The Executive Director has begun consultations with WIPO with regard to establishing a working group on proprietary rights and patents, and he had requested the Secretary-General of the International Chamber of Commerce to indicate the industry views of some of the major executives on the issue of technology transfer and the vexing problem of patents, etc. As a first step, WIPO has suggested that it carry out a state-of-the-art search report, based on patent documentation and other available information on such technology. Taking into account the legitimate right of industry to recover their investment in researching new benign chemicals and processes, the financial mechanism could be used to purchase patent or licensing rights from corporations for distribution to developing countries. However, this should not have the effect of subsidizing industry in developed countries or using the fund or financial mechanism to help the private sector obtain high profits. It should rather help ensure that environmentally sound technologies are transferred on a low-profit or, preferably, non-profit basis.

(I) General remarks

44. Every case of moving away from CFC-based activities need not necessarily involve cost. Two other possibilities exist:

(a) The transfer of technology could take place at no cost;

(b) The transfer could even result in savings.

45. It should be remembered that an ozone protection fund would by its very nature be transitional; it would exist only until the shift to ozone-friendly substitutes was achieved. Yet it must also be remembered that the ozone-depleting substances are themselves greenhouse gases. A financial mechanism established to support the protection of the ozone layer could later be useful in raising funds for dealing with climate change.