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SUBMITTED BY THE GOVERNMENTS OF AUSTRALIA AND CANADA

Joint Submission

[...]

Cut-off date for funding eligibility

Canada considers that the cut-off date for funding eligibility of HCFC facilities should be a date in the past. This would provide certainty for both Article 5 and non-Article 5 countries with respect to their liabilities and provide a base that can be technically reviewed effectively and on which our forward liabilities can be easily calculated. Furthermore, while the acceleration of the phase-out of HCFCs was agreed to in 2007, all Parties have known that HCFCs were due for phase-out since the 1992 Copenhagen amendment, and have had the opportunity to tailor their domestic regulatory regimes in consequence.

While the cut-off date should be in the past, Canada believes that the current cut-off date of July 1st, 1995 is not appropriate in the case of HCFCs, because at that time, HCFC alternatives were not readily available for all applications in Article 5 countries. In addition, the Parties clearly intended that the Executive Committee select a cut-off date after 1995, when it decided, in Decision XIX/6, to direct the Executive Committee “to make the necessary changes to the eligibility criteria related to post-1995 facilities”.

Canada suggests that the most preferable cut-off date is 2004. By 2004, alternatives to most uses of HCFCs were clearly available. 2004 is the year when non-Article 5 Parties were mandated, under the Montreal Protocol, to achieve their first reduction in HCFC consumption (i.e. 35% reduction). The fact that non-Article 5 Parties easily achieved or exceeded this reduction suggests that there was little need to establish new HCFC manufacturing capacity by that time.

Furthermore, under the Kyoto’s Protocol Clean Development Mechanism (CDM), any HCFC-22 production capacity established after 2004 is considered not eligible to receive HFC-23 destruction credits. Since this cut-off date under the CDM was selected to remove any perverse incentive increase HCFC-22 production, it can be argued that it was a signal for the markets in Article 5 Parties to constrain growth. Aligning the CDM and MLF eligibility cut-off dates and restricting access to MLF funds to firms that began (or expanded) operations after the end of 2004 would establish clear liabilities for the MLF and producers of HCFC-22.

Second-stage conversion

In Decision XIX/6, the Parties also directed the Executive Committee to make the necessary changes to the eligibility criteria related to second-stage conversions. While this suggests that the Executive Committee should consider providing assistance to firms which converted to HCFCs with MLF financing, it does not oblige the Executive Committee to cover the entire costs associated with the conversions of such enterprises. In fact, full funding may not be justified for the following reasons:

- almost all MLF-assisted transitions to HCFCs were in the foam sector, where in many cases drop-in substitutes to HCFCs can be used in existing manufacturing equipment, making conversion unnecessary;
- the enterprises concerned signed letters committing to phasing out HCFCs without further assistance from MLF - the fact that this phase-out schedule has now been accelerated does not completely invalidate this commitment; at the most, it could be argued that it obliges the MLF to pay for the incremental costs associated only with the acceleration of the phase-out;

- since the majority of MLF foam projects were implemented prior to 2002, a significant portion of the manufacturing capacity installed will need to be replaced anyway by the time Article 5 Parties have to achieve their first HCFC reduction (i.e. 2015)

For these reasons, Canada believes that the principal role of the MLF with respect to second stage conversion should be to provide:

- (1) training and technical assistance to make basic adjustments to existing foam manufacturing equipment, if needed, to ensure such equipment can function effectively and efficiently with substitutes when possible;
- (2) funding for additional safety-related costs associated with the use of substitutes, mainly when hydrocarbons are selected as alternatives to HCFCs, and
- (3) funding to cover the operational costs of using HCFC substitutes for the traditional 2-year period.

SUBMITTED BY THE GOVERNMENT OF CHINA

China's Views on Some Issues Concerning HCFC

[...]

