

Benefits for Developing Countries under the Montreal Protocol

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Abstract

The Montreal Protocol on Substances that Deplete the Ozone Layer is one of the most important international environmental agreements, having established a legal regime aimed at striking a balance between environmental protection and due regard for the differing economic and technological circumstances of the Parties, particularly developing countries. The Protocol has established a range of mechanisms that enable these countries to fulfil their international obligations through access to financial and technical assistance and technology transfer. This study examines the benefits available to developing countries under the Montreal Protocol by analysing the special situation accorded to these countries and the advantages associated with the classification of Parties into those operating under paragraph 1 of Article 5 and those not operating under it. It further examines the disagreements arising from this classification and the criteria adopted for determining developing-country status. The study also addresses the Multilateral Fund as one of the principal mechanisms established by the Protocol to assist developing countries by examining its objectives, sources of funding, and the role of its Executive Committee. The study concludes that the special regime established under the Montreal Protocol has enabled developing countries to benefit from extended grace periods, financial and technical support, and the transfer of technology and expertise, thereby assisting them in implementing their environmental obligations without adversely affecting their development interests. The Multilateral Fund has also contributed to strengthening the capacity of these countries to make a gradual transition towards alternatives and technologies that are less harmful to the ozone layer.

Keywords: Montreal Protocol; developing countries; ozone layer; Parties operating under paragraph 1 of Article 5; Parties not so operating; Multilateral Fund; international financing; technology transfer; technical assistance; environmental protection.

Introduction

Environmental protection has become an issue of increasing importance at the international level as environmental risks have intensified, with effects that transcend national borders and threaten the international community as a whole. Among the most prominent of these risks is depletion of the ozone layer resulting from the increasing use of ozone-depleting substances, which has prompted the international community to establish legal rules and institutional mechanisms aimed at limiting this phenomenon.

Within this context, the Montreal Protocol on Substances that Deplete the Ozone Layer was adopted in 1987 and constituted an important step in international environmental cooperation,

given the obligations it established concerning the reduction of the production and consumption of ozone-depleting substances and their gradual phase-out.

The Montreal Protocol took into account differences in the economic and technological circumstances of the States Parties, particularly developing countries. It therefore did not impose upon them the same obligations, or require compliance at the same pace, as it did upon developed countries. Instead, it established a special regime for developing countries comprising a range of advantages and facilities, most notably grace periods, financial and technical assistance, technology transfer, and access to the Multilateral Fund.

The Multilateral Fund is of particular importance as the principal financial mechanism intended to assist developing countries in implementing their obligations under the Montreal Protocol through the financing of projects that facilitate the transition to alternatives that are less harmful to the ozone layer and through the provision of technical and institutional support to these countries.

Accordingly, the study of the benefits accruing to developing countries under the Montreal Protocol is of legal and environmental significance, as it reveals the extent to which the principle of common responsibilities, while taking differing circumstances into account, has proved effective, as well as the extent to which financing and cooperation mechanisms have succeeded in striking a balance between environmental protection and development requirements.

Research Problem

On the basis of the foregoing, the following principal research question may be posed:

To what extent has the regime established by the Montreal Protocol enabled developing countries to benefit from their special situation and from the mechanisms of the Multilateral Fund in fulfilling their international obligations relating to the protection of the ozone layer?

This principal question gives rise to a number of subsidiary questions, the most important of which are:

- What is the nature of the special situation of developing countries under the Montreal Protocol?
- What advantages arise from the classification of Parties into those operating under paragraph 1 of Article 5 and those not so operating?
- What are the principal disagreements arising from this classification?
- What criteria are used to classify developing countries?
- What are the objectives of the Multilateral Fund?
- How is the Multilateral Fund financed?
- What role does the Executive Committee of the Fund play in assisting developing countries?

In accordance with the foregoing, the benefits accruing to developing countries under the Montreal Protocol will be examined in two sections. The first addresses the special situation of developing countries, while the second examines the Multilateral Fund.

