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OPEN-ENDED WORKING GROUP OF THE  
PARTIES TO THE MONTREAL PROTOCOL

Tenth meeting  
Nairobi, 5 - 8 July 1994

REPORT OF THE TENTH MEETING OF THE OPEN-ENDED WORKING GROUP  
OF THE PARTIES TO THE MONTREAL PROTOCOL

Rapporteur: Mr. Jose Ampeso (Philippines)

Addendum

AGENDA ITEM 3: TERMS OF REFERENCE AND MODALITIES FOR A REPORT TO MEET  
THE REQUIREMENT OF SECTION II, PARAGRAPH 4 OF DECISION IV/18 OF THE  
FOURTH MEETING OF THE PARTIES TO THE MONTREAL PROTOCOL  
(DECISION V/12) (continued)

1. At the 5th session of the meeting, on 7 July 1994, the Working Group had before it newly prepared draft terms of reference for a study on the financial mechanism, prepared by the small working group. Introducing the draft, the Chairman of the small working group said that there were three main topics contained in the terms of reference. First, a study of the financial mechanism; second, the composition of the steering panel; third, the budget for the study. A timetable for the study, setting out indicative milestones, was included as an annex to the document. The relevant provisions concerning a steering panel had also been detailed. The Chairman said that the names of the experts to sit on the steering panel had to be approved by the present meeting of the Open-ended Working Group and he requested the regional groups to provide appropriate names as soon as possible. He stressed that, in view of the tight schedule, each group of Parties should submit the names of candidates who were not only eminently qualified and experienced, but who would also be available to attend the appropriate meetings when necessary.

2. Turning to the budget of the study, the Chairman of the small working group said that a ceiling of US \$450,000 has been set. That imposed some limits, but it was hoped that the consultants could find a way to remain within the agreed costs. It had been agreed that the Open-ended Working

Group should request a loan of US \$450,000 from the Multilateral Fund. That issue would be decided at the next meeting of the Conference of the Parties.

3. The observer from the Environmental Defense Fund, also speaking on behalf of Greenpeace and of the Centre for Science and Environment (India), said that Parties should consider the inclusion of representatives from NGOs in the evaluation, as had been the case in the evaluation of GEF. None of the agencies, he said, should be tasked with doing their own evaluation through consultants: it should be conducted independently of each agency. The evaluation should examine use of the term "cost-effectiveness of full ODS phase-out", keeping in mind the twin objectives of Rio, environment and equity. It should examine whether the Fund had been successful in funding ODS phase-out with the highest possible environmental benefit. It should assess how effective, in both environmental and economic terms, the original definition of incremental costs had been, as well as how that had been implemented. It should include an assessment of how arrangements between the Executive Committee and each implementing agency had developed, as well as between agencies. It should include an analysis of the role of NGOs at every stage of the project's cycle. It should consider the need for ongoing regular reviews of the Fund's activities. It should focus on how the evaluation would interface with the on-going review, under Article 8, paragraph 5. Finally, it should make recommendations for future activities, with a focus on recommending modifications to the Fund's operations.

4. After an exchange of views on the document, it was agreed that it would be adopted, with a minor verbal amendment, for further transmission. The terms of reference and the modalities of the review will be annexed to the final report of the Working Group on its tenth meeting.

AGENDA ITEM 5 (a): CLASSIFICATION OF CERTAIN DEVELOPING COUNTRIES AS NOT OPERATING UNDER ARTICLE 5 AND RECLASSIFICATION OF CERTAIN DEVELOPING COUNTRIES EARLIER CLASSIFIED AS NOT OPERATING UNDER ARTICLE 5  
(DECISION V/4) (continued)

5. At the 5th session of the meeting, on 7 July 1994, the Chairman drew attention to the draft principles he had prepared regarding treatment of classified and reclassified developing country Parties. He said the draft was an attempt to synthesize the discussion held on the subject earlier and attempted to bring out most of the points of view expressed.

6. The President of the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol said that many points raised at the

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last meeting of the Committee and in the Working Group's debate had been included in the draft and it represented a good base for going forward. He believed, however, that the document set out a slight modification to the present regime which was guided by decision II/10. Therefore, he expressed concern on behalf of the Implementation Committee which, he said, held a specific mandate with regard to data reporting. In reply, the Chairman reassured him that the draft intended there to be no change in reporting requirements such as they existed under the Montreal Protocol. Those requirements should of course be adhered to, but his draft represented an attempt to come to terms with the reality of a difficult situation.

