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**Ad hoc working group of the Parties to  
the Montreal Protocol on Substances that  
Deplete the Ozone Layer**

**Meeting on the review of the working procedures  
and terms of reference of the Methyl Bromide  
Technical Options Committee (decision Ex.I/5)  
Geneva, 10–12 July 2004**

**Report of the ad hoc working group of the Parties to the  
Montreal Protocol on Substances that Deplete the Ozone Layer**

**Introduction**

1. At their first extraordinary meeting, by decision Ex.I/5, the Parties decided to review the working procedures and terms of reference of the Methyl Bromide Technical Options Committee (MBTOC) and established an ad hoc working group, to meet for three days immediately prior to the twenty-fourth meeting of the Open-ended Working Group to discuss the elements contained in paragraph of the same decision and to report its findings and recommendations to the Open-ended Working Group.

**I. Opening of the meeting and organizational matters**

**A. Opening of the meeting**

2. The ad hoc working group met from 10 to 12 July 2004, at the Geneva International Conference Centre. The meeting was opened at 10.30 by Mr. Marco González, Executive Secretary of the Ozone Secretariat, who welcomed participants to the meeting and recalled that the output of their deliberations, their recommendations and decisions, together with the report of the meeting, would be forwarded to the Open-ended Working Group the following week. He introduced the background note prepared by the secretariat, contained in document UNEP/OzL.Pro/AHWG.MBTOC/1/2, and invited proposals for the offices of co-chair of the meeting, one from the countries operating under Article 5, of the Protocol and one from the countries not so operating.

3. Following nominations from participants, the meeting agreed to appoint Mr. Maas Goote (Netherlands) as co-chair from the non-Article 5 countries, and Mr. Elias Antonio Luna Almeida Santos (Brazil) as co-chair from the Article 5 countries.

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## B. Adoption of the agenda

4. The meeting adopted the following agenda for its work, based on the provisional agenda contained in document UNEP/OzL.Pro/AHWG.MBTOC/1/1 and on the understanding that participants would be able to make statements of a general nature before commencing deliberations on the specific agenda items:

1. Opening of the meeting.
2. Organizational matters:
  - (a) Adoption of the agenda;
  - (b) Organization of work.
3. Membership of the Methyl Bromide Technical Options Committee:
  - (a) Duration and rotation of membership, taking into account the need to provide for a reasonable turnover of members while also ensuring continuity (decision Ex.I/5, subparagraph 2 (c));
  - (b) Conflict-of-interest documents which must be completed by members of the Methyl Bromide Technical Options Committee (decision Ex.I/5, subparagraph 2 (d));
  - (c) Expertise required in the Methyl Bromide Technical Options Committee, taking into account among other things that the composition of the Methyl Bromide Technical Options Committee should ensure that some members have practical and first-hand experience which should relate, in particular, to replacing methyl bromide with alternatives, and that within that composition reflected the appropriate skills and expertise required to perform the work of the Methyl Bromide Technical Options Committee, including expertise in the field of agricultural economy, technology transfer and regulatory processes of registration (decision Ex.I/5, subparagraph 2 (e));
  - (d) Criteria and procedure for selecting the experts, including ensuring a balance between experts from Article 5 and non-Article 5 Parties, pursuant to the qualification requirements as set forth in subparagraph 2 (e) of decision Ex.I/5 (decision Ex.I/5, subparagraph 2 (f)).
4. Working procedures of Methyl Bromide Technical Options Committee with regard to the evaluation of nominations for critical uses of methyl bromide:
  - (a) Need to enhance the transparency and efficiency of the analysis and reporting by the Methyl Bromide Technical Options Committee on critical-use nominations, including the communication between the nominating Party and the Methyl Bromide Technical Options Committee (decision Ex.I/5, subparagraph 2 (a));
  - (b) Timing and structure of the Methyl Bromide Technical Options Committee reports on critical-use nominations (decision Ex.I/5, subparagraph 2 (b));
  - (c) Modalities for the Methyl Bromide Technical Options Committee to submit annual work plans to the Meeting of the Parties (decision Ex.I/5, subparagraph 2 (h));
  - (d) Modalities for the Methyl Bromide Technical Options Committee to provide the Meeting of the Parties with budget proposals for the conduct of the Committee's work through the Secretariat (decision Ex.I/5, subparagraph 2 (j)).

