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

Eleventh meeting
Nairobi, 8-12 May 1995

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

I. OPENING OF THE MEETING

1. The eleventh meeting of the Open-ended Working Group of the Parties to the Montreal Protocol was held at the headquarters of the United Nations Environment Programme, Nairobi, from 8 to 12 May 1995.
2. The meeting was opened at 10 a.m. on Monday, 8 May 1995.
3. In her opening statement, Ms. Elizabeth Dowdeswell, the Executive Director of the United Nations Environment Programme, welcoming the participants to Nairobi, said that progress in the implementation of the Montreal Protocol had been so rapid as to defy the dire predictions made only a few years previously and elaborated on the many factors that had contributed to its success. The Assessment Panels had concluded that the build-up of ozone-depleting substances in the atmosphere had slowed in recent years as a direct result of the implementation of the Protocol. In the past four years, the Multilateral Fund had collected nearly \$340 million and had initiated activities to phase out ozone-depleting substances in more than 70 developing countries.
4. The Executive Director paid tribute to the Co-Chairs and members of the Scientific, Environmental Effects and the Technology and Economic Assessment Panels, the Executive Committee and the Fund Secretariat for their excellent work in preparing the analyses of the issues under discussion, and to the Ozone Secretariat for coordinating the preparation and distribution of the reports. The Panels had given clear recommendations on the many issues the Working Group had to resolve.
5. It was most important to ensure that the Protocol was adhered to in the fullest, since any failure would delay the recovery of the ozone layer. The situation of countries with economies in transition was alarming, since not only was their state of compliance not known but there were complaints of some countries exporting CFCs clandestinely, in violation of the Protocol. One step to reduce the incentive for such illegal movement would be to curb the demand for CFCs by preventing the dumping of equipment using ozone-depleting

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substances in developing countries. The Global Environment Facility (GEF), with ozone depletion as one of its four mandates, should assist countries with economies in transition to phase out as quickly as possible.

6. One challenge facing the Parties was to finalize the proposals for adjustments and amendment to the Protocol. She had submitted her recommendations on the issue to the current meeting on the basis of informal consultations with experts and of her own assessment. Concerning control measures for methyl bromide, in particular, the sooner action could be initiated by every country, the better.

7. The Executive Director expressed concern that, even though more than two years had passed since the unanimous acceptance of the Copenhagen Amendment, only 44 out of 148 Parties had ratified it. Even the London Amendment, approved five years previously, had been ratified by only 102 Parties. She urged Governments to ratify the two Amendments as soon as possible and also urged those that had not yet done so to ratify the Vienna Convention and the Montreal Protocol.

8. Replenishment of the Trust Funds was also a cause for concern. Parties owed the Trust Fund for the Montreal Protocol \$2 million up to the end of 1994, and \$3 million for 1995. The Vienna Convention Trust Fund was owed \$200,000 for previous years and \$525,000 for 1995. Many countries had paid their dues promptly and she thanked them for that, while urging others to pay their dues as well. In addition, the Multilateral Fund was currently in critical condition due to significant unpaid contributions. The Executive Director urged the Parties to take remedial steps to restore the status of the Fund.

II. ORGANIZATIONAL MATTERS

A. Attendance

9. The following Parties to the Montreal Protocol were represented: Antigua and Barbuda, Argentina, Australia, Austria, Bahamas, Bangladesh, Belgium, Belarus, Benin, Botswana, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, Democratic People's Republic of Korea, Chile, China, Colombia, Congo, Costa Rica, Croatia, Cuba, Czech Republic, Denmark, Egypt, Ethiopia, European Community, Finland, France, Germany, India, Indonesia, Iran (Islamic Republic of), Italy, Japan, Jordan, Kenya, Kiribati, Malawi, Malaysia, Mauritius, Mexico, Mozambique, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Peru, Philippines, Poland, Republic of Korea, Romania, Russian Federation, Saudi Arabia, South Africa, Sri Lanka, Swaziland, Sweden, Switzerland, Thailand, Tunisia, Turkey, Uganda, Ukraine, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Zambia, Zimbabwe.

10. The following States not Parties to the Protocol were also represented: Eritrea, Holy See, Oman.

11. Observers of the following United Nations Secretariat units, bodies and specialized agencies were also present: United Nations Development Programme (UNDP), United Nations Environment Programme (UNEP), International Civil Aviation Organization (ICAO), United Nations Industrial Development Organization (UNIDO), World Bank, Global Environment Facility (GEF).

12. The following other organizations were also represented: Aerospace Corporation, African Centre for Technology Studies (ACTS), Air Conditioning and Refrigeration European Association (AREA), Alliance for Responsible Atmospheric Policy (ARAP), Allied Signal, Arab Bank for Economic Development in Africa (BADEA), Association of Home Appliance Manufacturers (AHAM), Association of Methyl Bromide Industry Japan (AMBIJ), Centre for Science and Environment (CCSE), Chlorinated Rubber, Climate Network Africa (CNA), Dowelanco, Environment Defense Fund (EDF), Environmental Liaison Centre International (ELCI), Environmental Policy Analyst, European Chemical Industry

Council/European Fluorocarbon Technical Committee (CEFIC/EFCTC), Foundation for Social Development Research (FSDR), Friends of the Earth, Green Africa Society International, Greenpeace, Halozone, ICF Incorporated, Industrial Technology Research Institute (ITRI), International Council of Environmental Law (ICEL), International Federation of Housing and Planning (IFHP), International Pharmaceutical Aerosol Consortium (IPAC), Japan Association for Hygiene of Chlorinated Solvents (JAHCS), Japan Flon Gas Association (JFGA), Japan Industrial Conference for Ozone Layer Protection (JICOP), Japan Refrigeration and Air Conditioning Industry Association (JRAIA), Kist, Medeva Inc., Medisol Labs, Methyl Bromide Global Coalition (MBGC), Methyl Bromide Working Group (MBWG), Pesticide Action Network North America, Regma, Rhône-Poulenc, Safety Hi-Tech Rome, Schering-Plough Corporation, The Mafathal Fine Spg. and Mfg. Co. Ltd.

B. Election of officers

13. Mr. J. Carstensen (Denmark) and Mr. N.R. Krishnan (India) served as Co-Chairmen, in accordance with the decision of the Sixth Meeting of the Parties to the Protocol.

14. It was agreed that Mr. J. Kozakiewicz (Poland), the elected Rapporteur of the Sixth Meeting of the Parties to the Protocol, would continue in that function for the meeting of the Working Group.

C. Adoption of the agenda

15. After proposals from the floor and additions by the Ozone Secretariat, the meeting adopted the following amended text of the provisional agenda contained in document UNEP/OzL.Pro/WG.1/11/1 and Add.1:

1. Opening of the meeting.
2. Adoption of the agenda and organization of work.
3. Review of the third reports of the Assessment Panels and other reports, identification of the need for any further adjustments and amendment to the Montreal Protocol and consolidation of the proposals of the Parties for such adjustments and amendment, if any:
 - (a) Presentation of the report of the Scientific Assessment Panel by Co-Chairs of the Panel, and discussion;
 - (b) Presentation of the report of the Environmental Effects Assessment Panel by Co-Chairs of the Panel, and discussion;
 - (c) Presentation of the report of the Technology and Economic Assessment Panel by Co-Chairs of the Panel, and discussion;
 - (d) Presentation of:
 - (i) The report of the Assessment Panels on evaluation of the technical and economic feasibility, and the environmental, scientific and economic implications of the alternatives to hydrochlorofluorocarbons and methyl bromide (decision VI/13);
 - (ii) The report of the Technology and Economic Assessment Panel on elaboration of the uses, emissions and alternative process agents to controlled substances used as process agents (decision VI/10), and discussion;
 - (iii) The report of the Technology and Economic Assessment Panel concerning essential uses and discussion;

- (iv) The report of the Technology and Economic Assessment Panel on laboratory and analytical uses and discussion;
 - (v) The proposal on the export and import of controlled substances to be used as feedstock.
- (e) Presentation of the Synthesis Report by the Chair of the Assessment Panels, and discussion;
 - (f) Presentation of the report on the review under paragraph 8 of Article 5 of the Protocol (decisions IV/18 and VI/6) by the Chairman of the Executive Committee of the Multilateral Fund, and discussion;
 - (g) Presentation of the report on the review of the Financial Mechanism established by Article 10 of the Protocol;
 - (h) Presentation on the financial status of the Fund;
 - (i) Presentation by Parties, and discussion, of proposals for further adjustments and amendments to the Montreal Protocol and consolidation of the proposals.
4. Consideration of the report on the review of the Financial Mechanism established by Article 10 of the Protocol (decisions IV/18, V/12 and VI/6).
 5. Financial status of the Multilateral Fund.
 6. Consideration of the most suitable definition for "quarantine" and "pre-shipment" applications relating to methyl bromide use (decisions VI/11 and VI/13).
 7. Consideration of the updated report of the Executive Committee on meeting the needs of Article 5 Parties for controlled substances during the grace and phase-out periods (decision IV/29).
 8. Clarification, amendment and/or further definition of the term "basic domestic needs" in Articles 2 and 5 of the Montreal Protocol and under decision I/12 C of the First Meeting of the Parties (decision VI/14 B).
 9. Modification of the indicative list of categories of incremental costs under the Montreal Protocol (decision VI/18).
 10. Other matters:
 - (a) Dumping of obsolete technologies;
 - (b) Illegal imports of controlled substances.
 11. Adoption of the report.
 12. Closure of the meeting.

D. Organization of work

16. The Working Group decided that it would begin its work by considering agenda item 3 and would take up the remaining items in the order in which they appeared on the agenda.

III. REVIEW OF THE THIRD REPORTS OF THE ASSESSMENT PANELS AND OTHER REPORTS, IDENTIFICATION OF THE NEED FOR ANY FURTHER ADJUSTMENTS AND AMENDMENT TO THE MONTREAL PROTOCOL AND CONSOLIDATION OF THE PROPOSALS OF THE PARTIES FOR SUCH ADJUSTMENTS AND AMENDMENT, IF ANY

A. Presentation of the report of the Scientific Assessment Panel by Co-Chairs of the Panel, and discussion

17. The Co-Chair of the Scientific Assessment Panel, Dr. D.L. Albritton, introducing the Panel's report, pointed out that the atmospheric growth rates of some of the ozone-depleting gases had slowed and, in one case, even declined, which was consistent with the reported reductions in production under the Protocol. The downward trends of global ozone levels had continued, being about 4-5 per cent per decade. The unusually low levels of the past few years were attributed to the additional losses due to dust particles injected into the stratosphere by the Mount Pinatubo volcanic eruption. However, as the dust settled out of the stratosphere, those additional losses were diminishing. The temporary increase in particles in the stratosphere was also a likely contributing factor to the fact that the Antarctic ozone hole had been the most severe in recent years.