Section One: The Special Situation of Developing Countries

Developing countries have acquired a distinctive position under the Montreal Protocol pursuant to Article 5(1), under which their circumstances and capacities were taken into account so that accession to the Protocol would not conflict with the achievement of comprehensive

economic development. Accordingly, the Montreal Protocol accorded them special measures with respect to control and assistance.

Developing countries have also enjoyed a special situation with respect to the obligations imposed by the Protocol upon the Parties, particularly those relating to the freezing and reduction of controlled substances. Developing countries have been subject to rates and time periods different from those applicable to developed countries.

Accordingly, this section examines the special situation of developing countries through three subsections. The first addresses the advantages arising from the classification of Parties into those operating under paragraph 1 of Article 5 and those not so operating; the second examines the disagreements arising from this classification; and the third considers the criterion for determining whether developing countries qualify to operate under paragraph 1 of Article 5.

Subsection One: Advantages Arising from the Classification of Parties under Article 5(1)

Developing countries operating under paragraph 1 of Article 5 benefit from financial assistance provided by the Multilateral Fund. To carry out these activities, the Fund relies on implementing agencies and on the preparation of country programmes. These matters will be addressed successively below:

The Montreal Protocol distinguishes between two categories of Parties in terms of their obligations under Article 5(1). Consideration of the special situation of developing countries had previously been recognised in the Vienna Convention and constitutes one of its principal features. However, the relevant provision consisted largely of general statements calling for due regard to the situation of developing countries without specifying how that requirement was to be implemented in practice.¹

Subsection Two: Disagreements Arising from the Classification of Parties under Article 5(1)

The classification of Parties according to whether they operate under paragraph 1 of Article 5 revealed differences of opinion concerning their treatment, and disagreement intensified between developing countries, on the one hand, and developed countries, on the other.

The position advanced by developing countries centred on the deteriorating global situation, which they attributed to developed countries because of their persistent pursuit of technological development without due regard for damage to the ozone layer. Consequently, they argued that responsibility for the damage suffered by the world rested with developed countries, which should comply strictly with reductions in the production and consumption of ozone-depleting substances and move towards clean technology, particularly as developed countries accounted for 80 per cent of global production, whereas developing countries accounted for 20 per cent of global production and consumption. Developing countries should therefore bear no responsibility for the damage caused to the ozone layer and should be permitted to produce and consume controlled substances in accordance with their needs without having their development plans halted pursuant to the Protocol.²

On the other hand, developed countries opposed the continued production and consumption of controlled substances by developing countries because, in their view, such action would

¹ Montreal Protocol on Substances that Deplete the Ozone Layer, 1987, art. 5(1).

² Issa Jaïroun, "International Efforts to Protect the Ozone Layer from Pollution" (PhD diss., Faculty of Law, University of Sidi Bel Abbès, 2017), 210.

increase levels of production and consumption worldwide. This situation would conflict with the objective of the Montreal Protocol, namely, to freeze production and consumption and subsequently begin reducing them. If developing countries continued to increase their production and consumption, reductions achieved by developed countries would be offset by increases in developing countries, thereby making it impossible to attain the intended objective.

In fact, developed countries did not object to granting developing countries a special situation, provided that it did not result in the freezing or increase of global production and consumption. They were also concerned that certain industrialised countries might exploit the special situation of developing countries by concluding agreements with them, particularly with countries possessing industrial capabilities, as in the case of some small Asian countries.

To establish common ground between the two sides, developing countries put forward a proposal calling for the inclusion of a provision in the Montreal Protocol formulated as follows: "Developing countries whose production and consumption of controlled substances do not exceed an average of 250 grams per capita per year shall be exempt from the restrictions imposed by this Protocol for a period of ten years."

However, this proposal initially failed to gain the support of developed countries, which were divided into two groups:

First group: This group supported the proposal, provided that it was amended so that average per capita consumption of controlled substances would be 100 grams instead of 250 grams and that the grace period would be limited to five years.