5. Further guidance on the criteria for the evaluation of nominations for critical uses of methyl bromide:
  - (a) Further guidance on the application of the criteria set forth in decision IX/6 (decision Ex.I/5, subparagraph 2 (g));
  - (b) Instances where the Methyl Bromide Technical Options Committee should seek the guidance of the Meeting of the Parties in conducting its work (decision Ex.I/5, subparagraph 2 (i)).
6. Other matters.
7. Closure of the meeting.

### C. Organization of work

5. On the proposal of the co-chair, the meeting agreed that, while delegations could assign different members to address different issues in accordance with their specialized knowledge, any given issue would be covered by one speaker. It was also agreed that, for the purposes of responding to questions and clarifying issues under consideration, the co-chairs of the Technology and Economic Assessment Panel (TEAP) would be invited to attend the meeting as observers but that they would withdraw when the meeting came to adopt its decisions or recommendations. The meeting agreed to conduct its work in plenary, forming contact groups as necessary to discuss specific topics.

6. Before proceeding to their discussion of the agenda, Mr. Jonathan Banks, co-chair of MBTOC, urged participants to confine their statements to specific items but conceded that, given the interlocking nature of many of the issues under consideration, some overlaps in treatment of the various items would be inevitable. At the proposal of the co-chair, the meeting agreed, as its procedure for taking up the agenda items, that the co-chair would prepare preliminary conclusions on each cluster of items as a summary of the progress made in the ad hoc working group, with a view to facilitating further consideration of the issue by the Open-ended Working Group.

### D. Attendance

7. The meeting was attended by representatives of the following countries: Argentina, Australia, Brazil, Canada, Chile, China, Costa Rica, Germany, Italy, Japan, Jordan, Kenya, Mauritius, Netherlands, Norway, Philippines, Poland, Spain, Sri Lanka, Switzerland, United Kingdom of Great Britain and Northern Ireland and United States of America. The meeting was also attended by the co-chairs of the Methyl Bromide Technical Options Committee (MBTOC) and by representatives of UNEP. In addition, the co-chair of TEAP attended as an observer. The full list of participants is available in document UNEP/OzL.Pro/AHWG.MBTOC/INF/1.

## II. General discussion

8. One representative made a general presentation on the status of efforts to tackle ozone-depleting substances, pointing out the massive success rate in reducing the production and consumption of all such substance, which had been virtually eliminated in non-article 5 countries and in article 5 countries 90 per cent had already been phased out. In effect, the battle to save the ozone layer had virtually been won and there remained only the last few per cent to be eliminated.

9. It was perhaps surprising, therefore, how much controversy had been aroused by nomination for exemptions on methyl bromide, which represented only a very small percentage of overall ozone-depleting substance consumption and were negligible compared to the ozone-depleting substances still in existence in such areas as refrigeration equipment, foams and halons. Those nominations had been received as if they threatened the very future of the ozone layer and had necessitated the holding of an extraordinary meeting of the Parties and had brought the Montreal Protocol to the very brink of collapse.

10. Given those circumstances and the very real gains made in all areas of phase-out under the Protocol, he urged Parties to adopt a reasonable approach in considering the methyl bromide-related issues before the meeting and also refocus its attention on other areas of real concern.