II. Cut-off date for funding eligibility

We think the following several dates could be considered as the cut-off date for funding eligibility:

1. December 31, 2009.

This marks the end of the first year of the two years for calculating the baseline, and the production capacity which is in existence by then should have contributed to the baseline and consequently be considered as eligible for funding for phasing out HCITC consumption and production.

2. December 31, 2008.

As the Adjustment regarding the accelerated phase-out of HCFC has just been approved for a couple of months, the Article 5 countries need some time to make and issue relevant policies to the industry. And generally speaking, this process takes about 1-2 years. Therefore, December 31, 2008 could be a reasonable date for cut-off for funding eligibility.

3. September 17, 2007.

We think the date when the Adjustment was approved could also be considered as one choice. However, as there are some production installations whose establishment is approved by the national government but which are not in production by then, we strongly believe that this kind of production capacity should not be excluded for funding in this choice.

III. Second-stage conversions

As we reiterated at the 53rd Meeting of the Executive Committee, we regard the funding for the second-stage conversions an issue of principle which has been agreed by all Parties, and think that the MLF should of course fund the second-stage conversions.

The conversion from CFC to HCFC in most enterprises was the only choice they could make under the circumstances of that time. These enterprises have made great investment themselves in the conversion, and were expecting to use these installations for the future years. However, due to the accelerated phase-out of HCFC, the enterprises will surely suffer great loss. If government ask the enterprises to bear all the

loss themselves, they are very likely to be malcontent with the government, &td their opinion will also probably have bad influence on other enterprise, i.e., to make them worry and reluctant to participate in future projects organized by the Governments. And this will pose great obstacles in the future phase-out efforts of the governments of the Article 5 countries.

The above mentioned points represent China's views on the issues relevant to HCFC in the Decision 53/37. China has enjoyed fruitful cooperation with the MLF for 20 years, and China hope to continue this cooperation in the phase-out of HCFC, thus to make continuous contribution to the protection of the ozone layer.

SUBMITTED BY THE GOVERNMENT OF CZECH REPUBLIC

Comments of the Czech Republic

[...]

(iii) Cut-off date for funding eligibility

We believe it would be advisable to link the cut-off date with the year of introduction of the CDM mechanism what would be 2003 as the large portion of the high growth in HCFC market is caused by the inappropriate incentive created by CDM while phase-out date for HCFC was already established in the Montreal Protocol. The: MLF should not finance growth of HCFC production and consumption that resulted from that action.

The latest cut-off date possible is definitely 25 November 2007 what corresponds with a preceding logic for establishing a cut-off date for CFCs (paragraph 32 to 34 of UNEP/Ozl.Pro/ExCom/53/60).

Consideration of any later cut-off date seems unacceptable. That way the MLF would finance HCFCs introduced after the time when the decision for supporting their substitution was taken already.

(iv) Second stage conversions

We believe that second stage conversions should be financed to certain extent. because the language of the decision of the Parties XIX/16 simply expresses a change of policy in this regard and this change play4 and important role in reaching an agreement an HFCE , accelerated phase-out. We therefore think that it is necessary to support second stage conversions and to determine an adequate criteria and cut-off date for such support.

It would be very useful to gather the information on all projects and plants that have been subject to MLF support with use of introducing an HCFC production or consumption including the year of conversion. That way the Executive Committee would be able to see how big the problem is and what time scale and amount of ODP is involved. That could subsequently enable the ExCom to determine what changes to its second stage conversion policy and eligibility criteria are necessary and how to address the paragraph 5 of the decision of the Parties XIW6.

More strict criteria for second stage conversions compared to facilities not yet financed are in our view at least worth considering.

SUBMITTED BY THE GOVERNMENT OF GERMANY

Germany's response to Executive Committee Decision 53/37:

[...]

(iii) Cut-off date for funding eligibility:

A compromise to determine the cut of date could be based on:

First step: start from the date the MP adjustment in September 2007.

Second step: negotiate how much time should be reasonably allowed for governments to officially notify their concerned industries about the adjustment and its consequences.

