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EXECUTIVE COMMITTEE OF
THE MULTILATERAL FUND FOR THE
IMPLEMENTATION OF THE MONTREAL PROTOCOL
Fifty-first Meeting
Montreal, 19-23 March 2007

**ISSUES RELATED TO THE FUND SECRETARIAT'S BUDGET FOR 2007
(FOLLOW-UP TO DECISION 50/45)**

Pre-session documents of the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol are without prejudice to any decision that the Executive Committee might take following issue of the document.

For reasons of economy, this document is printed in a limited number. Delegates are kindly requested to bring their copies to the meeting and not to request additional copies.

1. At its 50th Meeting, the Executive Committee approved the budget of the Fund Secretariat including the amount of US \$500,000 for the 2007 treasury fee (decision 50/45(a)).
2. In the same decision, the Committee noted that while approving the 2007 treasury fee of US \$500,000, a sum of US \$200,000 was withheld, and the Secretariat was requested to seek legal advice in respect of the terms of the contract with UNEP as Treasurer, specifically focusing on the issue of the P-5 post required under the decision 42/42 that established a treasury fee for UNEP (decision 50/45(b) and (c)). In addition, the Chair of the Executive Committee was requested to write to the Executive Director of UNEP advising him of the Executive Committee's decisions taken at the 50th Meeting and outlining the reasons for withholding the sum of US \$200,000.
3. This document addresses the issue of treasury fees as a follow-up to decision 50/45, and includes a request for the approval of an additional amount in the 2007 budget to cover the cost of the study on administrative costs.

Treasury fees

4. As a follow up to decision 50/45, the Chair of the Executive Committee wrote to Mr. Achim Steiner, the UNEP Executive Director, on 13 December 2006 to inform him of the Committee's decision (a copy of this letter is attached). In addition, the Chief Officer had several communications and meetings both with the Executive Director and with other senior UNEP representatives to resolve the issue.
5. At the time of writing, a letter from the Executive Director is pending.

Legal advice

6. With respect to the issue of legal advice, the United Nations legal office in New York informed the Chief Officer that it could not give an opinion on the issue since it might need to represent UNEP in any further actions from the Committee. The Director of the General Legal Division of the Office of Legal Affairs further advised that it would be for the Executive Committee to consider how to obtain legal advice as needed. An option would be for a Party to seek this on behalf of the Committee.

Administrative cost study

7. The Executive Committee at its 50th Meeting authorized 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). Document UNEP/OzL.Pro/ExCom/51/44 provides a draft terms of reference for the Committee's consideration along with recommendations for its adoption.
8. The recommendation in the document is to present the potential costs based on bids received from qualified consultants to the Executive Committee at its 52nd Meeting. However, in order to enable bids to be sought, the Executive Committee is being requested to allocate an amount for the study, as was the case for the study on destruction of unwanted ODS approved at

the 50th Meeting. The bidding would then proceed with the understanding that the final selection of a bid will be based on the cost estimates submitted to the 52nd Meeting.

Recommendation

9. The Executive Committee may wish to consider:
- (a) Whether any further legal opinion should be obtained by the members of the Executive Committee on the issue of withholding funds from UNEP for the treasury services; and
 - (b) Approving an additional amount in the 2007 budget to cover the cost of the Comprehensive independent assessment of the administrative costs required for the 2009-2011 triennium.



MULTILATERAL FUND
FOR THE IMPLEMENTATION OF THE MONTREAL PROTOCOL

Executive Committee

13 December 2006

Dear Mr. Steiner,

I have reference to your letter dated 12 October on issues related to the provision of the treasury services and to the 50th Meeting of the Executive Committee that took place in New Delhi on 6-10 November 2006 and its deliberations on this issue.

I am writing to you in my capacity as Chair of the Executive Committee to advise you of the adoption by the Executive Committee of decision 50/45 which addresses *inter alia* the approval of the fee for the provisions of treasury services by UNEP in 2007.

In the context of the agenda item on the Revised 2007, 2008 and proposed 2009 budgets of the Fund Secretariat, the Executive Committee considered the release of funding for the Treasurer's fees pursuant to the agreement between UNEP and the Executive Committee on the provision of treasury services, and addressed the issue of the P5 position as a follow-up to decision 49/39.

Following a discussion, the Committee adopted decision 50/45, by which it approved, *inter alia*, the revised 2007 budget of the Fund Secretariat, covering the amount of US \$500,000 for the 2007 treasury fee. The Executive Committee also decided:

- (b) *To further note that while approving the 2007 treasury fee of US \$500,000, a sum of US \$200,000 is withheld, pending legal advice;*
- (c) *To request the Secretariat to seek legal advice in respect of the terms of the contract with UNEP as Treasurer, specifically focusing on the issue of the P5 post;*
- (d) *To request the Chair of the Executive Committee to write to the Executive Director of UNEP advising him of the Executive Committee's decisions taken at the 50th Meeting and outlining the reasons for withholding the sum of US \$200,000; [...]*

Mr. Achim Steiner
Executive Director
UNEP
P.O. Box 30552
United Nations Avenue, Gigiri
Nairobi, Kenya

The report of the meeting, specifically the narrative paragraphs preceding the text of the decision, outline the reasons for the decision to withhold the sum of US \$200,000. An extract of the text of the report is reproduced in Annex I.

