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EXECUTIVE COMMITTEE OF
THE MULTILATERAL FUND FOR THE
IMPLEMENTATION OF THE MONTREAL PROTOCOL
Fifty-First Meeting
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**DRAFT TERMS OF REFERENCE FOR A COMPREHENSIVE INDEPENDENT
ASSESSMENT OF THE ADMINISTRATIVE COSTS REQUIRED FOR THE 2009-2011
TRIENNIUM (FOLLOW-UP TO DECISION 50/27)**

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Introduction

1. This document presents draft terms of reference for a comprehensive independent assessment of the administrative costs of the Multilateral Fund's implementing agencies that will be required for the next triennium. It also contains a recommendation that the draft terms of reference be adopted at the 51st Meeting of the Executive Committee.

2. These terms of reference have been prepared further to the decision of the Executive Committee at its 50th Meeting authorizing the Secretariat "to undertake a comprehensive independent assessment of the administrative costs required for the 2009–2011 triennium, using independent consultants or consulting firms as needed, and to report its conclusions to the first Meeting of the Executive Committee in 2008" (decision 50/27, para. c). Comments from the multilateral implementing agencies have been incorporated.

Background

3. The Executive Committee signed agreements with the multilateral implementing agencies that allowed a charge of a percentage of all expenditures made from the Trust Fund specified in the approved project documents and work programmes (UNEP/OzL.Pro/ExCom/5/Inf.3, and 4 and UNEP/OzL.Pro/ExCom/8/29, Annex IV as amended by decision 25/2). For the World Bank, its agreement specified that it would be reimbursed for expenses incurred (UNEP/OzL.Pro/ExCom/5/Inf.2). It should be noted that administrative costs are administered in accordance with the regulations, rules and directives of the agency concerned. There are no agreements with bilateral implementing agencies for their activities under the Multilateral Fund.

4. There have been four systems of administrative costs under the Multilateral Fund since its inception. Initially, UNDP, UNEP and UNIDO received a flat agency fee at a rate of 13 per cent of the value of project approvals as well as project preparation and country programme preparation activities. By contrast, the World Bank received an administrative, legal and financial budget as a funding element in its annual work programme that included project preparation and country programme preparation as administrative costs. It also received 3 per cent support costs on funds approved for each individual project to cover the fees of its financial intermediaries responsible for project execution.

5. At its 12th Meeting, the Executive Committee requested the Secretariat to conduct an administrative cost exercise focused on the need to evolve norms (UNEP/OzL.Pro/ExCom/12/6, para. 41). As a result, the first independent assessment was conducted and considered by the Executive Committee at its 14th Meeting (UNEP/OzL.Pro/ExCom/14/12). This resulted in the first systematic change when the World Bank requested the Committee to apply support costs at a level of 13 per cent for all its projects approved at, and following, the 17th Meeting (decision 18/10, para.b). With this change, all implementing agencies received 13 per cent of project costs as administrative costs.

6. The second independent assessment resulted in a third change to the administrative cost regime. This was initiated in response to a request at the Eighth Meeting of the Parties where the Parties asked the Executive Committee to work toward the goal of reducing agency support costs from 13 per cent to an average of below 10 per cent (decision VIII/4, para. 6). The Committee asked the consultant to identify options and approaches for reducing the overall level of

administrative costs, focusing on revising the current uniform, fee-based system (decision 21/2). An assessment report was submitted by Coopers and Lybrand to the 26th Meeting of the Executive Committee (UNEP/OzL.Pro/ExCom/26/67). It resulted in an administrative cost regime that was initially applied to all agencies, but currently remains fully operational only for bilateral agencies, and applies partially to UNEP. This administrative cost regime applied an agency fee of 13 per cent on projects up to a value of US \$500,000, an agency fee of 11 per cent on the value of projects exceeding US \$500,000 up to a value of US \$5 million, and an agency fee to be negotiated on a case-by-case basis for projects valued at more than US \$5 million (decision 26/41). This also applies to UNEP with the exception of its Compliance Assistance Programme (CAP) where the agency fee is 8 per cent of the annual cost of the CAP and institutional strengthening where agency fee costs are 0 per cent because the CAP programme administers the vast majority of institutional strengthening projects.