### III. Membership of the Methyl Bromide Technical Options Committee

#### A. Duration and rotation of membership

11. The co-chair invited comments from the representatives on the duration and rotation of membership of the Committee, taking into account the need to provide for a reasonable turnover of members while also ensuring continuity (decision Ex.I/5 paragraph 2 (c)).
12. There was general agreement in the room that little was known about the current functioning of the Committee, but that transparency was of paramount importance. Various representatives posed specific questions as to the composition and workings of MBTOC.
13. On the issue of rotation, one representative drew attention to the underlying presumption that there was no shortage of experts, which he doubted was the case. He pointed out that attracting experts was not easy because of the heavy workload and restricted funding. By lightening the workload, including by providing additional resources, membership of the Committee could be made more attractive. Another representative suggested that consideration should be given to establishing a fixed term of office for MBTOC members, which should be of a sufficiently long duration and renewable in accordance with the exigencies of the Committee's work.
14. In response to those questions and observations, the co-chair of MBTOC, explained that MBTOC had two main tasks each year: to evaluate critical use nominations and to produce periodic assessments and progress reports on the methyl bromide use and alternatives. As for membership, participants were nominated by a Party or co-opted by the co-chair. Participation was generally very high with 90 per cent of the members (approximately 35) attending meetings – even those organized at short notice. Methyl bromide had diverse uses and a membership with diverse expertise was therefore required to address such issues. That expertise was particularly lacking in the following areas:
  - (a) Weed scientists;
  - (b) Timber disinfestation specialists;
  - (c) Quarantine and pre-shipment alternative experts;
  - (d) Practitioners (fumigators and users of alternatives);
  - (e) Recapture and recycling experts;
  - (f) Agricultural economists.
15. Rotation was at the level of 10–20 per cent of the Committee in 2003. Six members had resigned that year and five had joined. Some members had been part of the Committee for more than 10 years, others for less than one year.
16. He outlined some of the Committee's working procedures. Critical use nominations were usually with the Secretariat by 31 January, so that in February they could be distributed to all members of the Committee for a first review, according to expertise. A meeting would then be held in March, during which the critical use nominations were reviewed in plenary, with presentations by reviewers. The critical use nominations were considered on their individual merits in accordance with decision IX/6 and later decisions, including from the first Extraordinary Meeting of the Parties. A preliminary draft report would then be sent electronically to all members of the Committee for comment, and a reply would generally be received from 15–20 of the 35–40 members. That report, incorporating members' views, would then be submitted to TEAP for further review.

17. In response to the concern raised that the loss of members from the Committee might compromise its expertise, the co-chair of MBTOC reviewed the Committee's experience to date with the withdrawal of members for various reasons. In all, six members had left the Committee, four for professional reasons and two for personal reasons. At least one of those members had had substantial specialized knowledge and he agreed that it was hard to maintain the necessary level and range of expertise in the Committee, given that members had to be leaders in their field and prepared to work under often difficult and unfunded circumstances. He also explained that, with the restructuring of MBTOC that had occurred a few years previously, membership had been reduced from over 65 to around 35, but that it should be possible to maintain the full range of expertise drawing from both Article 5 and non-Article 5 countries.

18. On the issue of participation and attendance, he said that, on the whole, members participated actively in meetings and work and were able to reach consensus. If there should ever be a strongly held minority view, members had the opportunity to enter a minority view report, although that had not happened to date. He also assured the meeting that cases where individuals with the necessary expertise had been unable to attend meetings had been extremely rare and that the Committee had been able to avoid the undesirable expedient of considering drafts by e-mail, a procedure which tended to result in the maintenance of entrenched positions. With regard to the question of group dynamics within the Committee, he also stated the view that the Committee had remained very cohesive throughout its years of operation and that there had been no tendency for any group, such as longer-serving members, to dominate its work.

19. The Executive Secretary of the Ozone Secretariat drew participants' attention to annex II to document UNEP/OzL.Pro/AHWG.MBTOC/1/2 containing the terms of reference of TEAP, which gave guidance as to the composition and functioning of technical options committees. He urged representatives to follow the agenda as far as possible and to come up with specific proposals guided by the aforementioned document.

## **B. Conflict-of-interest documents**

20. The MBTOC co-chair explained the procedure for declaration of possible conflict of interest, clarifying that there were, essentially, two types of conflict of interest: a more general conflict, covered by the terms of reference for TEAP and its subsidiary bodies, and more specific conflicts that might arise when dealing with specific critical use nominations.