In this way enterprises which are legitimately in the process of production capacity increases at the time the adjustment came into force would not unduly be penalized. On the other hand enterprises that may attempt to attract illegitimate funding through last minute production increases could be largely eliminated. This in turn would strengthen the hand of governments as they could deal with their industries as a whole thereby avoiding resistance from individual enterprises due to distinctions that must be perceived as arbitrary.

(iv) Second-stage conversions"

- Records of all MLF funded conversions of enterprises exist. The MLFS should comment on the feasibility of preparing a status report on those enterprises identifying
 - a. whether or not the enterprise is still in business, the age of the funded production line and its expected remaining useful commercial life time.
 - b. the current status of HCFC-production
 - c. other parameters helpful for an informed decision about reasonable eligible incremental costs for a second conversion.

- Consider second funding of installed HCFC capacities in cases
 - a. where full economic consideration of already provided assistance for the conversion from CFC to HCFC is given
 - b. where enterprises had been specifically converted to HCFC (no further funding will be approved for companies that had received funding for Non-HCFC alternatives)
 - c. assistance is provided only for essential investment parts, not for any operational costs reimbursement.

SUBMITTED BY THE GOVERNMENT OF JAPAN

Japan's views on options for assessing and defining eligible incremental costs for HCFC consumption and production phase-out activities
(Submitted to the 54th Meeting of the Executive Committee in accordance with Decision 53/37)

General comments

- Japan respects the decision XIX/6 of the Meeting of the Parties to the Montreal Protocol which was adopted on the occasion of the 20th anniversary of the adoption of the Protocol and supports the concept that the agreed incremental costs should be covered by the Multilateral Fund to enable Article 5 Parties to comply with their new commitment to the phase-out of HCFCs.
- Members of the Executive Committee are invited to submit their views on four issues with regard to the eligible incremental costs for phasing-out HCFCs under the decision 53/37 of the Executive Committee. Japan would like to submit its final views after a series of documents are published by the Fund Secretariat based on its experience and consultants' expertise for the consideration at the 54th Meeting of the Executive Committee. In general, Japan believes that discussions at the next Meeting of the Executive Committee should be conducted on the basis of the spirit of decision XIX/6 and be led to how we can assure the flexibility and efficiency and maximize the ozone protection benefit taking into account the cost-effectiveness and the impact on climate change.
- With those in mind, Japan submits its tentative views as follows.

Specific suggestions

[...]

(iii) Cut-off date for funding eligibility

- Though six options are presented as a result of discussions at the 53rd Meeting, Members of the Executive Committee should continue to discuss on this issue to narrow these options down at the next Meeting, with a view to decreasing burdens of the Technology and Economy Assessment Panel when it considers the level of upcoming replenishment.

(iv) Second-stage conversions

- Japan fully understands the fact that the 19th Meeting of the Parties directs the Executive Committee to make the necessary changes to the eligibility criteria related to second-stage conversions in the paragraph 5 of the decision XIX/8 with the understanding that the Multilateral Fund will cover all agreed incremental costs to enable Article 5 Parties to comply with the accelerated phase-out of HCFCs. As mentioned in (i) above, Japan expects that the idea presented in paragraphs 41 and 42 of UNEP/OzL.Pro/ExCom53/60 concerning second-stage conversions should be realized in order to consider the necessary and effective assistance taking into account the current situation of facilities converted from CFCs to HCFCs through the assistance by the Fund.

(END)

SUBMITTED BY THE GOVERNMENT OF MEXICO

(1) As a matter of priority, and taking into account paragraphs 5 and 8 of decision XIX/6 of the Nineteenth Meeting of the Parties, to invite Executive Committee Members to submit their views on the following issues to the Secretariat, by 15 January 2008, with the understanding that the Secretariat would make the submissions available to the 54th Meeting:

[...]

(iii) Cut-off date for funding eligibility;

The dates proposed were the following:

2000 (Cap of HCFC production/consumption in one major country);
Not acceptable because during the year 2000 and further years there were several conversions from CFC to HCFC, in this case several companies could be out of funding.

