



**United Nations  
Environment  
Programme**



Distr.  
Limited

UNEP/OzL.Pro/ExCom/28/55  
11 June 1999

ORIGINAL: ENGLISH

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EXECUTIVE COMMITTEE OF  
THE MULTILATERAL FUND FOR THE  
IMPLEMENTATION OF THE MONTREAL PROTOCOL  
Twenty-eighth Meeting  
Montreal, 14-16 July 1999

**EXPORT TO NON-ARTICLE 5 COUNTRIES:  
REPORT ON PROJECT ELIGIBILITY**

## **Background**

### The project from Sri Lanka

1. Sri Lanka submitted through UNDP to the 25<sup>th</sup> Meeting a project under the title “National programme for the replacement of carbon tetrachloride with n-butane in the activated carbon industries at 6 companies”. CTC is used as a reagent to test the activity of each batch of activated carbon produced. This is done because the activity of the activated carbon, specified when it is offered for sale, determines the sale price.

2. Since the proposal indicated that about 72 percent of the activated carbon produced by burning coconut husks is exported to non-Article 5 countries, the Secretariat sought advice from the Executive Committee as to whether activated carbon produced in this way should be considered as an agricultural product in terms of application of the 15<sup>th</sup> Meeting’s decision on exports.

3. The Executive Committee decided at its 25<sup>th</sup> Meeting to defer the project.

4. At the 26<sup>th</sup> Meeting, India submitted a proposal of a draft decision to amend the decision of the 15<sup>th</sup> Meeting on exports. The Executive Committee decided that the draft decision should be placed on the agenda of the 27<sup>th</sup> Meeting.

5. The Executive Committee, after a brief introduction of the Indian proposal at its 27<sup>th</sup> Meeting decided to “to request the Secretariat to study this question further, consulting countries as appropriate, and distribute a paper on the subject to members before the 28<sup>th</sup> Meeting, at which it would be considered”.

### The draft decision proposed by India

6. The proposed draft decision by India seeks to expand the scope of exemption provision of the decision on exports to cover the activated carbon of the Sri Lanka project and other similar products of indigenous origin that may not strictly fall within the definition of agricultural or fisheries products.

## **The Context of the decision taken at the 15<sup>th</sup> Meeting and its implementation**

7. The Executive Committee took the decision on exports at the 15<sup>th</sup> Meeting in 1994 in response to a recurring issue which emerged from projects presented to the 13<sup>th</sup> and 14<sup>th</sup> Meetings in which exports to non-Article 5 countries ranged at that time between 10 and 50 percent. After a great deal of discussion, the Executive Committee decided that the agreed incremental cost for such projects should include a discount factor to account for such exports.

8. However, the Executive Committee exempted projects where exports to non-Article 5 countries were in the form of agricultural or fisheries products from applying the discounting factor. The intent of the exemption was to make clear that there would be no discount where projects for conversion of cold storage equipment which will not be exported but the agricultural and fisheries products stored in them might be exported to non-Article 5 countries.

9. Since the 15<sup>th</sup> Meeting in 1994, this decision on agreed incremental cost has been applied without any questions to a total of 12 projects in sectors involving refrigeration, foam and solvents. To date no project has requested or been granted exemption from this decision.

### **Categorizing the Sri Lanka project**

10. The information from the Sri Lanka project document provides clues as how it should be categorized, industrial versus agricultural.

(a) The transformation of the input is through industrial processing:

Although the activated carbon uses coconut husks as input, the husks are burned under oxygen deficient conditions and then crushed into granules and subjected to a steam treatment process at high temperatures (800-1,000 degrees C) where the surface area of the particles is increased many folds. The agricultural input is entirely transformed in the industrial processing, and thus loses all its characteristics as an agricultural by-product and becomes an industrial product, activated carbon.

(b) The uses of the product:

Because of its absorptive capacity, activated carbon is used in the purification of air, gas and liquids; in the recovery of metals from ores; and in other industrial applications.

(c) Product standards applied:

The testing standards applied for the activated carbon are those listed under the American Society of Testing and Materials (ASTM), the series for industrial products quality standards.

(d) The way CTC is used:

In the case of activated carbon production, CTC is used as a testing material to ascertain the absorptive capacity of the activated carbon against some recognized standards. Once the test is done, the tested products with the CTC are discarded.

11. Based on the above indicators, it can be concluded that activated carbon is an industrial product and therefore the decision on export to non-Article 5 countries should apply.

### **Analysis of the Indian draft decision**

12. The proposal from India to expand the scope of the exemption provision to include “products locally grown or products manufactured with natural raw material of local origin” is perhaps based on a misunderstanding of the issue addressed in the decision taken at the 15<sup>th</sup> Meeting. The issue addressed by the decision is the export to non-Article 5 countries, not the

origin of those products or the origin of the raw materials from which they were made. This misunderstanding is evident from the 2<sup>nd</sup> preamble paragraph of the Indian proposal, which is quoted as follows:

“Noting that such a decision [ on export ] was taken to prevent an entrepreneur seeking financial assistance from the Fund for the manufacture of industrial products such as refrigerators or air-conditioners in an Article 5 country with components imported from non-Article 5 countries and re-exporting the products to non-Article 5 countries, thus passing the benefit of the assistance to those countries.”

13. Based on the incorrect categorization of the issue, the Indian proposal assumes that so long as the components and the raw material are not imported from non-Article 5 countries the decision of the 15<sup>th</sup> Meeting on export should not apply. And therefore the proposed amendment emphasizes “locally grown” and “manufactured with natural raw material”.

14. However, of the 12 projects at which the export decision has applied, none dealt with a situation in which components of the goods sought to be exported contained components imported from Article 2 countries. Instead, the rationale for the export principle of incremental cost stems from a desire not to subsidize Article 2 countries by paying a portion of the cost of conversion, payment of which, would result in subsidized product pricing.