



**United Nations
Environment
Programme**

Distr.
GENERAL

UNEP/OzL.Pro/ExCom/58/35/Add.1
22 June 2009



ORIGINAL: ENGLISH

EXECUTIVE COMMITTEE OF
THE MULTILATERAL FUND FOR THE
IMPLEMENTATION OF THE MONTREAL PROTOCOL
Fifty-eighth Meeting
Montreal, 6-10 July 2009

Addendum

PROJECT PROPOSALS: INDIA

This addendum is being issued to:

Add the following paragraphs under the “CTC phase-out plan for the consumption and production sectors: 2009 annual programme”:

20 bis. Subsequent to issuing document UNEP/OzL.Pro/ExCom/58/35, the Secretariat continued its dialogue with the World Bank regarding the verification of the CTC production and consumption in India. These discussions centred around two issues: the calculation of the amount reported as consumption in the verification report, and the question whether the increase in stockpiles, apparently meant for future feedstock use, would have to be accounted for as consumption. The results of these discussions are as follows:

- (a) The verification had established consumption as shown in the table related to paragraph 14 in document UNEP/OzL.Pro/ExCom/58/35. The table calculates consumption by starting with gross production, and taking into account the use for feedstock, destruction, import and export, and feedstock for stockpile. All of the above numbers had been verified. The Secretariat questioned the fact that the verification could not establish the whereabouts of 27 metric tonnes of CTC (29.7 ODP tonnes). These 27 metric tonnes of CTC are not a major issue by itself for the Secretariat, since the total of production and import of CTC amounts to 17,985 metric tonnes (19,783.5 ODP tonnes), therefore 27 tonnes represent only 0.15 per cent of this number and appear to be insignificant. The Secretariat’s approach to calculate consumption differed from that used by the verifier, in that the Secretariat took the amount sold to enterprises for consumption minus an amount used for that purpose from stockpile reported as consumption in a previous year. These two calculations produce different results, with the Secretariat arriving at 243 metric tonnes (267.3 ODP tonnes) and the verifier at 216 metric tonnes (237.6 ODP tonnes). The maximum allowable consumption is 268 ODP tonnes. The difference lies in the 27 metric tonnes mentioned above, which due to the methodology of the calculation used by the verifier reduce the consumption

accordingly; these 27 tonnes (29.7 ODP tonnes) represent 11.1 per cent of the consumption. However, both the consumption calculated by the Secretariat and by the verifier was below the level of maximum allowable consumption specified in the agreement if the stockpile for feedstock were to be excluded from consumption. The Secretariat uses its own calculation in the rest of this document, except where indicated differently;

- (b) The verifier was of the view that a total of 1,063 tonnes, from an increase in stockpiles, were not to be counted as “consumption”. The Secretariat pointed out that these stocks were to be counted as consumption, which leads to a total consumption in India of 1,436.6 ODP tonnes, that would be 1,168.6 ODP tonnes above the maximum allowable consumption under the agreement but 289.4 ODP tonnes below the Montreal Protocol consumption compliance value of 1,726 ODP tonnes. Consequently, there is only concern about the country being in non-compliance with the agreement; and
- (c) The verification established that of the 1,063 metric tonnes (1,169.3 ODP tonnes) which were stockpiled, 1,047 metric tonnes (1,151.7 ODP tonnes) were stored at the producers of feedstock and 16 metric tonnes at one manufacturer of CTC, which has in the past sold CTC exclusively to feedstock users and has, according to information provided by the World Bank, no licence to sell to non-feedstock users. The annual feedstock use in India in 2008 was 15,411 metric tonnes (16,952.1 ODP tonnes), the increase in the stockpile therefore relates to 6.9 per cent of the annual feedstock use. Consequently, it might be correct to state that the amounts stockpiled are meant for feedstock use, which suggests the probability that they actually will be used for feedstock in 2009 or a future year.