2003 (Clean Development Mechanism);
Not acceptable because this is not for consideration in the Montreal Protocol, because the CDM help to avoid the use of green house gases without considering the substance controlled by the Montreal Protocol.

2005 (proposal for accelerated phase-out of HCFCs);
This date is also not acceptable because the rules for the phase out of HCFC were not established and there were also several companies that were doing the conversion from CFC to HCFC.

2007 (Nineteenth Meeting of the Parties);
Considering the same criteria for the CFC cut off date, **September 16th of 2007** was the date that the parties agreed to accelerate the phase out of HCFC, and then all the companies that consumed before this date are eligible and avoid the installation of new plants after this date.

2010 (end of the baseline for HCFCs);
Not acceptable because with this date we would promote the installation of new companies increasing artificially the consumption of HCFC.

(iv) Second-stage conversions;

The second stage conversion should be considered in a case by case basis, considering the cost of the technology transfer, the incremental costs and technical support to use the new technologies.

SUBMITTED BY THE UNITED STATES OF AMERICA

BACKGROUND

The United States would like to congratulate the global community for its significant progress in phase-out of ozone depleting chemicals. We believe that Article 5 countries have acquired vast experience over the last two decades implementing programs, projects and policies to phase out ODS in accordance with obligations under the Montreal Protocol and with \$2 billion worth of assistance from the Multilateral Fund. The challenge of phasing out HCFCs should take advantage of the capacities that Article 5 countries have acquired in implementing their domestic programmes, projects and policies to address the phase-out of other ODS.

Looking forward, the United States anticipates that there will be efficiencies, structures, and institutions on which to build the HCFC phase-out which will likely result in a decreased need for investment in certain areas of the Article 5 country phase-out HCFCs. In addition, we note that it is likely that there will be a decreased demand on Article 5 capacities as we move forward. Currently, Article 5 countries manage the phase-outs of 11 individual ODSs (CFCs, halons, methyl bromide, carbon tetrachloride, and methyl chloroform) compared to a post 2010 outlook where responsibilities will lie primarily with managing four major HCFCs which are, by in large, used in fewer industrial sectors than all of the other

ODSs. These factors suggest the opportunity for cost savings in one area that would free up valuable resources for other important needs.

In recent ExCom history, two funding models have been used. In 2000 – 2002 a shift from a project-by-project funding to a country-driven approach was implemented by the Committee. The country-driven model allowed for the use of, and calculation of "sustained aggregate reductions" from which Article 5 countries would measure performance in their projects. Since adoption of the concept of "sustained aggregate reductions" the Article 5 countries and implementing agencies have adopted wholeheartedly more and more national- and sector-wide phase-out plans that make "sustained aggregate reductions." The concepts of "sustained aggregate reductions" and "sector or national phase-out plans" have become the norm rather than the exception for MLF projects. The "phase-out plan" approach with "sustained aggregate reductions" has proven to be more cost-effective than the project-by-project approach for the end consumption within A5 countries. The United States strongly supports this approach as a way to achieve reductions in a maximum cost-effective manner. At the 53rd Meeting of the Executive Committee, the notion of funding projects outside of the sustained aggregate reductions model was raised. The United States expressed support for the sustained aggregate reduction model and seeks to better understand the compliance basis for the argument to move away from this model from the advocates of such an approach.

Again, in the recent history, the ExCom was presented with the idea of funding CFC chillers projects because remaining CFC consumption in many A5 countries was servicing these large CFC-containing pieces of equipment. The ExCom understood that the projects might actually provide cost savings but wanted to demonstrate the environmental benefits, so chose to support a limited number of demonstration projects that required substantial counterpart funding, before MLF funds could be disbursed. In all cases, the Implementing Agencies and A5 countries created innovative projects that leveraged MLF core funding to acquire additional counterpart co-financing. In some cases, the projects were so successful that they were either adopted by government, energy-sector quasi-government or private sector institutions to perpetuate the model. In these cases, the MLF funding was seed capital for the development of a revolving fund within the country for projects that had no eligible incremental cost component. Since some HCFC projects are likely to involve energy savings, further consideration of the seed money model may be warranted, again to ensure that funding decisions are made in a manner that is most efficient.