18. The sources of methyl bromide were associated with fumigation, biomass burning, the use of leaded gasoline, and the oceans, the latter being of natural origin. The Co-Chair said that the Panel recommended an ozone-depleting potential (ODP) for methyl bromide of 0.6. That was slightly smaller than what was recommended in the 1992 report, due primarily to an improved understanding of the uptake of that compound by the oceans.

19. The Panel reported that the maximum annual ozone depletion (12-13 per cent at northern mid-latitudes in winter) was likely to occur around the year 2000, other things being equal. The corresponding increase in surface ultra-violet radiation was likely to be about 15 per cent. Additional ozone losses could occur if other volcanic eruptions were to happen and if a cold, protracted Arctic winter were to occur. The options for further reducing future ozone depletion were limited. For example, the maximum ozone depletion that was likely to occur at the end of the present decade was now beyond human influence. The Panel had provided examples of the types of actions that could be taken to reduce the sum of ozone losses from the present date for the next 50 years. The Co-Chair said that the Panel had noted the consequences of unreported production of CFCs in reducing ozone-layer protection.

20. The Co-Chair said that the influences of aircraft on the ozone layer and the relation of ozone losses and global climate change were emerging issues. The Panel had also noted that, if there were significant long-term continued growth in the non-controlled use of methyl bromide and HCFCs, future decline in the atmosphere abundance of ozone-depleting substances could halt, and recovery of the ozone layer would not occur.

21. In answer to questions from the floor, the Co-Chair expanded upon the Panel's findings regarding methyl bromide. For example, it had noted that the understanding of sources, the atmospheric abundance and trends, and the inter-hemispheric abundance difference collectively indicated that it was unlikely that the ODP could be smaller than 0.3 or that it was larger than 0.9. The discussion had touched upon the types of research activities that were currently occurring to improve understanding. The Co-Chair underscored that the report of the Panel contained a new section that answered common questions raised by the public about the ozone layer. Since those answers were prepared for non-technical readers, the Panel hoped that the new part of its report would be useful in reaching a wide readership and would provide an accurate description of the ozone-depletion problem for the public.

B. Presentation of the report of the Environmental Effects Panel by the Co-Chairs of the Panel, and discussion

22. Dr. van der Leun, Co-Chair of the Environmental Effects Panel, introduced the 1994 assessment made by that Panel. The report had been sent to Governments, and would be made more widely available by publication in a special issue of the scientific environmental journal Ambio.

23. Dr. van der Leun highlighted new findings in the chapters on human and animal health, plants, aquatic ecosystems, air quality and materials; he drew attention to the new chapter on biogeochemical cycles and to added information on the direct environmental effects of chemicals such as methyl bromide and HCFCs.

24. The effects of ozone depletion predicted had decreased due to the efforts so far made in the protection of the ozone layer. That had been demonstrated by the example of non-melanoma skin cancer, where sufficient quantitative data were available to make such calculations. Compared with a scenario based on the original Montreal Protocol, a scenario based on the Copenhagen Amendment led to a markedly smaller increase of the incidence. But even the latter scenario, under the most optimistic assumption of full and worldwide compliance, still led to a significant increase in the incidence of non-melanoma skin cancer. UVB at perceptible sunburn levels caused suppression of the immune system, leading to longer healing times. Similar conclusions might well apply to some other long-term effects that could not yet be quantified. The effects would certainly be worse, possibly much worse, if the nations of the world did not succeed in effectively completing the process of protecting the ozone layer.

25. In response to questions from the floor, Dr. van der Leun clarified several issues, including the value of the amended Montreal Protocol to reducing incidences of skin cancer and the negative impact of elevated levels of ultraviolet radiation on the growth of many plants, including important food crops.

C. Presentation of the report of the Technology and Economic Assessment Panel by the Co-Chairs of the Panel, and discussion

26. The report of the Technology and Economic Assessment Panel was introduced by Dr. Andersen, Co-Chair of the Panel. The Technology and Economic Assessment Panel (TEAP) reported that a wide variety of HCFC and methyl bromide control scenarios were technically and economically feasible, including more stringent controls for non-Article 5 Parties and initial controls for Article 5 Parties. Each control scenario summarized the feasibility and the estimated relative impact on stratospheric chlorine loading as calculated by the Scientific Assessment Panel. Also reported were the results of TEAP and its Technical Options Committees (TOCs) regarding essential-use nominations received from Parties for a 1995 decision, process agents, laboratory and analytical uses, the special circumstances of Article 5 Parties, and countries with economies in transition (CEITs). The specific reports on those issues were presented below (paras. 31-53).

27. TEAP had requested increases in funding for the participation of experts from Article 5 countries and asked the Parties to offer the assistance of TEAP to the subsidiary body on science and technology under the Framework Convention on Climate Change when it began organizing its own technical assessment.

28. TEAP reported the ongoing effort to assess the possibilities of countries with economies in transition to comply with the Montreal Protocol. That effort would deal with the specific circumstances of the 27 countries with economies in transition in the region concerned and would be submitted to the Open-ended Working Group at its twelfth meeting, to be held at Geneva in August 1995.

29. Several representatives strongly supported the request by TEAP that increased funds be made available to increase the participation by experts from developing countries in all TEAP committees and working groups. The representative of the European Union noted that TEAP had the intention to reorganize its structure for sustainable operation. The Union confirmed its interest in the revitalization and restructuring of TEAP and its various committees.

30. Dr. Andersen, supported by one representative, stated that it was important for the Ozone Secretariat and the Parties to clarify and resolve issues pertaining to the harmonization of the Montreal Protocol and Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, as recommended by TEAP. The Working Group approved that proposal. It also decided that a proposal on the subject submitted by one representative would be forwarded to the twelfth meeting of the Working Group as a draft decision for consideration.

D. Presentation of other reports

1. The report of the Assessment Panels on evaluation of the technical and economic feasibility, and the environmental, scientific and economic implications of the alternatives to hydrochlorofluorocarbons and methyl bromide (decision VI/13)

31. The report of the Assessment Panels on evaluation of the technical and economic feasibility, and the environmental, scientific and economic implications of the alternatives to hydrochlorofluorocarbons and methyl bromide was introduced by the Panel Co-Chairs. In their presentations and in clarifying a number of points raised by representatives, they said that TEAP had concluded that alternatives were available, or at an advanced stage of development, for up to 90 per cent of all methyl-bromide uses in non-Article 5 countries and hence it was possible to phase out methyl bromide with an exemption for essential uses. It was also technically feasible to freeze, reduce or phase out methyl bromide in Article 5 countries, providing that there was access to new technology, infrastructure development, and financing.

However, there might be some pest situations which were unique to Article 5 countries and therefore might not be solved by the research efforts of non-Article 5 countries. HCFCs were important to the phase-out of CFCs but it was technically, but possibly not economically, feasible to reduce the cap and to shorten the period for phase-out in every non-Article 5 country. Phase-out in Article 5 countries was technically feasible with a ten-year lag from the current non-Article 5 Party schedule, providing that there was adequate financing. Other scenarios were also presented by TEAP.

32. HCFCs were necessary in certain applications globally in phasing out CFCs; the selection of alternatives was complex if ozone depletion, energy efficiency, safety, and reliability were to be balanced. Use could be avoided in many applications, including domestic appliances and most aerosol products, foam, solvent, and fire-protection applications. The replacement potential of HFCs, hydrocarbons, ammonia, etc., was considerable. Estimates of future HCFC use were presented.

33. Article 5 countries were concerned that the reductions in HCFC use in non-Article 5 countries could affect the economic feasibility of HCFCs as a substitute for CFCs in those countries; Article 5 Parties were also concerned about uncertainties due to the Multilateral Fund financing and Protocol implementation difficulties. There was also concern at certain global business practices such as aggressive marketing, science questioning, misleading advertising, and ODS-chemical and product dumping. Such practices could have the consequence of undermining government efforts and undercutting the cost-effectiveness of alternatives, thereby delaying investments and increasing the costs to the Multilateral Fund. Advantages and disadvantages of the grace period were also presented.

34. In the presentation of TEAP and its Methyl Bromide Technical Options Committee, it was noted that there was rapid growth in the use of methyl

bromide for soil fumigation, but usage in other sectors was approximately constant in the period 1984-1992. Furthermore, there were existing alternatives or ones at an advanced stage of development for most applications of methyl bromide. Article 5 Parties' consumption was estimated at 18 per cent of the total global use in 1992. In response to questions, it was noted that emission reduction through better technology and scrubbing presented a useful and simple initial step in reducing the impact of methyl bromide on the ozone layer.

35. The representative of Italy informed the Parties that the controls on methyl bromide in his country were currently under review.

36. The representative of Australia said that his delegation would support case-studies to document alternatives to methyl bromide, as called for in the report of the Methyl Bromide Technical Options Committee. He invited other Article 2 Parties to support that effort and called on Article 5 Parties to participate. The representative of Canada stated that her country was willing to work with Australia, in the light of that delegation's statement, to create even greater opportunities for such projects.

37. Several representatives pointed out the uncertainty concerning the conclusions in the report and the availability of adequate and cost-effective substitutes.

38. Replying to points raised from the floor, Dr. Banks, Co-Chair of the Methyl Bromide Technical Options Committee, emphasized that, while no single substitute for methyl bromide was available and a case-by-case analysis was needed, past experience and recent research had shown that there existed a variety of effective and economically viable alternatives for most uses. He further noted that, although methyl-bromide use would drop significantly in developed countries in the next decade, rising use in developing countries could offset that reduction due to concerted efforts by the producers.