Second group: This group rejected the proposal even if amendments were introduced, owing to the concerns previously mentioned.³

As the negotiations approached their conclusion, a considerable degree of convergence emerged between the differing positions, and developing countries expressed their position as follows:

1. The purpose that had prompted developing countries to participate in the Protocol was the protection of the ozone layer, an objective shared by the international community as a whole.
2. They reaffirmed the previous agreement that industrialised countries bore the principal responsibility for reducing the production and consumption of ozone-depleting substances.
3. Developing countries undertook not to make use of the permitted period except to meet the needs required by their development plans. This was regarded as a legitimate right, since developing countries had long produced and consumed only small quantities of substances harmful to the ozone layer. It would therefore have been illogical for them to increase their production and consumption in a manner that adversely affected the ozone layer and to exploit the grace period granted under the Protocol, given their limited capabilities and their inability to do so even before acceding to the Protocol.
4. Developing countries undertook not to allow any industrialised country to circumvent the provision to exploit it for its own benefit to the exclusion of other States, in contravention of the substance of the Montreal Protocol.

³ Ahmed Shakir Salman al-Hasnawi, "International Legal Protection of the Ozone Layer" (master's thesis, Faculty of Law, University of Babylon, Iraq, 2003), 128–30.

5. Developing countries agreed to any formulation.⁴

On the basis of the foregoing, the negotiations concluded with a final agreement establishing the special situation of developing countries.

Subsection Three: The Criterion for Operating under Paragraph 1 of Article 5

Article 5(1) of the Protocol sets out the criterion for determining whether a developing country qualifies to operate under that provision. The classification is based on annual calculated per capita consumption of controlled substances in Annex A of less than 0.3 kilograms, or 300 grams. A developing country meeting this threshold is entitled to the special treatment provided under Article 5(1), including a ten-year delay in compliance with the relevant control measures.⁵

About this classification, the Protocol provides that any Party that is a developing country and whose annual calculated level of consumption of the controlled substances in Annex A is less than 0.3 kilograms per capita on the date on which the Protocol enters into force for that Party, or at any time thereafter until 1 January 1999, is entitled, to meet its basic domestic needs, to delay compliance with the relevant control measures for ten years. It further provides that any subsequent amendments to the adjustments or Amendment adopted at the Second Meeting of the Parties in London on 29 June 1990 are to apply to Parties operating under paragraph 1 after the review provided for in Article 5 has taken place and based on the conclusions of that review.⁶

At their first meeting, the States Parties also established a provisional list of developing countries for the Protocol. The list was subject to subsequent review on the basis of information and data submitted by the Parties pursuant to Article 7 of the Protocol. Such information makes it possible to determine whether the conditions set out in the aforementioned provision are satisfied and whether the classification criterion based on average per capita consumption applies. Accordingly, requests by States seeking recognition as developing countries are examined on a case-by-case basis and either accepted or rejected.

Where a State's per capita consumption exceeds the limit specified in Article 5 after it has been classified as operating under paragraph 1 of that Article, the matter may be considered under the Protocol's non-compliance procedure. The Implementation Committee monitors cases of non-compliance, and a matter may be brought before it on the basis of a submission by a Party.

It may be observed that the criterion adopted for distinguishing Parties operating under paragraph 1 of Article 5 from those not so operating is inequitable and does not correspond fully to the objective for which the Protocol was established. The purpose of the Protocol is to address problems that harm and threaten the ozone layer, rather than to accord a particular status solely to States that consume small quantities of substances harmful to the ozone layer. Accordingly, the classification criterion should take account of a State's capacity to comply with the provisions of the Protocol and its ability to bear the costs imposed by compliance. It is therefore problematic that classification is based principally on the quantity of controlled substances consumed by a State. One consequence is that States with substantial economic capabilities, such as China, India, and Brazil, have qualified as developing countries operating under Article 5, whereas other States with more limited economic capabilities have not qualified, including

⁴ Jäiroun, "International Efforts," 212–13.

⁵ Al-Hasnawi, "International Legal Protection," 130–31.

⁶ Montreal Protocol, art. 5(1).

some States that emerged following the dissolution of the socialist bloc because their consumption of controlled substances exceeded the threshold set out in the aforementioned provision. Consequently, such States did not benefit from assistance because they were classified as Parties not operating under Article 5, which could impede compliance owing to their limited capabilities and thereby conflict with the purpose of the Montreal Protocol.⁷

Developing countries operating under paragraph 1 of Article 5 have secured a distinctive position under the Montreal Protocol owing to the assistance they receive from developed countries. Such support is intended to help developing countries achieve compliance, provide them with technologies that enable the use of alternatives less harmful to the ozone layer, and strengthen the institutions and bodies concerned with protecting the ozone layer.