7. In the context of a series of meetings during which the Executive Committee considered issues related to its strategic planning for the compliance period, the Committee noted that although a fixed agency share of project resources (as was provided at that time as a tool for resource allocation) gives agencies more predictability regarding their support costs, it has the disadvantage of extending the allocated resources over unnecessarily long periods of time, as is the case with most of the methyl bromide projects. The Committee further noted that this might not have been tenable in the 2002-2005 triennium when a stricter time frame for project implementation would have to be followed. In deciding to eliminate agency shares, the Executive Committee invited another change to the administrative cost regime that would provide “UNDP, UNIDO and the World Bank with administrative budgets, together with a reduced rate of support costs for individual activities” (UNEP/OzL.Pro/ExCom/37/66, paras. 55-58). The Committee asked the Secretariat to address the matter with the understanding that total administration costs would not exceed existing total administrative costs (decision 37/68c).

8. The most recent administrative cost regime was proposed to the 38th Meeting with the intention that it would guarantee the maintenance of current staffing levels in the implementing agencies, their core activities, and provide sufficient support costs for project implementation on a predictable basis (UNEP/OzL.Pro/ExCom/38/59, para. 4). It includes US \$1.5 million subject to annual review for a core unit in addition to applying an agency fee of 7.5 per cent for projects with a project cost at or above US \$250,000 (including institutional strengthening projects and project preparation) and an agency fee of 9 per cent for projects with a project cost below US \$250,000 (including country programme preparation) (decision 38/68). At its 46th Meeting, the Committee modified slightly the amounts of the core units and based them on the analysis in UNEP/OzL.Pro/ExCom/46/40. The base rates for core unit costs for UNDP and UNIDO were set at US \$1.7 million instead of US \$1.5 million and the Committee agreed to the possibility of an annual increase of up to 3 per cent for UNDP, UNIDO and the World Bank (decision 46/35).

9. At its 49th Meeting, the Executive Committee agreed to consider the capacity of UNDP, UNIDO and the World Bank to complete projects on time as a component of a review of administrative costs (decision 49/7(c)). Therefore, the Committee recognized the need for a more comprehensive assessment of the administrative cost regimes with a view to providing sufficient capacity to complete all activities needed to meet the needs of the Article 5 countries in their compliance efforts during the next triennium and to provide sufficient oversight and reporting for the Executive Committee, including taking into account current plans for the use of the balance of support costs and any related cash flow issues.

Items to be considered by the Consultant

10. At its 50th Meeting, during its review of proposed 2007 core unit costs, the Executive Committee was informed that there was a substantial balance in support costs amounting to between US \$30.8 and US \$40.8 million. Although this amount could have been used as it represented balances as at 31 December 2005 (in the first case) and only approved amounts for 2006 (in the second case), implementing agencies would continue to receive support costs on approvals and core unit costs at least until the end of the current triennium. Moreover, this amount could have theoretically covered support costs for an additional two to three years of overall administrative costs.

11. During the 2009-2011 triennium, CFCs, halons and CTC will be phased out by 2010. After 2010, only 20 per cent of the baseline for methyl bromide and 30 per cent of the baseline for TCA remain to be phased-out, along with the HCFC phase-out that is currently scheduled to occur by 2040. The assessment of administrative costs should take into account the costs associated with closing activities for the 2010 phase-outs.

12. Support costs are provided to enable the implementing agencies to complete the supervision, technical assistance and monitoring obligations at the programme level through 2010 and beyond until projects are completed, completion reports and assessments have been conducted, and accounts have been reconciled and closed and all commitments in multi-year agreements have been fulfilled. They would also be used to monitor any projects with activities following 2010.

13. Support cost funds associated with projects cannot be used by the United Nations' implementing agencies until there is a project-related disbursement freeing the funds for use for administrative purposes. There may therefore be a cash flow issue to consider in determining whether funds are sufficient for the agencies to administer their existing and approved-in-principle portfolios to achieve the 2010 compliance targets. The assessment of the balance of support costs should take into account any such concerns with cash flow that might arise for the implementing agencies.