21. In the ensuing discussion, representatives drew attention to the problem of ensuring full independence in a situation where participation was funded: inevitably, participants derived funding from sources that might have an interest in the process, such as Governments, universities and other bodies, and unless funding could be provided by the Secretariat, it was impossible to stipulate that they should have no connection with their sponsoring bodies. Instead, reliance must be placed on members' personal integrity and sense of responsibility. It was suggested that the experience of other United Nations bodies in a comparable situation should be studied. It was pointed out that experts participating in United Nations bodies in a personal capacity were under an obligation to discharge their duties in the interests of the organization and should not receive instructions from any Government or institution and, on those conditions, were granted daily subsistence allowance and travel funding. One representative suggested that, with regard to the general assessment work of the technical options committees, the issue of independence was not so contentious but that it might be necessary to make different stipulations, and to provide funding for participation when dealing with the issue of critical use nominations. One representative also suggested that co-option was an acceptable solution to the problem of providing the necessary expertise for specific issues and cited successful application of that practice in the past.

22. The co-chair of MBTOC referred representatives to annex III to document UNEP/OzL.Pro/AHWG.MBTOC/1/2, which was an internal MBTOC document containing a series of guidelines for dealing with conflicts of interest in order to ensure that Parties were given good and competent advice. The annex in question had been submitted to TEAP for comment but had not been presented to the Parties. He went on to define the term "applicant" as introduced by MBTOC. The applicant was not necessarily the nominated party but could also be any commercial entity involved in the nomination, representatives of which would therefore be expected to be absent from decisions and even discussions relating to their case.

23. Representatives made a number of suggestions under the item, which were consolidated and compiled into two conference room papers for further consideration. Following further deliberation on one of the proposals, the meeting agreed to forward both proposals to the Open-ended Working Group for its consideration.

### **C. Expertise required in the Methyl Bromide Technical Options Committee**

24. Introducing the subitem, the co-chair informed representatives that annex I to document UNEP/OzL.Pro/AHWG.MBTOC/1/2 gave an overview of the current membership of MBTOC and categorized each member according to his or her field of expertise.

25. One representative said that the following fields of expertise should be represented: chemical and non-chemical alternatives to methyl bromide; alternative methods of pest-control that have replaced or could replace significant uses of methyl bromide; technology transfer or extension activities related to alternatives; regulatory processes of registration; agricultural economics. Another representative supported that view, but thought that technology transfer and extension activities related to alternatives should be two separate items. A third representative recommended approval of the requests by TEAP and MBTOC that the areas of weed control and agricultural economics should be covered.

26. In the view of the first representative mentioned in the previous paragraph, the majority of the MBTOC membership should have practical and first-hand experience, and preference should be for members with experience of the implementation of more than one alternative. With a view to facilitating a timely review process and the availability of expertise, MBTOC could seek contributions in writing – to aid transparency – from additional consulting experts. Finally, he suggested that potential members should be willing to undertake an evaluation of a proportion of the nomination before arriving at the meeting in order to take advantage of all available local resources, and to undertake any work after the meeting that may be needed to finalize the report.

27. Several representatives had taken the information in annex I and had grouped together MBTOC members according to their area of expertise. They had used this information to identify gaps in the Committee's overall expertise. Their resulting observations included: half of the members were in some way government-funded; there were very few international organizations and non-governmental organizations represented and no methyl bromide users; there were more academic experts than those with practical experience; there was an even distribution of members with post-harvest expertise and those with expertise in soil. In response, the co-chair of MBTOC clarified that annex I did not give a comprehensive curriculum vitae of each member and noted that many of them had expertise in several areas. He himself had practical experience of fumigation, and he could name nine members with extension-use expertise although none of this had been reflected in the table.

28. While there was considerable overlap in terms of expertise, the co-chair of MBTOC stated that there were few farmers and that certain areas needed to be reinforced: practical knowledge of alternative technologies would be especially welcome. One representative reminded members that some alternative technologies were privately owned and that Parties with small markets would have to rely on the goodwill of companies in applying to obtain registration for technologies.

29. The co-chair of MBTOC informed the meeting that the various types of expertise represented on MBTOC were reviewed each year to ensure that it remained relevant. Representatives made a number of suggestions under the item, which were consolidated and compiled in two conference room papers for further consideration. Following such further consideration, the meeting agreed to forward the proposals to the Open-ended Working Group for its consideration.