Section Two: The Multilateral Fund (MF)

The Multilateral Fund is a component of the financial mechanism established under the Montreal Protocol to provide financing in accordance with specified objectives. The provisions of the Protocol accord particular attention to developing countries operating under paragraph 1 of Article 5 by granting them a special situation and establishing the Multilateral Fund to provide financial support and technological assistance for phasing out ozone-depleting substances, replacing them with alternatives less harmful to the ozone layer, and strengthening the institutional framework for ozone-layer protection in order to assist those countries in achieving compliance with the Protocol.

The Fund constitutes one component of the financial mechanism that finances activities intended to protect the ozone layer. It possesses a special legal status and legal personality that enable it to perform its functions, enter into contracts, acquire and dispose of movable and immovable property, and take the legal measures necessary to protect its interests. In addition, it enjoys a range of privileges and guarantees under special agreements concluded with host States.

In accordance with the foregoing, the Multilateral Fund will be examined through three elements: first, its objectives; second, its sources of financing; and third, its Executive Committee.

Subsection One: Objectives of the Multilateral Fund

Developing countries can achieve full compliance with the control measures with a view ultimately to phasing out ozone-depleting substances. The Parties to the Montreal Protocol, at both the bilateral and multilateral levels, must facilitate access by Parties that are developing countries to environmentally safe alternative substances and technologies and assist them in accelerating the use of such alternatives and technologies through grants, aid, credits, guarantees, and insurance programmes.

Accordingly, the Second Meeting of the Parties to the Montreal Protocol decided to establish a Multilateral Fund for the purpose of providing financial and technical cooperation, including technology transfer, to developing countries operating under paragraph 1 of Article 5, in order to enable them to comply with the control measures prescribed by the Protocol and thereby address depletion of the ozone layer. The establishment of the Fund does not prejudice any future arrangements that may be developed with respect to other environmental issues.

⁷ Al-Hasnawi, "International Legal Protection," 131–32.

The Fund operates under the authority of the Parties, which determine its overall policies. The financial mechanism provides for the Fund to meet agreed incremental costs and to finance clearing-house functions.

First: Meeting All Agreed Incremental Costs

The Multilateral Fund meets agreed incremental costs on a grant or concessional basis, as appropriate, and in accordance with criteria determined by the Parties.⁸

Second: Assistance to Developing Countries

The Montreal Protocol contains an integrated system of special provisions that take into account the particular circumstances of developing countries. Recognising that these countries may lack the technical and financial capacities required for immediate fulfilment of obligations aimed at reducing ozone-layer depletion, the Protocol grants qualifying developing countries a ten-year delay under Article 5, enabling them to adapt gradually to the relevant environmental requirements.

In furtherance of the principle of common responsibility with differentiated burdens, the Multilateral Fund for the Implementation of the Montreal Protocol was established under the Protocol and financed by developed countries to provide effective financial and technical support to developing countries. The Fund finances projects aimed at phasing out ozone-depleting substances, provides technical assistance, facilitates the transfer of alternative technologies, and contributes to capacity-building through the training and development of human resources, thereby supporting the sustainable and effective implementation of environmental obligations.⁹

The Multilateral Fund performs several other functions, as follows:

- a. Assisting Parties operating under paragraph 1 of Article 5, namely developing countries, in identifying their cooperation needs through country-specific studies.
- b. Facilitating technical cooperation to meet the identified needs.
- c. Distributing information and other relevant resources and organising workshops, training courses, and activities that assist developing countries in identifying:
 - The best technologies for improving, recovering, recycling, or destroying controlled substances or reducing their emissions.
 - Possible alternatives to controlled substances, alternatives to products containing such substances, and alternatives to products manufactured with them.
 - The costs and benefits of relevant control strategies.
- d. Facilitating and monitoring cooperation. Resources under the Multilateral Fund are disbursed with the concurrence of the beneficiary Party. Decisions under Article 10 are taken by consensus whenever possible; if all efforts at consensus have been exhausted and no agreement has been reached, decisions are adopted by a two-thirds majority vote of the Parties present and voting,

⁸ Fatima al-Zahra Alili, "Pollution of the Space Environment" (PhD diss., Faculty of Law, University of Algiers, 2018), 56.