7. There was general agreement that the Chairman should be congratulated for the excellent job of work he had done in preparing the draft. A number of representatives said he had succeeded in producing a very delicately balanced draft, which they recommended for adoption with the sole amendment made. One of them said that, concerning paragraph 1, his understanding was that the **data used for temporary classification was the incomplete or estimated data provided by the Party and supported, if necessary, with information from other sources**, and, concerning paragraph 2, the approved projects to be paid for would be country studies that would help to improve the situation with regard to provision of data.

8. Some representatives expressed reservations concerning paragraph 5 and mentioned that reclassified countries were eligible for assistance and that the paragraph should be either deleted or amended. Access to the benefits of the Multilateral Fund, as well as the phase-out schedule, should be subject to the stipulations contained in the Articles of the Montreal Protocol. One other representative suggested further amendment to the paragraph.

9. In summing up, the Chairman said that, in view of the general support for the language of the paper, he considered it should be passed on to the next Meeting of the Parties, with an indication of the reservations expressed by some countries. He therefore proposed that square brackets be inserted around the disputed words. It was agreed that the document as amended as given below be adopted for transmission to the next Meeting of the Parties.

Draft

PRINCIPLES REGARDING TREATMENT OF CLASSIFIED AND  
RECLASSIFIED DEVELOPING COUNTRY PARTIES

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1. The Secretariat should continue to classify, in absence of complete data, developing countries temporarily as operating or not operating under Article 5 based on the information available to the Secretariat, subject to the conditions that:

(a) The Secretariat encourages these Parties to approach the Executive Committee and the Implementation Committee for assistance in establishing accurate data;

(b) A country may only be classified temporarily as operating under Article 5 for a period of two years applicable from the time of adoption of this decision. After this period, Article 5 status can no longer be extended without data reporting as required by the Protocol unless the country has sought the assistance of the Executive Committee and the Implementation Committee;

(c) A developing country temporarily classified as operating under Article 5 would lose the status if it does not report data as required by the Protocol within one year of the approval of its country programme and its institutional strengthening by the Executive Committee.

2. The Executive Committee will consider projects from Parties temporarily classified as operating under Article 5. The projects approved when such temporary classification is operative will continue to be funded even if the countries subsequently are reclassified as not operating under Article 5 on receipt of data. However, no project will be sanctioned during a period during which the country is classified as not operating under Article 5.

3. Parties may be allowed to correct their data in the interest of accuracy for a given year but no change of classification will be permitted for that year pertaining to which the data has been corrected. Any such corrections should be accompanied by an explanatory note to facilitate the work of the Implementation Committee.

4. Regarding developing country Parties which are initially classified as not operating under Article 5 and then reclassified, any outstanding contribution to the Multilateral Fund will be disregarded, only for the years in which they are reclassified as operating under Article 5. Any Party

reclassified as operating under Article 5 will be allowed to utilize the remainder of the 10-years grace period, but is encouraged not to do so.

5. Any Party initially classified as non-Article 5 but reclassified subsequently as operating under Article 5 shall [not] be requested to contribute to the Multilateral Fund [and will not be eligible for assistance from the Fund.] This will not apply if the initial classification of the Party as non-Article 5 made in the absence of complete data, is subsequently proved to be wrong on the basis of complete data.

10. The Working Group thus concluded its consideration of agenda item 5 (a).

AGENDA ITEM 7 (h): RECOMMENDATIONS OF THE TEAP REGARDING METHYL BROMIDE  
(continued)

11. One representative said that he was in favour of the continuation of general exemptions as contained in Article 2H of the Protocol. The Chairman said that, for the time being, he wished to confine the discussion to definitions, in particular of "preshipment" and "quarantine", and the meeting would return to the matter of the TEAP recommendations.

12. One representative said that he did not believe that the time was ripe for the removal of exemptions and preferred to follow the route of clarifying definitions. He believed that, as suggested by another representative, in respect of the definition of "quarantine", it was better to build on an existing international framework and existing established regimes of work, and, therefore, to tie in the definition of "quarantine" to the FAO definition would be better. For the definition of "preshipment", he believed that option C, as suggested by the TEAP report, was too broad. He suggested the establishment of a small working group to deal with those definitions. The minimizing of emissions to the atmosphere was also very important.