### **D. Criteria and procedure for selecting the experts**

30. Introducing the subitem, the co-chair noted that the criterion of balanced membership was established in paragraph 2.1 of the terms of reference for TEAP and its subsidiary bodies and that the group was called upon to discuss the procedure for assuring that balance.

31. In the ensuing discussion, representatives highlighted the problem of finding the necessary expertise, particularly in Article 5 countries. In that context, the Executive Secretary noted the ever growing volume of work faced by MBTOC and its constant need for new members. That need notwithstanding, the most recent recruitment exercise for MBTOC had brought in five new members. That point was further reinforced by one representative, who noted that thus far MBTOC had only been able to appoint two agricultural economists, a specialization in which there was a critical need. In

addition, the co-chair of MBTOC stressed that the Committee need to broaden its expertise base and pointed out that working for a voluntary body, like MBTOC, placed unusual demands on its members. It was also noted that MBTOC was primarily a technical body and that increased participation of Article 5 experts should not be achieved at the cost of standards of expertise.

32. In response, other representatives pointed out that there was a pool of expertise in Article 5 Parties that could be tapped to fill vacancies in the Committee: the task was how to identify that expertise. One representative pointed out that the lack of adequate publicity of vacant posts might have prevented Article 5 countries from submitting candidates to MBTOC.

33. Accordingly, as the means of identifying expertise in Article 5 Parties, representatives suggested that the Secretariat should write to Article 5 Parties in particular asking them to identify experts within their countries, noting that Article 5 countries which had been involved in methyl bromide phase-out projects under the Multilateral Fund should be able to identify some experts. Some representatives suggested that the Secretariat could also advertise for such experts on its web site. Another representative pointed out that it was understandable that a preponderance of MBTOC candidates were from non-Article 5 Parties given that the issue of critical use exemptions was currently a point of special concern for non-Article 5 Parties. In response to a request for clarification, the co-chair of MBTOC explained that the only reason that any proposed expert had declined membership of the Committee had been on the grounds of conflict of interest.

34. With regard to the issue of balance, one representative pointed out that the balance was not confined to Article 5 and non-Article 5 countries: an equitable geographical balance should also be sought. Another representative pointed out that it was understandable that a preponderance of MBTOC candidates were from non-Article 5 Parties, given that the cause of critical use exemptions was currently a point of particular concern for non-Article 5 Parties. As a means of ensuring a better balance between Article 5 and non-Article 5 countries, the meeting agreed that when applications from the two groups were of equal merit, preference should be accorded to the application from the group under-represented in the Committee.

35. Where the process was concerned, one representative expressed the view that, while responsibility for the final appointment of members rested with the co-chairs, nominations had in all cases to come from Parties. Accordingly, he suggested that, when nominations were made directly by MBTOC or TEAP, the co-chairs should consult with the countries of origin of the experts concerned.

36. Following that discussion, the co-chair summarized the group's views, which were consolidated and compiled in two conference room papers for further consideration. Following such further consideration, the meeting agreed to forward the proposals to the Open-ended Working Group for its consideration.

#### **IV. Working procedures of Methyl Bromide Technical Options Committee with regard to the evaluation of nominations for critical uses of methyl bromide**

##### **A. Need to enhance the transparency and efficiency of the analysis and reporting by the Methyl Bromide Technical Options Committee on critical-use nominations**

37. Introducing the subitem, the co-chair invited comments on ways of enhancing the transparency and efficiency of the MBTOC analysis of and reporting on critical use nominations. One representative underlined how greater transparency and efficiency in the process were very important for the credibility of the decisions made, and a certain degree of predictability was needed regarding end-results. The criteria used in the decision-making process within MBTOC should be clear and well established and communicated to nominating Parties. There was an urgent need for more details on how MBTOC operated, how many of its members were involved in the analysis and approval of the nominations, and whether experts voted on nominations outside their field of expertise.

38. Some representatives stated the view that, in order to increase transparency of the critical use nominations, background information relevant to decision IX/6 (e.g., the original requests for exemptions received from enterprises or users) which formed the components of Parties' nominations should be kept by the nominating Parties and made available to MBTOC upon request as part of the

supporting documentation. Failure to provide that documentation in due time would cause the nomination to be placed in the “unable to assess” category.