2. The report of the Technology and Economic Assessment Panel on elaboration of the uses, emissions and alternative process agents to controlled substances used as process agents (decision VI/10), and discussion

39. The report of the Technology and Economic Assessment Panel on elaboration of the uses, emissions and alternative process agents to controlled substances used as process agents was introduced by Mr. Husamuddin Ahmadzai, Chair of the TEAP Chemical Process Agents Working Group. He said that the Chemical Process Agents Working Group had presented useful working definitions to distinguish feedstock and chemical process agent applications and a preliminary list of chemical process agent applications. With respect to the list, it was estimated that 40,000 tonnes of controlled substances were used as process agents annually and those uses were expected to increase. A total of 10,000 tonnes of those process agents were emitted, more than half of the emissions being due to companies operating in Article 5 countries. By use of the best available techniques and environment practices (BAT/BEP), 9,600 tonnes of current emissions could be eliminated at a total investment cost of \$240-730 million. TEAP had noted that the Parties could continue to consider process agents as feedstocks and reduce emissions to insignificant and trace quantities under decision IV/12, or the Parties could consider process agents as non-feedstocks but allow uses for a specified period and only for uses on a limited list of applications approved by the Parties.

40. The representative of the European Union declared the support of the Union for the conclusion of the Technology and Economic Assessment Panel and its Chemical Process Agents Working Group that the use of controlled substances as process agents was not a feedstock application. He added that the Union suggested that, when considering process agents, the Parties should urge that best available techniques and best environmental practice be used and make recommendations accordingly.

41. One representative, speaking on behalf of two others, and noting

decision VI/10, the March 1995 TEAP report and the May 1995 report of the Chemical Process Agents Working Group, said that a continued consumption of controlled substances to be used as chemical process agents could be allowed under the Montreal Protocol after 1996 only if such consumption were exempted from the control measures. They acknowledged that the Montreal Protocol currently did not provide an exemption to allow a continued use of controlled substances as process agents because that could not be considered as a feedstock application, nor did it meet the criteria for an essential-use exemption. Therefore, they introduced a draft decision that, if the Seventh Meeting of the Parties concluded that certain continued uses of controlled substances as chemical process agents should be allowed after 1996, the Parties would:

(a) Permit the consumption of controlled substances when it met the criteria for chemical process agents applications to be agreed by them, and incorporate that exemption adequately into the Montreal Protocol at the first convenient opportunity; and

(b) Request the Technology and Economic Assessment Panel to develop such criteria along the lines of the report of the Chemical Process Agents Working Group.

42. Another representative, noting decision VI/10, Article 1, paragraph 5, and the conclusion of the Chemical Process Agents Working Group that the use of controlled substances as chemical process agents was not a feedstock application, proposed a draft decision, by which the Parties would:

(a) Agree that, from 1998 onwards, the use of controlled substances as chemical process agents should be treated by the Parties under the essential-uses procedure contained in decision IV/25;

(b) Agree that chemical process agents should continue to be treated in a manner similar to feedstock for 1997 only; and

(c) Request TEAP, when evaluating essential-use nominations for chemical process agents, to apply the criteria set out in decision IV/25 together with any other agreed and relevant criteria uniquely applicable to chemical process agents, including best available techniques and best environmental practice, and make its recommendations accordingly.

43. The Working Group agreed that the draft decisions should be carried forward to its twelfth meeting.

44. The Working Group also requested the Technology and Economic Assessment Panel to elaborate on various proposals, including those in paragraphs 41 and 42 above.

3. The report of the Technology and Economic Assessment Panel concerning essential uses, and discussion

45. The report of the Technology and Economic Assessment Panel concerning essential-use nominations was introduced by Dr. Kuijpers. He said that, in 1995, twelve essential-use nominations had been received: from Australia, Canada, the European Union, Hungary, Israel, Japan, New Zealand, Poland, the Russian Federation, and the United States. TEAP recommended the essential uses of metered dose inhalers (MDIs) to treat asthma and chronic obstructive pulmonary disease (COPD), solvents for rocket manufacture, and halons for fire protection. It had been unable to recommend some MDI and refrigerator-servicing uses.

46. The representative of Poland presented additional arguments supporting the essential-use nomination of CFC-12 for servicing domestic refrigeration equipment in Poland. Taking into account the following arguments, he applied to the Parties for acceptance of the requested nomination:

(a) Lack of CFC-12 stockpiles resulting from introducing strict legislation on CFC imports in 1994 (Poland was not a manufacturer of CFCs and

relied totally on imports);

(b) Lack of a nationwide recovery-recycling-reclamation network;

(c) Lack of the drop-in alternatives finally approved by the Refrigeration, Air Conditioning and Heat Pumps Technical Committee. (That had been confirmed by the Committee Chair during the TEAP Seminar held on 7 May 1995 in conjunction with the current meeting); and

(d) Lack of formal acceptance of the drop-in alternatives by the compressor manufacturers, which was obligatory in Poland.

47. Several representatives noted that providing for servicing was not consistent with the essential-use criteria.

48. In response to a question, Dr. Kuijpers stated that the Panel had had formally to reject Poland's nomination because alternatives were technically available. However, the Panel also believed that Poland's economic situation and the absence of a recovery and recycling infrastructure for CFC-12 in Poland suggested that, in practice, no alternatives were available and therefore requested the Parties to consider whether that situation justified an exemption.

49. The representative of Japan expressed a reservation that the Panel had not recommended that the Parties approve Japan's essential-use nomination for MDIs for nasal and anti-anginal applications.

50. One representative stated that his delegation required more information on the status of the Russian Federation's current and future compliance with the control measures on ozone-depleting substances in the amended Montreal Protocol before deciding upon its application for exemption.

51. In response to a question, the Secretariat stated that, following the Sixth Meeting of the Parties, it had written to the Russian Federation asking it to approach the Implementation Committee with an explanation of its non-compliance and its future plans. He noted that, during the current meeting, a representative of the Russian Federation had presented a document unofficially, with some but not all of the necessary information. The representative of the Russian Federation then stated that complete data would be supplied at a later date.

52. The Working Group decided to carry forward the recommendations of the Technology and Economic Assessment Panel on the essential-use nominations with the addition of square brackets around the nomination of the Russian Federation for halons, as a preliminary recommendation to the Parties to be considered at the twelfth meeting of the Open-ended Working Group. Poland's nomination for essential use of CFC-12 for servicing of refrigeration equipment would also be discussed at that meeting.

4. The report of the Technology and Economic Assessment Panel on laboratory and analytical uses and discussion

53. The report of the Technology and Economic Assessment Panel on laboratory and analytical uses was presented by Ms. T. MacQuarrie, Chair of the TEAP Laboratory and Analytical Substances Working Group. She said that the Laboratory and Analytical Substances Working Group had noted that Parties could organize national consultative committees, encourage national standards organizations to identify and review those standards mandating the use of ODS, encourage the introduction of voluntary labelling, and facilitate reporting by the use of the illustrative list of laboratory uses which was included in the March 1995 TEAP report. The largest global laboratory use of ODS was for the detection of oil and grease in industrial and urban waste water, a use which was often required by government environmental authorities worldwide. Parties could speed elimination of that ODS use by accepting the analytical methods developed by the United States Environmental Protection Agency. In 1996, Parties might wish to consider whether to restrict the allowed uses under the

1996-1997 global exemption.

5. The Proposal on the export and import of controlled substances to be used as feedstock

54. One representative said that, since Article 1 of the Montreal Protocol contained no explicit provisions on the amount of controlled substances imported or exported to be entirely used as feedstock in the manufacture of other chemicals, it was not clear how that amount should be handled in calculating "production" and "consumption". His own delegation's view was that, since the substances involved did not deplete the ozone layer, it was unnecessary to control them or include them in the figures for "production" or "consumption". However, importers should provide exporters with a commitment that the substances in question would be used as feedstock.

55. Another representative said that, while he fully agreed with that approach, he did not think that any action by the Contracting Parties was needed.

56. The representatives of eight countries proposed an amendment to Article 1, paragraph 5, of the Protocol to read:

"The definition of feedstock shall be:

"A controlled substance that undergoes transformation in a process that uses best available techniques and best environmental practice (as specified in Annex --) and in which it is entirely converted from its original composition."

One of those representatives also requested that TEAP and its Chemical Process Agents Working Group further investigate within the processes the amounts used, emissions and alternatives for feedstock uses and report its conclusions and recommendations to the Working Group at its fourteenth meeting.

57. Two representatives expressed reservations concerning the proposed text, particularly with respect to the words "best available techniques", one of them pointing out that there was no precedent in the Protocol for a technology-based criterion.

58. One representative expressed concern about the definition of "feedstock" as applied to Article 5 countries because, taking into account the fact that ODS used as feedstock in old equipment generally led to emissions of those substances, the aforementioned definition should provide for the possible need for emission-reduction projects in Article 5 countries and thus for adequate financing by the Multilateral Fund.

59. The Working Group decided that the proposed amendment should be forwarded to the Legal Drafting Group in square brackets and be considered by the Working Group at its twelfth meeting.

E. Presentation of the Synthesis Report by the Chair of the Assessment Panels, and discussion

60. The Working Group agreed that, since all the elements of the Synthesis Report had been covered in the presentations by the Chairs of the different Panels, there was no point in considering that Report separately.

F. Presentation of the report on the review under paragraph 8 of Article 5 of the Protocol (decisions IV/18 and VI/6) by the Chairman of the Executive Committee of the Multilateral Fund, and discussion

61. The Chairman of the Executive Committee, introducing the report on the review under paragraph 8 of Article 5 of the Montreal Protocol (UNEP/OzL.Pro/WG.1/11/4), gave a brief history of the background to the review, mentioning that, although the Contracting Parties were entitled to submit comments on the Consultant's report under decision V/2, no such comments had been received. He then highlighted some of the report's salient features, noting that the Consultant's study team had visited eight countries and received answers to a questionnaire from a further 13 countries, in order to collect the data that it had used for all elements of the study. In the production sector, since costs of conversion varied widely, the median figures had been taken. He drew the Working Group's attention, in particular, to the four primary factors identified by the study team as directly affecting the phase-out schedules and to the 11 options for phase-out scenarios. He reminded the Working Group that the Consultant's analysis had not included methyl bromide and the hydrochlorofluorocarbons (HCFCs), as the Fifth Meeting of the Parties had decided that the analysis should not include methyl-bromide and the HCFCs, since it was to be conducted pursuant to Article 5, paragraph 8, of the Montreal Protocol. In reply to a question, he confirmed that the 11 scenarios contained in the report were, more specifically, nine control options and two sensitivity analyses.