⁹ Eva Maria Duer, "Ozone Depletion," in *UNEP Training Manual on International Environmental Law* (United Nations Environment Programme, 2006), 103.

representing a majority of the Parties operating under paragraph 1 of Article 5 present and voting and a majority of the Parties not so operating present and voting.¹⁰

Subsection Two: Financing of the Multilateral Fund

The Multilateral Fund is financed by contributions from Parties not operating under paragraph 1 of Article 5, namely developed countries, in convertible currency or, in certain circumstances, in kind and/or in national currency, based on the United Nations scale of assessments. Contributions by other Parties are encouraged.

Contributions to the Fund may also be made by States that are not Parties to the Montreal Protocol and by governmental and non-governmental organisations, whether international or national. Bilateral and, in particular cases, regional cooperation by a Party not operating under paragraph 1 of Article 5 may, subject to the criteria determined by the Parties, be regarded as a contribution to the Multilateral Fund up to the percentage authorised by the Meeting of the Parties.

However, such cooperation must, at a minimum, satisfy the following conditions:

1. It must be clearly and specifically related to compliance with the provisions of the Protocol.
2. It must provide additional resources.
3. It must meet the agreed incremental costs.¹¹

Subsection Three: The Executive Committee of the Multilateral Fund

The Executive Committee comprises fourteen members: seven Parties operating under paragraph 1 of Article 5 and seven Parties not so operating. The Chair and Vice-Chair are selected from among the fourteen members, with the chairmanship rotating annually between the two groups. Decisions are taken by consensus whenever possible. If all efforts at consensus have been exhausted and no agreement has been reached, decisions are taken by a two-thirds majority of the Parties present and voting, representing a majority of the Parties operating under paragraph 1 of Article 5 and a majority of the Parties not so operating present and voting. The Executive Committee meets at least twice a year.¹²

Branch One: Functions of the Executive Committee of the Multilateral Fund

The Meeting of the Parties to the Montreal Protocol established an Executive Committee of the Multilateral Fund to develop and monitor the implementation of the Fund's operational policies, guidelines, and administrative arrangements, including the disbursement of resources, for the purpose of achieving the objectives of the Fund. These arrangements include the allocation of resources and their distribution among the implementing agencies.¹³

Several functions have been assigned to the Executive Committee, which may be outlined as follows:

The Executive Committee develops the operational policies of the Fund, as well as the guidelines and administrative arrangements to be observed during its operation. These policies,

¹⁰ Montreal Protocol, arts. 10(3)(b)(iv), 10(8)–(9).

¹¹ Alili, "Pollution of the Space Environment," 57.; Montreal Protocol, art. 10(6)(a)–(c).

¹² Jäiroun, "International Efforts," 220–21.; Terms of Reference of the Executive Committee of the Multilateral Fund, para. 8.

¹³ Muhammad Abd al-Rahman al-Desouki, *The International Obligation to Protect the Ozone Layer under International Law* (Cairo: Dar al-Nahda al-Arabiyya, 2005), 158–59.

guidelines, and arrangements include the allocation of resources among the Fund's implementing agencies.¹⁴

- Developing plans for the management of the Fund and the allocation of resources among the implementing agencies.
- Establishing eligibility criteria for projects, programmes, and activities financed by the Fund and periodically presenting reports on the activities with which the Fund is concerned.
- Encouraging and approving country programmes, particularly those concerned with compliance with the provisions of the Protocol and submitted by States Parties.
- Performing all functions assigned to it by the Meeting of the Parties.¹⁵

Branch Two: Cooperation between the Executive Committee and the Implementing Agencies

The Executive Committee exercises its functions in cooperation with certain specialised international agencies, each of which is to perform a role within its respective field of competence, to assist States in complying with the Montreal Protocol.