39. It was suggested that an expanded matrix of alternatives could be prepared describing the conditions under which alternatives had proved to be technologically and economically viable. References to the particular case studies should be quoted in the matrix so that further information could be sought.

40. One representative expressed concern about the lack of clarity regarding the reasons for nominations recommended in some commodity sectors in other countries, which had an adverse impact on the national nomination process of his country in similar circumstances.

41. One representative expressed the view that, to speed up the process of analysing and reporting on the nomination, national experts could be invited, as observers, to meetings at which their country’s nomination was to be considered. In that way MBTOC would not have to wait before receiving a reply to its requests for clarification, and confusion that had arisen in the past from an inability to work face to face would be avoided. MBTOC meeting reports, however, would then need to be much more comprehensive to ensure greater transparency, giving details of the questions that the experts had been asked and their replies to demonstrate that no lobbying had been applied. Another way of ensuring such impartiality could be to invite disinterested observers who were not seeking approval of a critical use nomination.

42. Another representative then pointed out that paragraph 3.4 of the TEAP terms of reference would have to be amended to permit the presence of observers at MBTOC meetings and expressed the wish to keep those terms of reference as they stood. It was also suggested that bilateral discussions with national experts from nominating parties could take place in the margins of other main meetings, although that might cause meetings to be extended by a few days and put additional strain on resources.

43. One representative expressed strong concerns about observers from nominating Parties attending MBTOC meetings. He felt that there were other ways and means of holding consultations between MBTOC and nominating Parties. Furthermore, he feared that such a practice could bias the MBTOC assessment of critical use nominations.

44. Another representative agreed that improving communication between nominating Parties and MBTOC was important, but suggested that teleconference links to national experts during MBTOC meetings could achieve the same result. Yet another representative suggested that a list of specific questions could be drawn up by the MBTOC experts considering the nominations, which could then be cleared by the MBTOC co-chairs and submitted to the nominating Party concerned two weeks before the following MBTOC meeting, so that the nominating Party could attempt to provide answers to questions in time for consideration at that MBTOC meeting. Attendance as an observer or via teleconference could then be used for any additional questions. One representative, however, considered that, if nominations were complete and contained all the information requested in the handbook, such questions should not arise. The presence of national experts and lists of questions would not therefore be necessary. Others felt that a nomination, however thoroughly presented, would never be perfect and further questions would inevitably arise.

45. One representative stated that MBTOC reports and the standard presumptions on which MBTOC recommendations were based needed to be fully transparent and that a procedure should be available for rebutting presumptions, taking into account the circumstances of the nomination. There was general agreement that the report produced on the MBTOC decision regarding nominations was too short and vague, and explaining in detail the reasoning behind a decision would both improve transparency and enhance the Committee’s credibility. There was however concern that producing more detailed reports would increase the workload of MBTOC and a problem might arise as to the availability of the experts on the Committee to undertake more work.

46. Some representatives suggested doing away with supplementary nominations and thus streamlining the procedure to just one round of nominations. One of them suggested, however, that some mechanism be in place for exceptional nominations, if they were absolutely necessary. Another representative suggested, on the basis of her country’s experience, that the number of supplementary nominations was expected to decline. The existing provision for emergency use could be looked into as a possible mechanism for exceptional nomination.

47. One representative said that a clear basis for the role and use of the handbook on critical use nominations for methyl bromide, and its relationship with the applicable decisions of the Meeting of the Parties, would enhance the transparency of the MBTOC process. There was general agreement that the

TEAP handbook should be used as the official basis on which to judge critical use nominations after it had been adopted by the Sixteenth Meeting of the Parties. One representative pointed out that it was already planned, on the basis of paragraph 9 (k) of decision Ex.I/4, for the handbook to be submitted for approval at the Sixteenth Meeting of the Parties. A draft should therefore be made available for comment on the Secretariat's web site. It was generally agreed that the internal documents of MBTOC such as the conflict-of-interest document and other guidelines should be included in the handbook.