62. The representative of a Party operating under paragraph 1 of Article 5 of the Montreal Protocol said that, while he agreed that a decision had been taken that methyl bromide and the HCFCs should be excluded from the review, it had also been decided that no action would be taken until the review had been completed and a clear idea of the functioning of the Multilateral Fund had been obtained. There was also a proviso, contained in Article 5, paragraphs 1 and 1 bis, that no amendment to Article 2 could be made until the review provided for in paragraph 8 of Article 5 had been completed and that the review of control measures for Article 5 countries could be based on the conclusions of that review. The representative pointed out that the said review had reached no conclusion on methyl bromide.

63. In response to one representative who asked how the modelling costs had been derived, mentioning that the matter had not been addressed during the study team's visit to his country, the representative of the Consultant (a consortium of ICF Incorporated and its partners) said that those costs represented the aggregate outputs of the modelling process; they were based on 60 projects that had been approved by the Multilateral Fund.

64. In reply to questions regarding the "service tail" contained in several scenarios, the representative of the Consultant explained that it represented the residual amount of ODS that would have to be imported by, or manufactured in, a country operating under paragraph 1 of Article 5 to meet its servicing requirements up to the final phase-out date. The calculations included a modest figure for the recycling of ODS. If the amounts of ODS recycled were greater or less than the estimate, the figure for the "service tail" would have to be adjusted accordingly. If there were no recycling at all, the amount would, of course, be much higher. In response to a further question, he agreed that recycling plus banking of ODS would reduce the need for new production.

65. One representative commented that it would be useful to have some indication of the impact of some of the phase-out scenarios, particularly the more rapid ones, on the use of HCFCs. Double change-overs should be avoided as far as possible. While that was outside the scope of the review, it was a topic that might well be taken up by the Technology and Economic Assessment Panel.

G. Presentation of the report on the review of
the financial mechanism established
by Article 10 of the Protocol

66. Mr. Mateos, Chairman of the Steering Panel for the review of the financial mechanism, introduced the Study on the Financial Mechanism of the Montreal Protocol and its executive summary (UNEP/OzL.Pro/WG.1/11/7). He thanked the members of the Panel and the consultants for their diligent efforts.

67. Noting that the Panel had closely overseen the work of the consultants, Mr. Mateos stated that the Panel had worked to ensure:

(a) That the work of the consultants was fully transparent;

(b) That the consultants kept to their terms of reference;

(c) That the methodologies used were both appropriate and rigorous;

(d) That the report's recommendations were fully supported by relevant facts; and

(e) That the report reflected the status of the Fund as a dynamic and evolving institution.

68. The representative of the Consultant explained the objectives of and the approach to the conducting of the evaluation, reviewing the institutional framework of the mechanism and the associated operations of all its actors. He enumerated the recommendations of the study team for improved effectiveness of the financial mechanism, as contained in paragraphs 75-108 of the executive summary of the study, and concluded by outlining the expected impact of those recommendations.

69. In response to a number of representatives, the representative of the Consultant said that the delay in implementation of approved investment projects could be attributed mainly to the World Bank's practice of utilizing national financial intermediaries for implementation. However, the major problems seemed to have been overcome, although that remained to be demonstrated.

70. In response to a question regarding the advantages and disadvantages of competition among the implementing agencies, the representative of the Consultant said that the invitation to United Nations agencies other than the World Bank to implement projects had introduced alternative implementation modalities, but that the positive effects could be negated by the agencies working at cross purposes. The different implementation modalities should be seen as complementary. The optimum way of implementing projects would depend on the country and project circumstances. A recommendation for the World Bank to concentrate on larger countries should not preclude the active presence of the other agencies in those countries.

71. Asked to explain the relatively small share of funds allocated for projects in Africa, the representative of the Consultant said that it was the prerogative of Article 5 countries to identify and prepare projects with the assistance of the implementing agencies they considered most suitable. It seemed quite likely, however, that relatively smaller projects in Africa had not attracted sufficient immediate interest among the implementing agencies.

72. On the question of why no indigenous technology development projects had been funded to date, the representative of the Consultant said that, while projects for substitute technologies and production of recovery and recycling equipment could be funded on a case-by-case basis, no fundable projects had so far been submitted to the Executive Committee.

73. In response to a request for clarification, the representative of the Consultant described the two ways used to calculate project cost-effectiveness. He also elaborated on the proposal regarding lump-sum compensation for projects falling outside possible cost-effectiveness boundaries, noting that it was meant for small enterprises which could not otherwise be reached, given their limited accessibility and the high administrative costs of project preparation and of following the lengthy procedures for sanction and implementation of those projects.

74. In response to a statement regarding the implications of perceived increasingly strict project-approval criteria, the representative of the Consultant said that, to the extent that the criteria had actually become stricter, that was by decision of the Executive Committee, which had equal representation from Article 5 and non-Article 5 Parties. The representative of the Consultant quoted the Secretariat's and Executive Committee's arguments for keeping budgets from being what they deemed unnecessarily high, but referred to the recommendation made in the study that a post-project implementation evaluation should be made to determine if the budgets were actually insufficient.

H. Presentation on the financial status of the Fund

75. The Chairman of the Executive Committee of the Multilateral Fund introduced document UNEP/OzL.Pro/WG.1/11/6, "Financial position of the Multilateral Fund for the Implementation of the Montreal Protocol", noting in particular paragraphs 2(a), 2(b) and 2(c). He recalled that the Fifth Meeting of the Parties had decided upon the replenishment of the Fund in the light of the anticipated need with respect to past history, the ability of implementing agencies to find projects, and the expected pace of phase-out activities in the Article 5 countries. Noting that those expectations had been exceeded, with Article 5 countries proceeding more rapidly than expected, he stated that the Executive Committee had decided to bring the changed situation of shortage of funds to the attention of the Open-ended Working Group for its consideration as part of its preparations for the Seventh Meeting of the Parties.

76. The Treasurer of the Multilateral Fund provided an update on recent contributions to the Fund by France and the United States.

I. Presentation by Parties, and discussion, of proposals for further adjustments and amendments to the Montreal Protocol and consolidation of the proposals

77. Introducing agenda item 3(i), the Co-Chairman pointed out that it was the task of the current meeting to consolidate adjustments and amendments to the Protocol, so that they could be circulated in time for consideration by the Seventh Meeting of the Parties. In that connection, he drew attention to the recommendations proposed by the Executive Director in her report (UNEP/OzL.Pro/WG.1/11/8, paras. 11 to 13).

78. On the subject of methyl bromide, one representative said that the most significant action that the Parties could take in 1995 to protect the ozone layer would be to agree to a universal phase-out of methyl bromide by all Parties - Article 2 and Article 5 - by 2001, without mandated interim reductions. His country supported continued exemption for pre-shipment and quarantine applications, and application of the essential-use provision for other uses. For Article 5 countries, the phase-out should be preceded by a 1997 freeze on production and consumption, based on average levels for the years 1993-1995. He went on to elaborate on the benefits of adopting such a course of action and to explain the reasoning behind the proposal.

79. Representatives from many Article 5 countries stressed the importance of methyl bromide to agricultural production and trade in their countries. The

presentations made had shown that the scientific findings concerning methyl bromide were still uncertain, giving an ODP of between 0.3 and 0.9, and showing gaps in knowledge concerning its lifetime and sources and sinks. In addition, data on alternatives to methyl bromide and their application were scarce, and the technologies to apply such alternatives were often unavailable to the Article 5 countries. Moreover, there had been inadequate field-testing of the alternatives to methyl bromide under the climatic and agricultural conditions in those countries. In that connection, more finance needed to be made available to the depleted Multilateral Fund to initiate projects to provide more information on methyl bromide and to field-test and demonstrate alternatives under the conditions in Article 5 countries. It was not an opportune time to introduce further controls on methyl bromide that could require additional commitments by Article 5 countries, particularly if they entailed incremental costs. More time was needed before addressing the issue of amendment and adjustment to the Protocol with regard to methyl bromide. The definition of new phase-out goals for methyl bromide and HCFCs would be conditioned by an adequate replenishment of the Fund.

80. One representative, on behalf of six others, supported the Executive Director's proposal for a 100 per cent phase-out by 2001 as contained in paragraph 11(a)(ii) of her report, adding that there could be an interim phase-out target of 50 per cent in 1998 and that exemption for essential use could remain even after 2001. However, pre-shipment treatment should not be exempted from control measures. In addition, Parties should report annually on the quantity used for quarantine applications and the main areas within such use. A representative from a non-governmental organization (NGO) emphasized the importance of disseminating the information already available regarding the ozone-depleting potential of methyl bromide and the availability of alternatives. The representative of Canada offered to support such efforts.

81. One representative, supported by another, proposed a 25 per cent reduction by 1998 and a 50 per cent reduction by 2001 for non-Article 5 countries, with an exemption for quarantine and pre-shipment treatment. He also said that, until practical alternatives or substitutes were developed, exemption from the control measures for quarantine and pre-shipment treatment were vitally necessary, while each Party was expected to make every effort to reduce the amount of methyl bromide use of its own accord. He expressed strong support for the Executive Director's proposal contained in paragraph 11(b) of her report, whereby control measures applicable to Parties not operating under Article 5 for HCFCs would be made applicable to Parties operating under Article 5, with a 10-year grace period. In addition, he said that paragraph 11(d) of the report, whereby control measures for methyl bromide for Article 5 countries should entail a 1998 freeze at 1993-1995 average levels with 100 per cent phase-out in 2006, with exemption for essential uses, should be taken into account in control measures for non-Article 5 countries. In connection with paragraph 11(f), he supported the view of TEAP that restrictions on products made with methyl bromide could not be recommended, because of technical difficulties in detecting whether or not the substance was used in their production or storage.

82. One representative, speaking on behalf of the European Union, proposed that whatever measures were adopted by Parties not operating under Article 5, the Article 5 countries should have a grace period of three years, using as a baseline the average 1993-1995 levels.

83. Several representatives supported the Executive Director's proposal for a freeze in 1998 at 1993-1995 levels, as contained in paragraph 11(d)(i) of her report. One of them suggested a 50 per cent phase-out by 2006 and a 100 per cent phase-out by 2011. One representative expressed the view that quarantine and pre-shipment treatment would be a necessary element of any future controls on methyl-bromide use by both non-Article 5 and Article 5 countries. The representative of Norway stated that, regarding Article 5 Party commitments on methyl bromide, his delegation would be prepared to discuss the financial implications of such inclusions.