13. **One representative said that his Government supported, and continued to support, the recommendation of the TEAP that the best way to ensure the necessary but controlled application of methyl bromide in preshipment and quarantine was through seeking exemptions by means of the essential use process. He further** stated that he agreed with the proposal by another representative for the definition of "quarantine", which was to follow the FAO definition, since this had been accepted by most countries and worked

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well. For the definition of "preshipment", he welcomed the opportunity to offer the wording for a different definition, which he would submit to a small working group if that was established.

14. One representative said that she foresaw a problem if "quarantine" and "preshipment" entered into the category of essential uses, since the procedures for that were necessarily slow, and emergency situations might require quick action. Another representative, while agreeing to the proposal to use the FAO definition for "quarantine", was also opposed to the "essential use" concept in respect of "preshipment" and would prefer a broader definition that expressed option C in the TEAP report. Another representative, while agreeing with the previous speaker on the use of the FAO definition for "quarantine", believed that for "preshipment" there ought to be a definition which mentioned the requirements of the importing country, otherwise the definition would be unclear.

15. The Chairman then said that he would ask Mr. Jonathan Banks to be the convener of the small working group, which would comprise representatives from Japan, Kenya, Australia, Canada, New Zealand, Sri Lanka, United States, United Kingdom, Botswana, Bahamas, France and Malawi. The working group should report back on the definitions of "quarantine" and "preshipment".

AGENDA ITEM 7 (i): OPTIONS FOR REFRIGERATION AND THE ROLE OF HYDROCARBONS

16. One representative, referring to chapter 7 of the TEAP report, said that, while the report dealt with the use of HFC-134a for domestic refrigeration and technology for the use of hydrocarbons in new refrigerator manufacture, it did not give any endorsement to the transfer of hydrocarbon technology, which could lead to obtaining of help for that from the Multilateral Fund. He noted that several reports on hydrocarbon options had been produced by various organizations, including UNEP IE/PAC and World Bank ORG, so that plenty of information was available. He also noted that, while 14 projects had been approved by the Multilateral Fund for conversions from CFCs to HFC-134a, there were no projects utilizing the hydrocarbon option. It would be useful if assistance could be obtained from the Multilateral Fund for this particular option, and for that reason he would like to know the final outcome of **the** TEAP's consideration of this issue.

17. At the request of the Chairman, Dr. Lambert Kuijpers, Co-Chairman of the Technology and Economic Assessment Panel, made a statement clarifying certain issues concerning the application of hydrocarbons to refrigeration.

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He said that the Panel was aware that many sources of information were available and the Refrigeration Committee was collecting this information for its assessment report to be completed by the end of 1994. He elaborated on the use of hydrocarbons in new and existing equipment. He underlined that isobutane is being recommended by the World Bank as an alternative for a large number of CFC-12 applications. He noted, however, that that recommendation only concerned conversions for new manufacture and required higher investments than the conversion from CFC-12 to HFC-134a. He said that an option existed of mixtures of hydrocarbons that had not, however, been applied to new equipment on any large scale. At the same time, he underlined that, in repairs, flammables should not be applied in equipment that had not been designed for such a use. The possible use of those mixtures needed further analysis, in order to minimize energy consumption and maximize reliability and that would be reflected in the 1994 Refrigeration Committee report. He drew attention to the fact that the world was changing very rapidly and other hydrocarbon options were being studied, which might be easier to apply or might be less costly or less flammable and this had consequences for any conversions made at the present time. In reply to a question raised by the previous speaker, he stated that the Panel was aware of the activities carried out by UNEP IE/PAC concerning hydrocarbons, but those activities only dealt with the random collection of data, and had not been endorsed by the Refrigeration Committee of the Panel.

18. An observer of an NGO supported the request made by a previous speaker for more information of hydrocarbons in refrigeration. She deplored the fact that, under the Multilateral Fund, the only conversions being made were to HFC-134 and believed that one reason for this was the lack of information on hydrocarbons and the slowness of various institutions to provide this information. The Technology and Economic Assessment Panel should make more information on hydrocarbons available, particularly information from countries that had converted to hydrocarbons. She would like to see the TEAP accelerate the process by which it assessed information on hydrocarbons. She noted that a commercial firm in the United Kingdom had recently launched a programme involving the use of hydrocarbons for retrofitting purposes, which had received support from the United Kingdom Government.

19. The representative who had requested further information on hydrocarbons, thanked the Chairman for his statement and said that his country would keep its options open, while awaiting the TEAP report, before taking any final decision on this matter.

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20. The Working Group thus concluded its consideration of agenda item 7 (i).

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