The Montreal Protocol, as amended at the Second Meeting of the Parties, provides that the Executive Committee is to discharge its functions and responsibilities in accordance with the authority conferred upon it by the Parties and in cooperation with international agencies, particularly the World Bank, the United Nations Environment Programme, and the United Nations Development Programme, with each agency acting within its respective field of expertise.¹⁶

Branch Three: Roles Performed by the Implementing Agencies

The Fund enjoys the legal personality, privileges, and immunities necessary for the performance of its mission and is administered by an Executive Committee. The Committee works in close cooperation with, and receives assistance from, the World Bank, the United Nations Environment Programme, and the United Nations Development Programme, in addition to other bilateral and multilateral financing mechanisms. This cooperation strengthens the Fund's capacity to achieve its objectives and reflects a shared commitment to promoting sustainable development and environmental protection.

First: Cooperation between the Implementing Agencies and the Parties to the Montreal Protocol

The Executive Committee may request the implementing agencies to cooperate with and assist the Parties to the Montreal Protocol, each within its respective field of competence, within the framework of programmes established to facilitate compliance with the Protocol. In particular, the Committee may call upon:

- The United Nations Environment Programme to cooperate and assist in promoting the objectives of the Montreal Protocol at the policy level,

¹⁴ Philippe Le Prestre, *Protection de l'environnement et relations internationales: Les défis de l'écopolitique mondiale* (Paris: Armand Colin, 2005), 180.

¹⁵ Jaïroun, "International Efforts," 221.

¹⁶ Montreal Protocol, art. 10(5).

conducting research, collecting information, and performing the clearing-house function.¹⁷

- The United Nations Development Programme and other similar agencies to assist within their fields of expertise, including assistance with feasibility studies, pre-investment studies, and other technical assistance measures.
- The World Bank to cooperate and assist in directing and managing the investment programme for financing the agreed incremental costs of Parties operating under paragraph 1 of Article 5.
- Other agencies, particularly the United Nations Industrial Development Organisation and regional development banks, to cooperate and assist in carrying out relevant functions.¹⁸

Given the multiplicity of the Fund's functions and the diversity of its activities, including country-programme activities, as well as the specialised expertise required for their implementation, the Fund relies on implementing agencies to support the effective execution of its functions.

Among the implementing agencies that play a prominent role in cooperation with the Executive Committee of the Multilateral Fund are the United Nations Environment Programme, the United Nations Development Programme, and the World Bank, in addition to other appropriate agencies.¹⁹

The implementing agencies play a significant role in supporting the Executive Committee and the Multilateral Fund within the limits of their respective mandates. For example, the United Nations Environment Programme assists the Executive Committee in achieving and promoting the objectives of the Protocol at the policy level, coordinating and preparing research on protection of the ozone layer, collecting information, monitoring data, and making such information available to the Parties for consultation and use. It also performs the clearing-house function.

The United Nations Development Programme and other similar agencies are required to employ their expertise to assist States Parties, including by providing assistance with feasibility studies, pre-investment studies, and other forms of technical assistance.

The World Bank is required to assist in administering and managing the investment programme for financing the agreed incremental costs of Parties operating under paragraph 1 of Article 5. Other agencies, particularly the United Nations Industrial Development Organisation and regional development banks, cooperate and assist in carrying out relevant duties and functions.

The Executive Committee supervises the work of these agencies, which are required to submit reports on their activities to the Executive Committee through the Secretariat of the Multilateral Fund. The agencies coordinate their work to avoid duplication of activities.²⁰

¹⁷ Raphaël Romi, with the collaboration of Thomas Dubreuil, Sandrine Rousseaux, and Mary Sancy, *Droit international et européen de l'environnement*, 2nd ed. (Paris: Montchrestien, 2013), 215.

¹⁸ Montreal Protocol, art. 10(5).

¹⁹ Montreal Protocol, art. 10(5).

²⁰ Al-Desouki, *The International Obligation*, 160–61.