84. One representative, speaking on behalf of the European Union, said that the Union had introduced, and regarded as an absolute minimum, a regulation whereby there would be a 25 per cent reduction of the 1991 calculated level of methyl-bromide consumption from 1 January 1998.

85. The representative of an NGO said that the findings of the 1995 TEAP report strongly suggested that Parties were in a much better position to take informed control actions on methyl bromide than they had been with respect to CFCs when the decision to phase out those substances had been taken.

86. One representative, stating his belief that decision V/23 of the Fifth Meeting of the Parties was not sufficient with regard to funding for methyl-bromide projects to evaluate alternatives, introduced a proposal to authorize the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol to provide such funding.

87. Many representatives expressed support for that proposal. One of them suggested that be amended to make clearer its purpose of implementing pilot and demonstration projects whose success could be replicated.

88. Several representatives, noting the concerns expressed earlier regarding methyl bromide and methyl-bromide alternatives, reiterated their support for the need to fund demonstration projects, but regarded the proposal under discussion as unnecessary in view of decision V/23.

89. The Working Group agreed to forward the draft proposal, in square brackets, to the Legal Drafting Group.

90. Concerning control measures for HCFCs, many representatives stressed their importance as transitional substances which were essential to the timely phase-out of CFCs.

91. Many representatives of Article 5 Parties expressed concern that a change in the phase-out dates for HCFCs for non-Article 5 countries could hurt their current ozone-protection efforts by, *inter alia*, retarding CFC phase-outs, encouraging illegal CFC trade, negatively affecting decisions by the Multilateral Fund, giving the wrong signals to industry and forcing the introduction of unproven and untested technology.

92. Many representatives of Article 5 Parties also expressed doubt regarding the possibility of imposing further HCFC controls on their countries in the current state of the Multilateral Fund and regarding the linkage of those new controls to the provision of greater resources to the Multilateral Fund. They suggested that there be no controls on HCFCs for Article 5 countries.

93. Many representatives expressed support for the proposal by the Executive Director in paragraph 11(b) of her report that the control measures applicable to Parties not operating under Article 5 for HCFCs be made applicable to Parties operating under Article 5, with a ten-year grace period. Many other representatives preferred a five-year grace period.

94. One representative expressed the view that additional control measures on HCFCs for Article 2 countries were quite feasible, as well as control measures on production, and presented a proposal from several representatives who favoured reducing the cap to 1.5 per cent and accelerating the HCFC phase-out in countries not operating under Article 5 to 50 per cent by 2000, 75 per cent by 2004, 90 per cent by 2007 and a complete phase out with no servicing tail by 2010. The representative of the European Union stated that the Union supported, as an absolute minimum, a 2.6 per cent cap with a phase-out date of 2015, in line with its current Regulation on Ozone-Depleting substances.

95. Some representatives favoured maintaining current HCFC controls as established under the Copenhagen Amendment, arguing that they were successful

and that the environmental impact of further revisions did not justify the cost or the contrary signals to industry. Those representatives also favoured a freeze of the production and consumption of HCFCs in Article countries in the year 2000 at 1999 levels.

96. One representative proposed a study by TEAP to assess further the need for and correlation of HCFCs in the effective phase-out of CFCs in the air-conditioning and refrigeration sector. He quoted the statement in the 1994 report of the Refrigeration, Air-Conditioning and Heat Pumps Technical Options Committee that the consumption of CFCs in the sector had actually increased by 20 per cent between 1986 and 1993 in the European Union, a regional area which had adopted an early phase-out of HCFCs.

97. On the subject of phase-out dates for Annex A and B substances for Parties operating under Article 5, several representatives praised the work of the Consultant's report on the review under paragraph 8 of Article 5. Many representatives stated that further efforts in that area should be guided by mutual concern for the environmental impact, technical feasibility and cost-effectiveness of the proposals. Many representatives stated that adequate funds must be made available for whatever phase-out schedule were chosen. The representative of Norway stated that, if deemed necessary from an environmental standpoint, his delegation would be prepared to consider further replenishment of the Fund.

98. Representatives expressed a variety of preferences for specific phase-out scenarios, with some representatives requesting that more than one proposal be considered. Specific support was expressed for the "fast" scenario of the review report; for 2006 and 2010 with a servicing tail; for 2006 with an accelerated tail; 2010 with an accelerated tail; 2006 with no tail; and 2010 with no tail. One representative suggested that the scenarios, excepting the "fast" scenario, be interpreted as the London and Copenhagen schedules plus grace periods and with or without the different kinds of tails mentioned in the review report. The Working Group decided to forward those proposals to its Legal Drafting Group.

99. On the subject of control measures for HBFCs, the Working Group forwarded the proposal by the Executive Director contained in paragraph 11(e) in document UNEP/OzL.Pro/WG.1/11/8 to the Legal Drafting Group without objection.

100. On the subject of trade measures, the Working Group forwarded the proposal of the Executive Director, contained in paragraph 11(f) in document UNEP/OzL.Pro/WG.1/11/8, to the Legal Drafting Group in square brackets.

101. One representative noted that, since the adoption of the Montreal Protocol, the Parties had consistently recognized that a two-phase programme was necessary to recognize their different capacities in addressing the ozone problem and that a grace period and financial support which recognized those differences were necessary to operationalize the two-part programme. He expressed concern that the Parties might be creating an artificial sense of urgency and concern about other issues, when the important problem and resolution agreed to in Montreal had not been well implemented; that the Parties were on the brink of changing the original rules and consensus of their commitments; and that, unless the Parties were sensitive to the spirit of their original agreement and adopted decisions with their original vision and commitment, they were in danger of opting for expediency rather than effectiveness in addressing the ozone problem.

102. With regard to proposed adjustments and amendments on matters not contained in document UNEP/OzL.Pro/WG.1/11/8, one representative drew attention to a proposal submitted by her own and a number of other delegations for control measures concerning halons and other agents used for fire-suppression and explosion-inertion purposes, stating that the proposal was a comprehensive one that represented an attempt not only to limit the use of halons to critical applications but also to manage their use in new and

existing equipment.

103. The same representative and a number of other representatives also introduced an amendment to Article 2B of the Montreal Protocol, by which the control measures would be extended to cover the use of halons in fire-suppression and explosion-inertion equipment and a prohibition would be placed on the installation of halon-dependent equipment for such purposes as from 1 January 1997. The Working Group agreed that those proposals should be passed to the Legal Drafting Group for initial review. It further agreed that the proposals should not be considered at its current meeting but be submitted to TEAP and the Halons Technical Options Committee, together with the technical background papers. TEAP and the Committee would present a report on the technical implications of the proposals to the Working Group at its twelfth meeting, in August 1995.

104. Mr. Taylor, Co-Chair of the Halons Technical Options Committee, said that the Committee, which would be meeting in Moscow in the second week of June 1995, would appreciate receiving any technical supporting documentation or verbal input on the proposals in order to ensure a thorough review.

105. One representative proposed that, until such time as the Multilateral Fund was replenished and built to a level necessary for meeting the current commitments of Article 5 countries irrespective of the cost-effectiveness of projects, no recommendations should be made to the forthcoming Meeting of the Parties for any adjustments or amendments to the Protocol that would entail additional commitments for Article 5 countries.

106. One representative proposed an amendment and an adjustment to the Montreal Protocol to the effect that no control measures, other than those stipulated in Article 2H, paragraph 1, should be adopted until the potential impact, available scientific, technological and economic information had been tested and evaluated for Article 5 countries. On the basis of the available scientific evidence, and pursuant to Article 2, paragraph 9, of the Protocol, Annex E should be adjusted to reflect the new ODP of methyl bromide, which reflected a downward trend. Parties should endeavour to reduce methyl-bromide emissions by encouraging producers and users to implement, inter alia, good agricultural practices and improved application techniques.

107. The same representative further proposed that alternative technologies and chemicals that had not been evaluated in the respective Article 5 countries should be subject to full laboratory and field testing and adaptive research, for which purpose there should be a transfer of technological and financial resources made available by the Multilateral Fund. The Protocol should be amended to de-link potential control measures of methyl bromide as a precondition for availability and immediate use of the Multilateral Fund by Article 5 countries to meet their incremental costs, inter alia, for access to relevant technologies and monitoring activities so as to facilitate compliance with the Protocol directed to methyl bromide phase-out. The calculated levels of consumption and production of methyl-bromide governed by Article 2H of the Protocol should also not include the amounts of methyl bromide used by Article 5 countries in "domestic" quarantine operations.

Consideration of the first report of the Legal Drafting Group

108. The Chairman of the Legal Drafting Group introduced the Group's first report on possible adjustments and amendment of the Montreal Protocol (UNEP/OzL.Pro/WG.1/11/9). The Working Group then approved the wording of the proposals for adjustments to Articles 2A to 2E (Control Measures) and Article 2F ([Consumption of] Hydrofluorocarbons).

109. With respect to Article 2H (Methyl Bromide), the representative of Kenya said that a proposal submitted by his delegation (see paras. 106 and 107 above) had not been reflected in the text submitted. After a short discussion, the Working Group agreed that that part of the Kenyan proposal

relating to an adjustment of the ODP of methyl bromide should be included in the report of the Legal Drafting Group and that the full content of the other elements of the proposal would be brought forward to the next meeting of the Working Group in the form of a draft decision.

110. The Working Group agreed that the words "and others" should be inserted after the name of the Netherlands in the heading of the text relating to Article 2H.

111. The Working Group did not reach an agreement as to whether or not the text included in paragraph 5 of the draft adjustment to Article 2H should more properly be considered as a proposal for amendment and decided that an indication to that effect should be included in the report of the Legal Drafting Group.

112. With respect to Article 5 (Special Situation of Developing Countries), the representative of Malaysia said that the name of his country in the heading to paragraph 8 bis should be replaced by ASEAN. The representative of the Philippines added that, since his country was a member of ASEAN, the mention of its name in the heading to paragraph 8 ter was superfluous and it should therefore be deleted.

113. The Working Group agreed that the date "2006" be inserted in the square brackets, after the date 1999, in paragraph 8 bis, subparagraph (a)(ii), of the draft adjustment to Article 5.

114. The Working Group agreed that asterisks should be placed passim against all references to methyl bromide to indicate it was not yet clear whether provisions concerning that substance would constitute an adjustment or an amendment.