20 ter. Decision XVIII/17 of the Eighteenth Meeting of the Parties was considered by the Executive Committee at its 53rd Meeting, and referred to a similar issue. In that particular case production of ODS in a given year was stockpiled for domestic feedstock uses in a future year, which resulted in consumption in excess of prescribed levels; according to the decision of the Eighteenth Meeting of the Parties, such excess consumption might not be subject to the non-compliance procedure. The Executive Committee on that basis considered that the intent of the decision of the Parties might be fulfilled by not applying any reductions to the funding in the particular case. Therefore the Committee decided in that case to approve the full amount of funding foreseen for the respective tranche on the basis that the ODS production in a certain year, which included production for domestic feedstock use in a future year, had resulted in a calculated ODS consumption level in excess of the limits set under the agreement, and that ODS feedstock use in a future year of an amount greater than the excess quantity had been verified before approval.

20 qua. The case of India differs from the case in front of the 53rd Meeting in several ways:

- (a) India does not seem to be in non-compliance with its obligations under the Montreal Protocol. Consequently, contrary to the case discussed at the 53rd Meeting, India may choose not to declare to the Ozone Secretariat any stockpiling for future feedstock use, without implication on the determination of India’s consumption for 2008. At this point in time, India has neither reported Article 7 data to the Ozone Secretariat nor country programme data to the Fund Secretariat; and
- (b) There is at this time no verification of any feedstock use in 2009 which would show that the amount in question has actually been used as feedstock.

20 quin. The situation can be therefore characterised as follows:

- (a) Over-consumption due, potentially, to use as feedstock in future years is the only remaining issue hindering approval, and this might be largely of an administrative nature;
- (b) The Secretariat was discussing with the World Bank options for the Executive Committee to approve the funding depending on a set of conditions meant to ensure the commitment of the country to use the quantities as feedstock, and the continuation of the verification;
- (c) The World Bank provided a number of clarifications to the Secretariat, *inter alia* that India "... recognizes that the overall end-of-year stock of CTC is increasing from 2007. However, most of the stock is being maintained by feedstock users. This stock will be used as feedstock materials in the future years. Regarding the CTC stock maintained at CTC manufacturers, the Government of India intends to have this stock used for feedstock purposes in the future years. To ensure this compliance, the project will continue to monitor sales of CTC by CTC manufactures". However, no written communication from India as party to the Agreement between the Government of India and the Executive Committee had been received by the Secretariat as of writing of this document; and
- (d) Should the Executive Committee however decide not to consider the potential future feedstock use, and therefore that India did not comply with the agreement, the penalty clause of the agreement between India and the Multilateral Fund might be applied. On the basis of an agreed penalty of US \$4,510 per ODP tonne, and the potential over-consumption by 1,168.6 ODP tonnes, the penalty could be determined up to a calculated maximum of US \$5,270,386. The funding that has not been approved so far, namely, the level of funding of this tranche, is US \$3,211,875.

Replace paragraph 35 with the following paragraph:

35. The Secretariat recommends that the Executive Committee:
- (a) Takes note of the verification for the seventh tranche of the CTC phase-out plan for the consumption and production sectors, and the resulting consumption figure for CTC of 1,437 ODP tonnes;
 - (b) Takes note that the World Bank had informed the Secretariat that India intends to use the full difference between allowed consumption and actual consumption, i.e. 1,169 ODP tonnes, as feedstock use for future years;
 - (c) Approves the funding of US \$3,211,874 and US \$240,891 as support costs for the World Bank for the implementation of the 2009 work programme (eighth tranche) of the CTC phase-out plan for the consumption and production sectors;
 - (d) Requests the World Bank to continue the verification of the CTC phase-out plan for the consumption and production sectors in India using the established format until verification of the 2010 production and consumption has been submitted, and provide as part of this undertaking verification that the amount of 1,169 ODP tonnes from the 2007 production for feedstock use has been used for that purpose;

- (e) Notes that disbursement of the funding approved for the World Bank should not commence until India has submitted to the Secretariat a letter to the Executive Committee stating that the excess quantity of CTC of 1,169 ODP tonnes will be used for feedstock in future years, and that the Government of India will undertake all necessary steps to ensure that this commitment is being fulfilled; and
- (f) Requests the Secretariat to inform the Executive Committee of the progress achieved at its 59th Meeting.