48. The MBTOC co-chair clarified that MBTOC did indeed receive the original nominations of nominating Parties in full, as that was the basis on which they made their final recommendations. He said that all members of MBTOC had access to all nominations – as submitted by the Parties – via the MBTOC web site and other web sites, or on disk, and recommendations for each nomination were agreed in plenary sessions of MBTOC.

49. The views and suggestions put forward by representatives were consolidated and compiled in two conference room papers for further consideration. Following such further consideration, the meeting agreed to forward the proposals to the Open-ended Working Group for its consideration.

## **B. Timing and structure of the Methyl Bromide Technical Options Committee reports on critical-use nominations**

50. Introducing the subitem, the co-chair invited representatives to express their views on the timing and structure of the Committee's reports. While there was agreement on the need for clear timelines for the submission of information, different opinions were expressed as to whether one or several reports should be prepared by MBTOC and what each of these should contain. The co-chair of MBTOC said that the Committee would welcome only having to prepare a single report in any given year, as stipulated in the relevant decision of the Meeting of the Parties. The meeting agreed to consider written proposals on the timeline submitted by interested representatives before formulating any recommendation on the matter.

## **C. Modalities for the Methyl Bromide Technical Options Committee to submit annual work plans to the Meeting of the Parties**

51. Introducing the subitem, the co-chair agreed with representatives that there was considerable overlap between the issue of the activities to be contained in the work plan, covered by subitem 4 (c), and the budgetary implications of those activities, covered by subitem 4 (d). With regard to the content of the work plan, there was agreement on the merit of the work plan as a means of enhancing the transparency of the Committee's operation and a number of suggestions were made as to elements which might be included, such as: key events for the given year; the delegation of tasks; timelines for nominations; budget proposals and their effects for Parties; changes in membership of MBTOC; a summary report on MBTOC activities over the year; a restatement of the mission of MBTOC; a detailed account of the reporting mechanics; performance indicators and monitoring and evaluation requirements; and a forward-looking strategic plan.

52. There was some debate on the need for a summary report, given that the Committee already submitted a progress report to the Meeting of the Parties as part of the annual TEAP Progress Report, and whether or not that report should also cover tasks which MBTOC had been unable to complete and the associated problems, or if it should be exclusively forward-looking. One representative sought clarification on the status of the work plan and whether it was to be approved by the Parties. Another pointed out the practice in the Meeting of the Parties, whereby the products of the assessment panels and the technical options committees were merely noted, not approved. Noting the principle of independence and voluntary basis of the Committee's work, the Executive Secretary also stressed the need for its work plan to be coordinated with the work cycle of the Meeting of the Parties.

53. Responding to some of the concerns and questions raised, the co-chair of MBTOC said that the formulation of the Committee's work plan could be based on the already established schedule for the production of its reports to the Parties. With regard to the issue of timing, he pointed out that the Committee still had some delayed activities which remained incomplete and which had resource implications.

54. Several proposals were put forward by representatives on this item. The meeting agreed to forward those proposals, in square brackets, to the Open-ended Working Group for its consideration.

## **D. Modalities for the Methyl Bromide Technical Options Committee to provide the Meeting of the Parties with budget proposals for the conduct of the Committee's work through the Secretariat**

55. Introducing the subitem, the co-chair asked representatives to give their views on whether or not the work plan should include budgetary proposals. There was considerable debate of this matter, with some representatives favouring inclusion of such information and others pointing out that the work plan should only be concerned with substantive issues and, in accordance with standard United Nations practice, approval of the work plan would, in any event, be subject to approval of its administrative and budgetary implications. One representative cautioned against creating an additional structure, by including budgetary proposals in the work plan, and further increasing the Committee's work load. Another pointed out that the work of MBTOC was in any event funded on a grant-aid basis and not supported by the Montreal Protocol bodies, a factor which limited its ability to increase its work load.