115. The representative of France, speaking on behalf of the European Union, said that the Union had proposed that, irrespective of scenario, the proposed phase-out dates for Article 2 countries should be followed by an accompanying date, three years later, for phase-out by the Article 5 countries. That proposal was not reflected in the report by the Legal Drafting Group. The Chairman of the Legal Drafting Group said that the inclusion of that proposal would complicate the text extremely. He suggested that the proposal be covered by a footnote. The representative of France accepted that suggestion.

116. The Working Group agreed that the words "paragraphs 1 and 5" should replace the words "paragraph 1" in the third line of paragraph 8 ter, subparagraph (c)(i). The Chairman of the Legal Drafting Group noted that the addition was a legal redundancy, as the paragraph should be interpreted so as to include the exemption set out in the proposed Article 2H, paragraph 5.

117. The Working Group agreed that the following paragraph should be added to the proposals concerning Article 5:

"No controls apply on consumption and production of controlled substances covered under Group 1 of Annex C to countries covered under paragraph 1 of this Article".

Since, however, it had not been seen by the Legal Drafting Group, that paragraph would be included in section C of the report.

118. The Co-Chairman then turned to section B of the report of the Legal Drafting Group, dealing with proposed amendment to the Montreal Protocol. With respect to paragraph 5 bis of Article 1, the representative of Japan withdrew his support for the amendment, asking that his country's name be deleted from the heading and the text between square brackets deleted. In addition, the Working Group agreed that the words "from its original composition" should be reinstated after "converted", to conclude the last line of the proposal.

119. The Working Group then approved the wording of the proposals concerning Article 1, paragraph 5, Article 2B, and Article 2F bis.

120. In response to a query by the Co-Chairman, the representative of Japan requested that the name of his country be used as the Party sponsoring the proposals for amendment of Article 4.

121. With regard to the proposal to amend Article 5 by inserting a paragraph 8 quater, the Working Group agreed that, in connection with the grace period, the word "five" before "years" should be put in square brackets and the word "ten" inserted in square brackets.

122. The Chairman of the Legal Drafting Group explained that the Group would need to revisit the draft amendment to Article 5, paragraph 10, but that would in no way affect the operational impact.

123. The Working Group agreed that the words "no constraints be put on exports of controlled substances from Article 5 countries to other Article 5 countries" should be added to the draft amendment as paragraph (c)(iii).

124. With respect to section C of the report of the Legal Drafting Group, one representative said that, in submitting the proposal therein, her delegation had been concerned at the absence of a definition of "basic domestic needs" in the Montreal Protocol. On more mature consideration, however, it had decided that neither an adjustment of or an amendment to the Protocol was required and that the issue could be resolved by a modification of decision I/12C adopted by the First Meeting of the Parties. The Co-Chairman assured her that the proposal would be included, in the form of a draft decision, in the document on draft decisions that was to be prepared for submission to the forthcoming Meeting of the Parties.

125. The Working Group decided that a small support group should be informally established, consisting of representatives of Burkina Faso, Malawi, Brazil, Venezuela, Philippines, India, Australia, United States, Denmark, Poland, Austria and the United Kingdom, with such participation as it might deem appropriate of the Chairman and Vice-Chairman of the Executive Committee, the Consultant, TEAP and its relevant options committee, implementing agencies, the Secretariat and the Fund Secretariat etc., to examine the various phase-out scenarios it had passed to the Legal Drafting Group and present its findings to the Working Group at its twelfth meeting. The co-convenors of the group would be the Philippines and the United Kingdom. The group would meet in Montreal immediately after the seventeenth meeting of the Executive Committee. The small support group should take into account the following considerations.

(a) The relative environmental benefits of the schedules in protecting the ozone layer;

(b) Technical matters relevant to the scenarios, including:

- (i) The technical feasibility of the schedules;
- (ii) The likely speed of and possible barriers to any necessary technology transfer;
- (iii) Ways of planning and managing phase-out with a servicing tail or accelerated servicing tail, including the likely size, duration and uses of such a tail in a manner which facilitates phase-out without unnecessarily prolonging the dependence of Article 5 countries on ozone-depleting substances;
- (iv) Further clarification of the fast scenario, its implications and possible means of implementation;

(v) The role of recovery and recycling in achieving successful phase-out; and

(vi) Any further practical implications of the technical assumptions used in preparing the report;

(c) The likely costs of phase-out in Article 5 countries under each scenario; and

(d) The rate of disbursement of funds implied by the different schedules.

126. The Secretariat said that, in order to reduce costs, members of the group were encouraged to have the same representation in the small group as they would at the seventeenth meeting of the Executive Committee. Any additional costs would be met by the Secretariat out of additional contributions by Canada.

127. The Working Group approved the report of the Legal Drafting Group as amended, and decided that it would be carried forward to its next meeting. To that end, it would be annexed to the Group's report on its eleventh meeting.

IV. CONSIDERATION OF THE REPORT ON THE REVIEW OF THE FINANCIAL MECHANISM ESTABLISHED BY ARTICLE 10 OF THE PROTOCOL (DECISIONS IV/18, V/12 AND VI/1)

128. One representative noted that there was no reference to the cost-effectiveness of projects in the Montreal Protocol. If a project was eligible, it had to be funded and cost-effectiveness considerations were irrelevant. Several other representatives said that the Multilateral Fund was neglecting small ODS consumers, presumably on the basis of the cost-effectiveness criterion. They were thus severely hampered in their efforts to phase out the substances involved. Yet another representative said that the cost-effectiveness of projects was an important criterion.

129. One representative proposed that the Executive Committee should consider the comments made by participants in the meeting and should transmit the resultant recommendations to the Open-ended Working Group. To that end, she suggested that a small group be set up to advise the Executive Committee on its consideration of the study. A number of other representatives supported that suggestion, but one of them stipulated that any such small group should consist of equal numbers of Article 5 and non-Article 5 Parties and another commented that the Executive Committee should not be the sole source of advice on improving the Fund.

130. One representative, speaking on behalf of the European Union, stressed the need for a follow-up to the recommendations of the evaluation as soon as possible. Success could be judged only by the amount of ODS eliminated, i.e. by the projects actually implemented. Increased collaboration with the Global Environment Facility (GEF) was needed, and the Executive Committee should take steps to that end. The Working Group should advise the Executive Committee what extra information was needed from implementing agencies in order to transmit a completed study of the mechanism to the Group at its twelfth meeting.

131. Another representative, speaking on behalf of the Group of 77 and China, said that the number of projects submitted to the Fund for approval showed the commitment of the Article 5 countries to the goals of the Protocol. Yet, due to inadequate funding, it seemed that many current and future projects were unlikely to reach the implementation stage. The proposals of a large number of Article 5 countries, particularly low-volume-consuming countries, as well as of the small-scale and informal sector which were yet to be presented, should also be considered for implementation, irrespective of their comparative cost-effectiveness. The availability of additional and new funds was a prerequisite for the implementation of current and future commitments.

132. One representative said that, although the countries with economies in transition were making strenuous efforts to phase out ozone-depleting substances (ODS), they needed the support of other countries and the application of a concessional regime. He suggested that his country, as well as a number of other countries, should be given a temporary exemption from their financial commitments to the Multilateral Fund. He added that his country was making strenuous efforts to make in-kind contributions to the Multilateral Fund.

133. One representative, having deplored the arrears in contributions to the Multilateral Fund, said that the issue of the shortfall had to be tackled urgently. Another representative said that, since the Multilateral Fund had shown its effectiveness but was running out of resources, the Working Group should examine the possibility of finding additional funding sources.

134. The representative of the World Bank explained the implementation processes employed by the Bank and what was meant by national execution, its preferred method and one which was rather time-consuming but ultimately highly successful. The fact that there was a pipeline of eligible projects was a considerable achievement. The national execution method also entailed lower costs.

135. The representative of UNIDO said that its programme was proceeding reasonably well, despite such problems as improving coordination between ministries of the environment and of industry. The representative of UNDP said that the streamlining of procedures had greatly accelerated disbursement and implementation; the employment of private national consultants had produced effective results. The representative of UNEP said that the UNEP programme was fundamentally a "support" programme to provide clearing-house functions, including information and training. The national ozone officers were UNEP's main targets and conduits for information dissemination. One representative requested that the UNEP ozone network be expanded to include South Asia.

136. The Co-Chairman, referring to a proposal made on behalf of the European Union to form a small group to examine the study of the Financial Mechanism established by Article 10 of the Protocol, proposed that the Working Group should set up a subgroup comprised of Article 5 and non-Article 5 countries to identify the priority issues in the report and present their observations to the Executive Committee to inform and guide its efforts. The subgroup would comprise Brazil, Canada, Colombia, Denmark, France, India, Japan, Kenya, Malaysia, Mauritius, Norway and the United Kingdom. He then offered the following terms of reference to guide the subgroup:

"(a) The subgroup will consider the Report on the review of the Financial Mechanism (hereinafter referred to as the Report) and furnish its observations/comments to the Executive Committee well in time before the seventeenth meeting of the Executive Committee;

"(b) The Executive Committee is requested to take into account the observations/comments of the subgroup and the discussions held at the eleventh meeting of the Open-ended Working Group in its examination of the Report. The Executive Committee is further requested to make appropriate recommendations for the consideration of the Seventh Meeting of the Parties through the twelfth meeting of the Open-ended Working Group. While making its recommendations, the Executive Committee is requested to provide information to the Parties on the implications of the Executive Committee's recommendations and on the status of any relevant action taken by the Executive Committee".

137. Several representatives supported the proposal, while several others were concerned that the terms of reference appeared to give instructions to the Executive Committee. Some felt that the purpose of the subgroup was to identify the priority areas of confidential concern, so that the Executive Committee could address all areas when commenting on the review reports.

138. There was a variety of views expressed regarding the timing of the subgroup's deliberations. Many representatives and the Chairman of the Executive Committee favoured an immediate start to enable the subgroup to report its work back to the Open-ended Working Group at its current meeting, in order to save meeting expenses and to ensure that the members of the Executive Committee had sufficient time to consider its recommendations fully.

139. After an exchange of views, the Working Group decided that the subgroup would begin work immediately and would guide its own deliberations within the general context of the proposal of the Co-Chairman and its understanding of that and previous Working Group discussions. In general, the first paragraph of the Co-Chairman's proposal represented the terms of reference for the subgroup's initial deliberations, while the second paragraph was intended to guide follow-up action.