14. At its 49th Meeting, the Executive Committee agreed to consider the capacity of UNDP, UNIDO and the World Bank to complete projects on time in the context of its review of administrative costs at its 50th Meeting (decision 49/7(c)). The assessment should include a review of the administrative cost regimes of these agencies for Article 5 countries to achieve their compliance efforts during the next triennium, and meet their fiduciary responsibilities, and provide reporting to the Executive Committee. This should take into account current plans for the use of the balance of support costs and any related cash flow issues.

15. Although UNEP does not receive core unit costs, previous independent assessments also considered UNEP's administrative costs. As indicated above, decision 26/41 is the basis for administrative costs for UNEP and bilateral agencies. In determining the level of administrative costs in decision 26/41, Coopers and Lybrand considered historical costs for UNEP and the other agencies. Similarly, a review of UNEP administrative costs along the categories identified by Coopers and Lybrand should be undertaken. Since bilateral agencies have not been included in any assessment of administrative costs to-date, a similar review should be undertaken for existing agencies engaged in ongoing bilateral activities.

16. In undertaking this work, the consultant should take account of the previous reports prepared on this subject both by independent consultants and by the Secretariat. The information should be used to establish norms of the costs of administration of Fund projects. The categories of administrative costs employed in previous studies may also be used as a basis for the analysis but may be added to, or revised, as necessary. The extent to which existing resources could be used to address future administrative cost requirements should also be considered. The consultant should identify the services provided with administrative costs taking into account the different administrative cost regimes for UNEP and the other multilateral and bilateral implementing agencies.

17. The consultant should also take into account different implementation modalities used by the multilateral and bilateral implementing agencies. In some cases, administrative costs are used to administer programmes through other agencies while some agencies use their own staff to execute projects approved by the Executive Committee. In some cases, agency fees are transferred to the executing agency (for example, some agencies transfer funds to national executing agencies and/or financial intermediaries) and in other cases the fees are maintained to varying degrees by the agency administering the project.

18. The offices of implementing agencies dealing with Multilateral Fund matters are also involved in implementing activities funded for other multilateral environmental agreements (MEAs). At its 50th Meeting, the Executive Committee decided that the UNEP's compliance "CAP budget should only be spent in accordance with the terms of reference for the financial mechanism contained in Article 10 of the Montreal Protocol and should not be spent on inter-multilateral environmental agreement coordination activities" (decision 50/26, para. a (iii)). The consultant should ascertain how this is being achieved for all agencies since the offices involved in activities for the Multilateral Fund are, for the most part, also involved in activities funded for other MEAs.

19. The consultant should also take into account the experience of the implementing agencies with similar multilateral funding mechanisms. In this respect, the administrative costs used for the Global Environmental Facility and other global and regional funds as applicable should be reviewed to inform a recommendation for future administrative costs of the Fund.

20. The consultant should propose any changes to the existing administrative cost regimes that would enable the implementing agencies to provide sufficient administrative support to Article 5 countries to help them achieve compliance during the next triennium with a view to providing sufficient capacity to complete all activities necessary for Article 5 countries to achieve their compliance efforts during the next triennium, enable implementing agencies to exercise their fiduciary responsibilities, and to provide sufficient oversight and reporting for the Executive Committee. In this respect, challenges for the next triennium (2009-2011) should be taken into account as mentioned above, in particular with respect to future control measures as well as the need to ensure that all commitments and financial accounts are closed. Any possible additional costs after 2011 would also have to be assessed taking into account any project activities expected to occur after 2010.

21. Any changes to the existing administrative cost regimes should also take into account current plans for the use of the balance of support costs and any related cash flow issues mentioned above. To do this, the consultant should consider project implementation trends for

the exiting portfolio of approved projects, earned versus unearned support costs, and fixed versus variable costs.

Deliverables

22. The consultant will provide a report on progress to the Executive Committee at its 53rd Meeting in the context of the annual assessment of core unit costs. A draft report should be submitted by 15 January 2008. The final report would be submitted by 15 February 2008 for consideration of the Executive Committee at its 54th Meeting.

RECOMMENDATION

23. The Executive Committee may wish to adopt the draft terms of reference noting that the Fund Secretariat would present the costs based on bids received from qualified consultants to the Executive Committee at its 52nd Meeting.