56. One representative suggested that, given the importance of methyl bromide activities at the current time and the large sums of money involved in the agricultural activities affected, the TEAP budget might be reprioritized, to increase funding available for MBTOC activities. Another representative felt that such rejigging of the TEAP budget could give an unwanted signal to Parties, suggesting that some of its activities were over-funded or less important. Instead, he suggested that increased funding should be sought for critical use nomination-related activities, given that those activities were likely to be of a limited duration, without disrupting other activities by TEAP. A general understanding was reached that some budgetary indications should be included in the Committee's work plan, because of the need for a clearer understanding of the burden which its activities would entail in terms of resource requirements, but that the budget should be approved by the Meeting of the Parties as part of the annual budget as part of the annual budget prepared by the Secretariat. It was also pointed out that, in accordance with rule 14 of the rules of procedure, the Secretariat was required to report to the Meeting of the Parties on the administrative and financial implications of all substantive agenda items submitted to the Meeting, before they were considered by it and, unless the Meeting decided otherwise, no such item would be considered until at least 48 hours after it had received the Secretariat's report on the administrative and financial implications.

57. The proposals by the representatives on this item were included in the conference room paper under agenda item 4 (c) and forwarded, in square brackets, to the Open-ended Working Group for its consideration.

## **V. Further guidance on the criteria for the evaluation of nominations for critical uses of methyl bromide**

### **A. Further guidance on the application of the criteria set forth in decision IX/6**

58. The co-chair proposed and the meeting agreed that, as the topic to be considered was so vast and in view of the time constraints, representatives should merely identify – not define or substantiate – areas in which further guidance should be developed. Written submissions were also to be welcomed and the co-chairs could compile a list of such areas for consideration by the meeting the following day.

59. Two representatives drew attention to a number of areas where further guidance to MBTOC was needed and the progress that had been made in those areas with particular reference to the decisions taken at the first Extraordinary Meeting of the Parties. It was proposed that the areas should be listed with reference to the relevant decisions of the first Extraordinary Meeting of the Parties, with a view to indicating the process forward: economic feasibility, with reference to decision Ex.I/4 paragraphs 6 and 9 (c); stocks, with reference to decision Ex.I/3, paragraph 5; reporting requirements, with reference to decision Ex.I/4, paragraphs 9 (f) and (g); and the TEAP handbook, with reference to decision Ex.I/4 paragraph 9 (k).

60. One representative recalled that, in the TEAP and MBTOC reports regarding the assessment of critical use nominations, there were a considerable number of requests for guidance by MBTOC, including on the assumptions applied by MBTOC. Another representative wondered how long critical use exemptions would continue to be an issue, given the agreed phase-out calendar.

61. Several proposals were put forward by representatives on this item. The meeting agreed to forward those proposals, in square brackets, to the Open-ended Working Group for its consideration.

**B. Instances where the Methyl Bromide Technical Options Committee should seek the guidance of the Meeting of the Parties in conducting its work**

62. Introducing the subitem, the co-chair invited proposals from the floor. It was agreed that specific instances where guidance should be sought could not be suggested by Parties in advance. The MBTOC yearly work plan, however, listed the issues that the Committee would tackle in the year to come and might perhaps also be a good place to identify and highlight potential problem areas requiring the advice of the Meeting of the Parties. Representatives felt that it would be helpful if that exercise could be performed only once in a given year.

63. One representative suggested that, to be on the safe side, the Meetings of the Parties should be consulted regarding all circumstances that were not perfectly clear in technical, scientific, or economic terms, and particularly where MBTOC was changing its presumptions which formed a basis for the evaluation of critical use nominations. Another representative warned of the danger that consideration of the present agenda item could be construed as implying that MBTOC was not trusted to carry out its mandate on its own. It was agreed, however, that any changes to MBTOC procedures or guidelines should always be brought before the Meeting of the Parties for its attention and possible consideration.

64. It was also suggested that the Open-ended Working Group might be a good forum for MBTOC to convey any concerns that it had. The co-chairs were to provide a consolidated draft of the comments raised by representatives for further consideration the following day.

65. One Party put forward a proposal on this item. The meeting agreed to forward that proposal, in square brackets, to the Open-ended Working Group for its consideration.

**VI. Closure of the meeting**

66. Following the customary exchange of courtesies, the co-chairs declared the meeting closed at 8.15 p.m. on Monday, 12 July 2004.

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