[...]

3. Cut off date for funding eligibility

The United States believes that the year 2000 is the most appropriate and accurate date to use in establishing funding eligibility for a number of reasons.

- a) Selecting an historic cut-off date is important to avoid creating a perverse incentive to amp up production/consumption with the expectation of financial assistance. The United States views this as an essential component of any future financial arrangements on CFCs.
- b) The year 2000 in particular is most appropriate because some countries already had domestic legislation limiting HCFCs in place by that time. This action indicates that it was technically feasible to take action as of the year 2000 in the Article 5 country context. We believe the year 2000 would appropriately recognize the correct environmental behavior and does not reward those who lagged behind. Alternative technologies were widely available as of the year 2000 and in fact non-article 5 countries had already phased out many tons of HCFCs by that time.

4. Second stage conversions

The United States supports the concept suggested by some countries at the 53rd Meeting that assistance for second stage conversions be focused on training and technical assistance as the Fund has already made significant investments in this area.

As a general matter, in evaluating the issue of second stage conversion, ExCom finds itself in need of further information as to the rationale for such conversions and specific data such as the number of facilities, type of facility, date of first facility conversion etc. to better understand the basis and implications of possible action in this area.

SUBMITTED BY THE GOVERNMENT OF URUGUAY

This text was submitted in Spanish and has been translated. The original Spanish version can be found below the English text.

[...]

Time limit for eligibility for financing:

Criteria to be met when deciding on the time limit for eligibility

To prevent the establishment of new plants producing HCFC equipment and/or products;

Likewise, to prevent the establishment of new plants producing HCFCs (as occurred with the funds made available under the CDM);

Due regard to be given to those plants which, by the end of 2007, had provided verifiable information on production;

To ensure that technically and economically viable alternatives are available and are in fact being widely used in practice in countries parties to the Montreal Protocol because there are many examples but little equipment on the market;

Users of ODS adopted HCFCs as an intermediate alternative and employ these substances according to the current rules of the Montreal Protocol. Since the Nineteenth Meeting of the Parties, the rules have changed. The majority of the market was aware of this change. Consequently, any company set up since then would be aware of the fact and therefore could/should bear the cost of its decision to use a substance that harms the environment and which is subject to a clearly-defined timetable for withdrawal from the market.

Accordingly, the cut-off date could be that of the Meeting of the Parties which approved the adjustment to the Montreal Protocol – the Nineteenth Meeting – when the timetable for accelerated phase-out of HCFCs was fixed, or December 2007.

Second-stage conversions:

Companies that converted under Multilateral Fund programmes should have the right to assistance with a second-stage conversion, as provided in paragraph 5 of decision XIX/6: “to also direct the Executive

Committee of the Multilateral Fund to make the necessary changes to the eligibility criteria related to the post-1995 facilities and second conversions”.

If companies that converted using Multilateral Fund resources are not allowed to take part, this would penalize those companies that showed their faith in the Montreal Protocol and their commitment to change and, furthermore, by altering the rules of the game would cast doubt on the seriousness of the Montreal Protocol, thus making conversion from HCFCs more difficult.

Moreover, in the case of a country in which almost all the industry converted, this would give it little margin to be able to meet the first targets for reducing consumption of HCFCs.

The Secretariat’s recommendation that the implementing agencies and the National Ozone Units collect all this information in order to prepare a document that would only be examined in 2009 in order to decide how to proceed would jeopardize the preparation of management plans because there would be no decision on how to deal with these industries.