Parties operating under paragraph 1 of Article 5 that wish to obtain assistance from the Multilateral Fund are required to prepare a country programme setting out the principles and broad outlines of their national programme for implementing the Protocol. Each Party is also required to select an implementing agency to assist it in preparing and implementing its country programme. The Party then submits the country programme, in cooperation with the implementing agency, to the Executive Committee of the Multilateral Fund for consideration and approval.

If the Executive Committee approves the country programme, the Party becomes eligible to receive financial and technical assistance from the Multilateral Fund, together with further cooperation and support from the implementing agency.

A Party submits a country programme to the Executive Committee provided that it contains several elements, which may be identified as follows:

- The country concerned must indicate in the programme its production, consumption, import, and export of controlled substances.
- The institutional framework responsible for overseeing controlled substances and the mechanisms for phasing them out within the country must be identified, including government agencies, non-governmental organisations, consumer organisations, and industrial associations.
- The policy framework, regulatory bodies, and incentive system in force within the country must be identified.
- The activities undertaken by the government and institutions in implementation of the Protocol must be presented.
- The country's plan for implementing the Protocol must be presented, indicating the role of the government and of bilateral and multilateral support agencies, together with a plan covering investment projects, technical cooperation, and pre-investment studies, as well as the budget available to finance the various activities.

After receiving the country programmes, the Executive Committee examines them and allocates appropriate assistance. Following the Committee's approval of a programme, the implementing agency is required to undertake the necessary arrangements for implementing the approved programme.

In examining country programmes, the Executive Committee gives priority to projects offering the best prospects in terms of cost and capacity to reduce emissions of controlled substances, as well as projects capable of achieving broad geographical balance and projects that can readily be replicated and whose technologies can be transferred to other Parties operating under paragraph 1 of Article 5.²¹

Second: Cooperation among the Implementing Agencies

The Executive Committee may also invite the implementing agencies to conduct regular consultations among themselves when carrying out their responsibilities relating to the Multilateral Fund and to submit annual reports on their activities and consultations. The implementing agencies must implement only effective and cost-efficient programmes and

²¹ Jaïroun, "International Efforts," 227–30.

projects that are consistent with the criteria adopted by the Parties to the Montreal Protocol. In such cases, the agencies are entitled to receive support costs from the Multilateral Fund for the programmes, projects, and activities they undertake, following the conclusion of specific agreements with the Executive Committee.²²

Conclusion

The study of the benefits accruing to developing countries under the Montreal Protocol demonstrates that the Protocol has not merely imposed international obligations aimed at protecting the ozone layer; it has also taken into account disparities in the economic and technological capacities of States, particularly between developed and developing countries.

The special regime established for developing countries has provided them with a range of advantages that have assisted them in implementing their obligations by granting appropriate periods for compliance, providing financial and technical assistance, encouraging the transfer of technology and expertise, and enabling access to the Multilateral Fund.

The Multilateral Fund has also constituted an essential mechanism for implementing the principle of international cooperation by contributing to the financing required by developing countries to implement projects for the gradual phase-out of ozone-depleting substances and to improve their technical and institutional capacities.

Accordingly, the Montreal Protocol regime may be regarded as an important model for reconciling the requirements of environmental protection with those of development. The benefits achieved by developing countries through the mechanisms of the Protocol have contributed significantly to strengthening their capacity to fulfil their international obligations.

Recommendations

1. Continue to provide financial and technical support to developing countries to assist them in implementing their obligations under the Montreal Protocol.
2. Strengthen the resources of the Multilateral Fund and ensure the sustainability of its financing.
3. Intensify the transfer of modern technologies and safe alternatives to developing countries.
4. Take into account the particular economic and technological circumstances of each developing country when determining its environmental obligations.
5. Strengthen the participation of developing countries in the work of the Executive Committee of the Fund and in decision-making processes relating to project financing.
6. Develop mechanisms for monitoring the use of the Fund's resources to ensure that they are directed towards projects that achieve the objectives of the Protocol.
7. Draw upon the experience of the Montreal Protocol and the Multilateral Fund as a model for international cooperation under other environmental agreements.

²² Al-Desouki, *The International Obligation*, 161–62.