I am hopeful that, thanks to the efforts being made by UNEP, the issue of the P5 position for the provision of treasury services to the Multilateral Fund will be resolved and the recruitment process completed in the near future.

Sincerely yours,



Khaled Klaly
Chair of the Executive Committee of the
Multilateral Fund

c.c. Ms. Maria Nolan
Chief Officer
Multilateral Fund Secretariat

Annex I – Extract of the Report of the 50th Meeting of the Executive Committee

AGENDA ITEM 15: REVISED 2007, 2008 AND PROPOSED 2009 BUDGETS OF THE FUND SECRETARIAT

1. The Executive Committee considered the revised budget of the Fund Secretariat for 2007, the budget for 2008 and the proposed budget for the salary component for 2009 contained in document UNEP/OzL.Pro/ExCom/50/61, which were presented by the Secretariat.
2. The representative of the Secretariat said that the 2007 budget had been revised to introduce the Secretariat's operational costs and maintain them at the same levels as in previous years. It also included the US \$500,000 to cover the Treasurer's fees pursuant to the agreement between UNEP and the Executive Committee on the provision of treasury services by UNEP. As a follow-up to decision 49/39, the issue of the P5 position would be addressed in the context of consideration of the release of funding for 2007 treasury fees. The 2008 budget had been approved at the 48th Meeting to cover staff costs only and remained unchanged. The proposed 2009 budget reflected staff costs for 2009 to enable extension of staff contracts based on the proposed 2008 staff salary component, using the standard 5 per cent inflation rate against the 2008 staff cost level, based on previous practice.
3. In response to a request from one representative for clarification of the last line of the budget, entitled "Percentage increase/decrease", the representative of the Secretariat said that the line was misleading and would be deleted as there had actually been no increase in cost to the Fund. In response to a request for clarification on the amount included for rental of office premises, the representative of the Secretariat explained that a new property tax had raised the cost of living in Montreal and the estimated amount in the budget for that item had therefore been increased.
4. It was noted that the Chair had sent a letter to the Executive Director of UNEP pursuant to decision 49/39 with regard to the appointment of a P5 officer to provide treasury services to the Fund, and that the Executive Director had replied that he would request the UNEP team to make special efforts to deliver the treasury services at the required level and to coordinate with the Fund Secretariat in preparing a job description to enable the recruitment process to begin. One representative expressed the view that, although the reply had been encouraging, the Fund and the Executive Committee were being shortchanged. He suggested that the Committee should either request a refund of US \$600,000, representing three years' worth of services of the P5 officer that had not been provided or withhold payment of US \$200,000 for the year 2007. Several representatives considered that a legal opinion might be required in order to determine whether such actions were permissible under the terms of the contract with UNEP.
5. One representative expressed some concern at the late submission of the reconciliation of the 2005 accounts (UNEP/OzL.Pro/ExCom/50/60/Add.1) which prevented due consideration being given to this document. It was also noted that there was no detailed comparison between the provisional and audited accounts in the document on the final 2005 accounts of the Fund

(UNEP/OzL.Pro/ExCom/50/59). These omissions provided an example of the shortfall in treasury services that might have been expected to be covered by the P5 officer.

6. In response to those concerns, the Treasurer said that UNEP had provided treasury services free of charge for a number of years and that it had been performing in accordance with the terms of reference of its contract with the Executive Committee. He drew attention to the difficulty of creating the proposed P5 post, given the undergraded structure of staffing at the United Nations Office in Nairobi. As for the reconciliation of the 2005 accounts, it had been submitted late because of the detailed negotiations with the implementing agencies and the Secretariat. The status of contributions presented earlier in the Meeting had been fully updated to reflect the latest deposits and encashment of promissory notes. There had been no change between the provisional and final accounts of the Fund as included in UNEP's financial statement. He noted the request for a full update of the supporting schedules to financial statements and those would be provided in future.

7. Following a discussion, the Executive Committee decided to approve the revised 2007, 2008 and proposed 2009 budgets of the Fund Secretariat (Annex XVII to the present report) as follows:

- (a) To approve the amount of US \$2,426,000 in the revised 2007 budget of the Fund Secretariat totalling US \$5,264,261 to cover the 2007 salary component already approved at the 48th Meeting of the Executive Committee, the 2007 operational costs of the Secretariat and the amount of US \$500,000 for the 2007 treasury fee;
- (b) To further note that while approving the 2007 treasury fee of US \$500,000, a sum of US \$200,000 is withheld, pending legal advice;
- (c) To request the Secretariat to seek legal advice in respect of the terms of the contract with UNEP as Treasurer, specifically focusing on the issue of the P5 post;
- (d) To request the Chair of the Executive Committee to write to the Executive Director of UNEP advising him of the Executive Committee's decisions taken at the 50th Meeting and outlining the reasons for withholding the sum of US \$200,000;
- (e) To note the amount of US \$2,980,174 for the salary component in 2008 already approved at the 49th Meeting;
- (f) To approve the proposed 2009 salary component of the budget totalling US \$3,129,183; and
- (g) To approve an additional amount in the 2007 budget to cover the cost of the study on destruction of unwanted ODS.

(Decision 50/45)