Furthermore, if the issue is to be re-examined in 2009 (in actual fact, it would start to be examined then), countries would face even greater uncertainties and this could have a negative impact on any transition strategy and on the preparation of national management plans for the phase-out of HCFCs.

With a view to the next replenishment, the Secretariat should provide the TEAP with a full list of companies that have converted to HCFCs with Fund assistance. Although this is historical information, it is valid for giving a first approximation of the companies that should be allowed financing for the total phase-out of HCFCs.

SUBMITTED BY THE GOVERNMENT OF URUGUAY

Original text submitted by the Government of Uruguay

[...]

Fecha límite de admisibilidad de la financiación:

Criterios que se deberían respetar en la elección de la fecha de elegibilidad:

Evitar que se instalen nuevas plantas productoras de equipos y/o productos con HCFC.

Evitar del mismo modo, que se instalen nuevas plantas productoras de HCFC (tal como sucedió como consecuencia de los fondos disponibles por MDL).

Se deberían respetar las plantas que a fines del 2007 hayan informado producción, y que pueda ser verificada.

Asegurar que haya alternativas disponibles que sean técnicamente y económicamente viables y que estén siendo utilizados en un porcentaje considerable en los países Parte del Protocolo de Montreal, realmente en la práctica, porque hay muchos ejemplos pero con pocos equipos en el mercado.

El mercado usuario de las SAO adoptó como alternativa intermediaria los HCFCs y venía actuando con tales sustancias de acuerdo con las reglas vigentes del Protocolo de Montreal. Desde la fecha de la 19a Reunión de las Partes dichas reglas cambiaron. El mercado, en su mayoría, tuvo conocimiento de este hecho. Por esa razón, toda empresa que fue establecida a partir de esa fecha dispondría de ese

conocimiento, por lo tanto puede/debe asumir el costo de su decisión de usar una sustancia dañosa al medio ambiente y para cuya retirada del mercado fue establecido un cronograma claro.

En tal sentido, la fecha de corte podría ser la misma fecha de la Reunión de las Partes que aprobó el Ajuste al Protocolo de Montreal - la 19a Reunión - donde fue incluido el calendario de eliminación acelerada de los HCFCs, o Diciembre de 2007.

Conversiones en una segunda etapa:

Las empresas reconvertidas en programas del FMPM, deben tener derecho a ser asistidas en una 2da. conversión, tal como lo establece la cláusula 5 de la Decisión XIX/6: “to also direct the Executive Committee of the Multilateral Fund to make the necessary changes to the eligibility criteria related to the post-1995 facilities and second conversions”.

Si no se permite participar a las empresas reconvertidas por el FMPM, constituiría un castigo para aquellas empresas que confiaron en el PM y apostaron al cambio, además, al cambiar las reglas del juego, se pondría en duda la seriedad del PM, pudiendo así, dificultar la reconversión de HCFCs.

Asimismo, en el caso de un país en el cual se ha reconvertido a casi toda su industria, se lo dejaría con poco margen para poder cumplir con las primeras metas de reducción del consumo de HCFC.

La recomendación de la Secretaría referida a que las agencias de implementación y las Unidades Nacionales de Ozono recaben toda esa información para elaborar un documento que recién sería considerado en el 2009 para decidir qué hacer, impediría la elaboración de los planes de gestión por no saber cómo considerar a estas industrias.

Por otro lado, si el tema se volviera a re-examinar en el 2009 (que en realidad se empezaría a examinar en esa fecha), la incertidumbre para los países se alargaría mucho

y podría impactar negativamente en cualquier estrategia de transición y en la elaboración de los planes nacionales de gestión para la eliminación de los HCFC.

La Secretaría debería proporcionar al TEAP, con vistas a la próxima reposición, la lista completa de las empresas que se convirtieron a HCFC con asistencia del fondo. Aunque se trate de información histórica, es válida para tener una primera aproximación de las empresas a las que se debería facilitar financiamiento para la eliminación total de los HCFC.