140. The convener of the subgroup subsequently presented the subgroup's recommendations to the Working Group.

141. After a short discussion, the Working Group decided:

(a) To request the Executive Committee to examine the report on the review of the Financial Mechanism and the discussions at the eleventh meeting of the Open-ended Working Group, and to respond to the recommendations in the following ways:

- (i) Prepare action plans for the implementation of the recommendations;
- (ii) Develop performance indicators to monitor the above action plans;
- (iii) Identify unresolved recommendations and other issues not fully addressed;
- (iv) Report to the Open-ended Working Group at its twelfth meeting. The Working Group decided that the subgroup should consider that report at a meeting in Geneva on 27 August 1995, immediately before the twelfth meeting of the Working Group;

(b) To request the Executive Committee to give special attention at its seventeenth meeting to the following issues identified by the subgroup:

- (i) Procedures for the implementation and monitoring of projects with views from the Parties and the implementing agencies;
- (ii) A strategic approach instead of a case-by-case one to the preparation and approval of projects from a programme perspective;
- (iii) Innovative mobilization of existing and additional resources in support of Protocol objectives;
- (iv) Ownership of country programmes and projects by actors at all levels including enterprises, implementing agencies and Governments; and
- (v) Cost-effectiveness of the Fund activities and agreed incremental costs in light of the experience of Article 5

countries and the need to ensure protection of the ozone layer;

The Working Group did not see the above list as an exhaustive one. Parties that were not present at the eleventh meeting of the Working Group as well as other Parties could submit their observations/comments to the Ozone Secretariat before 10 June 1995;

(c) To request the subgroup at its meeting prior to the twelfth meeting of the Working Group to consider the following and report thereon to the Working Group at its twelfth meeting:

- (i) All observations/comments by Parties submitted to the Ozone Secretariat by 10 June 1995, which should be circulated to the members of the subgroup; and
- (ii) The Executive Committee's response to the report.

142. The Chairman of the Executive Committee said that he assumed that the Open-ended Working Group was requesting the Executive Committee to address the issues in the context of its terms of reference and was not asking it to go beyond them. He sought confirmation that funds would be available in the event that it was necessary to pursue the issues with the Consultant and that the costs of the meeting on 27 August 1995 would be borne by the Trust Fund for the Montreal Protocol, not the Multilateral Fund. Finally, he supported the call by the convener of the subgroup that, in preparing their observations, Parties should not attempt to write another review.

143. The Secretariat said that it did not expect that the subgroup's meeting in August would have any financial implications and, in any event, it did not have funding available for that purpose.

V. FINANCIAL STATUS OF THE MULTILATERAL FUND

144. One representative, speaking on behalf of the European Union, said that the States members of the Union were deeply concerned at the financial status of the Multilateral Fund. She appealed to all contributors to pay their dues promptly. In addition, the Treasurer and Executive Committee should seek innovative solutions to the problems of the countries with economies in transition, possibly in the form of promissory notes or contributions in kind. The Executive Committee should continue to produce guidelines for the use of the Fund's limited resources. The cost-effectiveness principle was exemplary in that regard.

145. Another representative said that the Executive Committee had already defined guidelines for project approvals. However, the fact remained that even projects approved on a temporary basis could not be implemented due to a lack of funds.

146. The representative of Poland requested that the Working Group should discuss and submit to the Seventh Meeting of the Parties adequate suggestions concerning alleged arrears in payment contributions to the Multilateral Fund with respect to Poland. He noted that the Fund had been created as the result of the London Amendment, which Poland had not ratified. He further noted that, in order to avoid trade restrictions applicable to non-Parties, Poland had submitted the required data concerning ODS reduction in 1994, in accordance with decision VI/4 of the Sixth Meeting of the Parties. Yet, when it came to financial contributions to the Multilateral Fund, Poland was regarded as liable for contributions, as if it were a Party. Noting that the problem had been raised many times at various meetings and that the view had been expressed that only the Meeting of the Parties could take the appropriate decision, he stated that the Polish delegation was applying to the Legal Drafting Group to explain the issue and submit adequate recommendations to the Seventh Meeting of the Parties of the Montreal Protocol with a view to a

decision on the subject.

147. The representative of Ukraine supported the Polish intervention, stating that his country was in the same position.

148. The Ozone Secretariat stated that it had already replied to Poland on the issue. Since the London and Copenhagen Amendments were approved unanimously by the Meeting of the Parties, where Poland had been represented, it was considered that its non-ratification of the Amendments was simply a matter of administrative delay. That opinion was supported by Poland's application to the GEF for financial assistance in meeting the obligations of the London Amendment and Poland's election to and service as a member of the Executive Committee of the Multilateral Fund, which had been established under the London Amendment.

149. The representative of Poland stated that his interpretation of some legal obligations differed from the way in which they were understood by the Secretariat. However, in view of the latest developments, including the declaration made on 11 May 1995 by the countries with economies in transition, he reserved his delegation's right to come back to that issue in the future.

VI. CONSIDERATION OF THE MOST SUITABLE DEFINITION FOR "QUARANTINE"
AND "PRE-SHIPMENT" APPLICATIONS RELATING TO METHYL BROMIDE
USE (DECISIONS VI/11 AND VI/13)

150. Two representatives said that the definition of "quarantine" should follow that of the Food and Agriculture Organization of the United Nations (FAO) and the designation of quarantine for pests, for which each Party prepared a list, had to be under the FAO criteria. Two other representatives believed that the FAO amendments should not be included and pointed out that the definition in decision VI/11 was tailored to the requirements of the Montreal Protocol. The FAO definition was more restricted and would not cover certain non-agricultural uses of methyl bromide.

151. One representative said that the words "geographical areas" would be preferable to the word "countries" in the definition. Pests did not recognize political boundaries. Some countries had pest-free areas that were protected in the case of shipments from other areas in precisely the same way as international shipments.

152. Several representatives said that the topic should be deferred until the next meeting of the Working Group. One of them said that he would like to see an agreement that the use of methyl bromide would be reduced by specific percentages before certain dates. That would be an incentive to the development of alternatives.

153. One representative said that quarantine and pre-shipment applications should include treatments for intra-country trade and proposed that "pre-shipment applications" be thus defined:

"Pre-shipment applications are those treatments applied directly, preceding transportation, to meet the official phytosanitary or sanitary requirements of the importing geographical area."

154. The Working Group agreed to take up the issue again at its twelfth meeting.

VII. CONSIDERATION OF THE UPDATED REPORT OF THE EXECUTIVE
COMMITTEE ON MEETING THE NEEDS OF ARTICLE 5
PARTIES FOR CONTROLLED SUBSTANCES DURING
THE GRACE AND PHASE-OUT PERIODS
(DECISION IV/29)

155. The Chief Officer of the Multilateral Fund, introducing the updated report of the Executive Committee on meeting of the needs of Article 5 Parties for controlled substances during the grace and phase-out periods (UNEP/OzL.Pro/WG.1/11/5 and Corr.1).

156. Many representatives of Article 5 countries, as net or absolute importers of ozone-depleting substances, expressed concern about a monopoly on the production of those chemicals and the resulting high prices and inadequate supplies in the future. Several of those representatives, who also expressed concern over product dumping, proposed that the 15 per cent of 1986 production allowance for plants operating under Article 2 be further evaluated to reflect actual supply needs in the Article 5 countries. One representative proposed that the evaluation include the possibility of not only reducing, but also eliminating that allowance. Those representatives also proposed that special funding of recycling and reclamation projects in every segment of Article 5 countries be supported by the Multilateral Fund and be implemented to achieve self-sufficiency through the establishment of "domestic CFC banks" to avoid product dumping from external supply sources.

157. Some representatives proposed that a price freeze, guaranteed supply, and product-dumping prohibitions be firmly established during the phase-out and grace periods. One representative proposed an amendment to allow Article 5 Parties to meet the basic domestic needs of those Parties.

158. The representative of the Russian Federation stated that the economic transition that his and other countries were experiencing had given birth to an economic crisis. That situation and the difficulties relating to regulations within the former Soviet Union meant that the Russian Federation would not be able to abide by the terms of the Copenhagen Amendment. He proposed that the Parties grant the Russian Federation an extension of four years to meet its commitments under Articles 2A to 2E of the Montreal Protocol. He stated further that the Russian Federation could phase out ozone-depleting substances only with international moral, financial and technical assistance. He noted that the Russian Federation had recently supplied the Secretariat with data on production of ODS and that a regulatory programme for ODS was in the final stages of review by his Government. That programme contained regulations to establish export allowances on ODS and to implement fully the Vienna Convention and amended Montreal Protocol in a time-frame consistent with the economic situation of the country. He requested that the full text of his statement be submitted to the Implementation Committee at its next meeting.

159. One representative, noting the statement by the representative of the Russian Federation, stated that his delegation looked forward to the creation of allowance-based export controls in the Russian Federation, as he believed them to be critical to compliance with the Montreal Protocol by the rest of the world. The Ozone Secretariat, in response to a question from the floor, noted that the only data supplied by the Russian Federation were unofficial and incomplete. He hoped the required data and further explanations, as requested by the Secretariat in December 1994, would be supplied in time for their full consideration during the next meeting of the Implementation Committee in August 1995, which would be considering the issue of non-compliance by the Russian Federation.

160. The representative of the Russian Federation introduced a joint statement and proposal by Belarus, Bulgaria, Poland, Russian Federation and Ukraine, requesting that the Parties concerned should be allowed to postpone for up to five years the implementation of their phase-out schedules for CFCs regulated under Article 2A to 2E of the Protocol, with the aim of assuring basic domestic needs; to be exempt from payment of their contributions to the Multilateral Fund pending attainment of socio-economic stability; and to be provided with international financial assistance to accelerate the transition towards non ozone-depleting technologies and consumption patterns.

161. The Co-Chairman introduced a proposal, submitted by several low-volume ODS-consuming countries (LVCs), recommending that the Seventh Meeting of the Parties request the Executive Committee of the Multilateral Fund to provide specific support by:

(a) Allocating sufficient funds for projects in LVCs to strengthen further and expand awareness and training programmes, especially in the area of refrigeration management;

(b) Supporting specialized assistance such as a workshop to establish regulatory and legislative measures required to facilitate ODS phase-out;

(c) Allowing financing of retrofitting projects, especially in sectors vital to LVC economies; and

(d) Requesting UNEP, due to its extensive experience with LVCs, to prepare an overall approach and take the lead in addressing those needs.

162. Several representatives expressed support for the proposal. Two representatives voiced concern over the reference to financing of retrofitting projects. One of them believed that servicing tails had been developed to avoid retrofitting. Some other representatives, pointing to the funds already allocated to LVCs, wondered how the amount allocated had been arrived at and whether it would be adequate. They said there was a need for a study of the special needs of LVCs.

163. The Working Group agreed to take up the proposal at its twelfth meeting.

VIII. CLARIFICATION, AMENDMENT AND/OR FURTHER DEFINITION
OF THE TERM "BASIC DOMESTIC NEEDS" IN ARTICLES 2 AND 5
OF THE MONTREAL PROTOCOL AND UNDER DECISION I/12 C
OF THE FIRST MEETING OF THE PARTIES
(DECISION VI/14 B)

164. One representative of a Party not operating under paragraph 1 of Article 5, and speaking on behalf of many others, expressed concern that Article 5 Parties be assured of adequate supplies of controlled substances to meet their basic domestic needs during the grace and phase-out periods. He noted further that the possible closure of some production facilities in non-Article 5 countries raised potential supply problems, creating a need to examine the possibility of controlled substances being supplied to Article 5 Parties by other Article 5 Parties. Some such trade was currently occurring, but his firm view was that such trade was not permitted under the terms of Article 5 of the Protocol, which allowed each Article 5 Party a grace period solely to meet its own basic domestic needs. It was a matter of great concern that some Article 5 Parties had been producing controlled substances for export and were even expanding their production. Other Article 5 Parties had noted that aggressive marketing of those substances could have negative impacts on their own expeditious phase-out of ODS production. He proposed an amendment to the Protocol to address the issues by facilitating the legal export of controlled substances by Article 5 Party producers to the extent necessary, while also ensuring that such exports did not undermine the phase-out plans of other Article 5 Parties. He also stated that adoption of such an amendment would necessitate a consequential decision of the Parties to the effect that the Multilateral Fund should not fund the conversion of facilities engaged in production of controlled substances to the extent they had been engaged in production for export.

165. One representative, supported by another, said that any clarification of the term "basic domestic needs" needed to take into account the fact that they should not be understood as leading to undesirable barriers to trade among the Article 5 Parties. The term should thus include the export and import needs of controlled substances, as well as products containing or made with ODS, in trade among those Parties during their grace and phase-out periods, provided that the limits in Article 2 of the Protocol and those imposed by country programmes were respected. Furthermore, the term should not be understood as allowing dumping of excess ODS in Article 5 countries.

166. Another representative said that any redefinition of the term must return to the spirit of the Protocol, since the question involved not just new definition, but the imposition of conditions on Article 5 countries. A total review of the term should be undertaken, with due regard for the supply of ODS by non-Article 5 Parties to Article 5 Parties.

167. Taking up an earlier proposal from the floor supported by a number of representatives, the Co-Chairman announced the establishment of a small informal subgroup to attempt to consolidate the proposals relating to "basic domestic needs". The subgroup would comprise Australia, Brazil, Colombia, India, Iran (Islamic Republic of), Malaysia, Mauritius, Norway, the Russian Federation, South Africa, the United Kingdom, the United States and Venezuela. At the same time, the Legal Drafting Group would examine the proposals with a view to legal or technical requirements. The subgroup would report back to plenary, and any consolidated text that it produced would also be transmitted to the Legal Drafting Group for its consideration.

168. Reporting back to the Working Group, a representative of the subgroup on "basic domestic needs" said that the subgroup's deliberations had been characterized by a pragmatic and cooperative spirit. The subgroup had agreed, before beginning substantive deliberations, that no consolidation of proposals or common definition was possible at that time, although the latter would be at the heart of future discussions. There were also certain principles on

which all members of the subgroup had agreed:

(a) There should be sufficient supplies to meet the basic domestic needs of Article 5 Parties during the grace and phase-out periods, although the term "sufficient" required definition;

(b) No over-supply should be allowed that worked against the phase-out plans of Article 5 Parties, although the term "over-supply" required definition;

(c) Any exports of ODS should be legal;

(d) Pricing should be fair, although the meaning of "fair" needed to be determined; and

(e) The points raised by countries with economies in transition were important and deserved full consideration in another forum.

169. He said that the representatives in the subgroup had expressed a variety of concerns that would have to be addressed. Those concerns included:

(a) The fact that scarcity related to production would have an impact on development opportunities in Article 5 Parties;

(b) The need to review basic domestic needs in the context of the 1995 review and the dynamic situation that existed in the transition of markets; and

(c) The need for supplies to be provided by as many sources as possible in order to ensure no scarcity and fair prices.

170. Another representative, supporting the report of the subgroup, noted that a fourth and central concern was that the market for ODS be open, free, non-discriminatory, and fair.

171. On the suggestion of the Co-Chairman, the Working Group agreed that the subgroup would reconvene at the twelfth meeting of the Open-ended Working Group in the context outlined by its representative in his report and that all the relevant proposals would be forwarded to the Legal Drafting Group.

172. Following a proposal by one representative on behalf of many others, the Working Group affirmed that there was a concern to ensure adequate supply of Annex A and B substances, further noted that the limited sources of supply would have an impact on pricing and quality controls for those ODS imports during the phase-out and grace periods for net importing Article 5 countries, and requested the Technology and Economic Assessment Panel to study the full economic implications of trade in Annex A and B substances during the phase-out and grace periods and to submit its report and recommendations for further studies, as might be needed, to the Open-ended Working Group at its twelfth meeting.

173. The sponsors of the proposal had requested that the study be coordinated by the Economics Options Committee. One representative, however, having noted the fine but rather ad hoc work done by that Committee, was unable to agree to that request. The Secretariat explained that such proposals were normally directed to the Technology and Economic Assessment Panel, rather than to one of its subsidiary bodies. Accordingly, the Working Group adopted only the language indicated in paragraph 172 above.

174. One representative emphasized that the study should include the impact of trade in products by Article 5 countries.

175. Dr. Andersen, Co-Chair of the Technology and Economic Assessment Panel noted that that was a complex request requiring the acquisition of new data

whose existence was not certain. He stated that it would be very difficult to prepare a full report in time for the next meeting of the Parties. Some representatives then suggested that the Technology and Economic Assessment Panel could provide a preliminary report prior to the next meeting of the Working Group, something they believed important as the information was vital to their ability to judge various draft amendments, adjustments and decisions.

IX. MODIFICATION OF THE INDICATIVE LIST OF CATEGORIES OF INCREMENTAL COSTS UNDER THE MONTREAL PROTOCOL (DECISION VI/18)

176. The proposer of the proposal to be discussed under that item requested that its consideration be deferred.

X. OTHER MATTERS

A. Dumping of obsolete technologies

177. One representative, who had submitted a written proposal on the topic in conjunction with another representative, said that the practice of dumping obsolete ODS-using products and technologies in Article 5 countries was on the increase and, if the situation were not addressed, it could well affect the implementation of the Protocol. Dumping could significantly increase ODS consumption in the countries in question and there were some grounds for suspecting that some suppliers in Article 2 countries were deliberately engaging in dumping in order to maintain their ODS production. Since the Article 5 countries were institutionally incapable of monitoring dumping effectively, they needed the support of their Article 2 partners.

178. All the many representatives who took the floor supported the proposal in general, but one of them said that, as currently worded, it might require an amendment to the Protocol, which could produce unacceptable delays; a draft decision would be preferable. A number of representatives said that the proposal must conform to the rules of international trade, one of them suggesting that the World Trade Organization (WTO) be consulted in that respect.

179. Two representatives said that the countries with economies in transition found themselves in much the same situation with respect to dumping as the Article 5 countries and should, therefore, be mentioned in the text of the proposal.

180. The representative of a non-governmental organization said that a service tail would result in an increased consumption of ODS and encourage dumping.

181. Following a request for clarification from the Secretariat, one of the proposers explained that his proposal could be modified to prevent dumping in any country.

182. The Working Group decided to request the Ozone Secretariat to consult WTO, with the suggestion that it be represented at the Group's next meeting at which a reworded text of the proposal, in the form of a draft decision, would be considered.

B. Illegal imports of controlled substances

183. Two representatives expressed concern over the export trade in ODS disguised as recycled or non-CFC substances, which was not only environmentally bad but undermined the integrity of the Montreal Protocol. One of them submitted the following proposed decision:

"The Seventh Meeting of the Parties decides to request the Secretariat to examine information available to it, and request further information from the Parties, regarding dumping, illegal traffic, and uncontrolled production of Annex A and B substances and products containing them that could undermine the effectiveness of the Protocol, and report to the Eighth Meeting of the Parties, taking into account the Annex on non-compliance."

184. The other representative said that the Parties needed to be reminded to report reclamation under decision VI/19 and to report trade in recycled substances. He encouraged all Parties that could be involved as producers, transshipment points and final distributors to help put an end to illegal activities.

185. Another representative said that the draft decision might impose additional reporting requirements and needed to be examined carefully. He also believed that it was not necessary to include uncontrolled production in the draft.

186. In conclusion, the Co-Chairman said that the Secretariat would forward the proposed draft decision to the Working Group at its twelfth meeting.

C. International Day for the Preservation of
the Ozone Layer

187. The Secretariat drew attention to General Assembly resolution 49/114 of 19 December 1994, by which the Assembly proclaimed 16 September the International Day for the Preservation of the Ozone Layer. The Secretariat encouraged all Parties to celebrate the International Day and to submit information on their activities.

XI. ADOPTION OF THE REPORT

188. The present report was adopted at the closing session of the meeting, on 12 May 1995, on the basis of the draft report contained in document UNEP/OzL.Pro/WG.1/11/L.1 and Corr.1 and Add.1.

XII. CLOSURE OF THE MEETING

189. At the closing session of the meeting, the Working Group heard a statement by the Executive Director of UNEP, in which she said that the meeting had succeeded in its purpose of providing an opportunity for all views to be voiced on all the important issues. She said that some of the proposals concerning adjustments and amendments of the Protocol revealed doubts about possible alternatives and funding. Noting that those proposals could delay the phase-out of ozone-depleting substances, she expressed the hope that the period before the twelfth meeting of the Working Group would be used to dispel those doubts.

190. After the customary exchange of courtesies, the Co-Chairman then declared the meeting closed at 6 p.m. on Friday, 12 May 1995.