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

Twelfth meeting
Geneva, 28 August - 1 September 1995

ISSUES FOR CONSIDERATION BY THE OPEN-ENDED WORKING
GROUP OF THE PARTIES TO THE MONTREAL PROTOCOL

Note by the Secretariat

Addendum

FURTHER ISSUES FOR CONSIDERATION BY THE GROUP

A. Trade in used ozone-depleting substances

1. In its decision VI/19, the Sixth Meeting of the Parties requested the Secretariat, drawing on the experience of the Technology and Economic Assessment Panel and the Parties, to study and report on trade in used/recycled/reclaimed ozone-depleting substances, taking particular account of Parties' experience in the control of such trade and the concerns and interests of all Parties that have facilities for the production of ozone-depleting substances in time for the issue to be considered by the Open-ended Working Group at its twelfth meeting.

2. In response to that decision, the Secretariat requested all Parties on 4 December 1994 to provide details of their experience on the issue and of their reclamation facilities. As of 30 June 1995, only 35 Parties - 14 Parties not operating under Article 5 of the Protocol (Australia, Austria, Belarus, Canada, Denmark, Hungary, Japan, New Zealand, Norway, Poland, Slovakia, South Africa, Sweden and United States of America) and 21 Parties operating under Article 5 (Bahamas, Burkina Faso, Brazil, Costa Rica, Ecuador, Gambia, Guatemala, Guinea, Islamic Republic of Iran, Lebanon, Myanmar, Nepal, Niger, Romania, St. Lucia, Senegal, United Republic of Tanzania, Thailand, Tunisia, Zambia and Zimbabwe) - had reported the requested information.

3. Thirteen Parties reported that they have reclamation facilities: Australia, Austria, Canada, Denmark, Japan, New Zealand, Norway, Poland, Romania, Slovakia, South Africa, Thailand and the United States of America. Australia, Canada,

Denmark, Japan, Poland, Slovakia, Thailand and the United States of America provided the names of companies with reclamation facilities and their location. The total amount of reported capacity for reclaiming ozone-depleting substances is about 13,405 tons. Where the annual capacity of reclamation facilities has not been reported, the Secretariat has calculated the capacity by multiplying the daily capacity of eight working hours and 250 working days.

4. Austria and Sweden reported quantities of exported used or recycled substances but did not indicate the destination of such exports. Norway undertook to provide details by 30 September 1995 of the amount of reclaimed halon exported in 1994. Other Parties have reported no exports of used or reclaimed ozone-depleting substances.

5. Canada, New Zealand, Norway and Sweden reported that they have regulations that require exporters/importers of used/recycled substances to receive permission from the Government. They also reported on the documentation needed.

6. The Co-Chairs of the Technology and Economic Assessment Panel, who were also addressed on this issue, did not respond.

7. The Secretariat has the following observations on the trade in used/recycled ozone-depleting substances:

(a) While no specific information has been received by the Secretariat about any violation of the spirit of decision IV/24, there is clearly scope for unscrupulous traders to misuse the provisions of this decision to trade in virgin substances in the guise of recycled substances;

(b) Even though the data-reporting format approved by the Fifth meeting of the Parties has columns for reporting the trade in used/recycled substances, no Party has reported this data so far;

(c) Only a few countries have regulations that make it mandatory for the traders to report such trade or to require documentation to ensure that virgin substances are not passed off as recycled substances;

(d) The following are some of the possibilities that could be considered by the Working Group for recommendation to the Seventh Meeting of the Parties to the Protocol to ensure that decision IV/24 is misused:

- (i) Each Party should introduce regulations regarding trade in used/recycled substances and the documentation required to accompany the shipments of these substances;
- (ii) Each Party should report on their reclamation facilities giving details of their location and capacities, and the Secretariat should communicate these details to all the Parties. No Party should allow the import or export of reclaimed substances unless it is certified that the substances have been reclaimed at one of the listed facilities. If a Party has not declared its reclamation facilities, other Parties should not import any recycled substance from it;
- (iii) Each Party should report imports and exports of used/recycled substances and their destination, and the Secretariat should check these data reports with the capacities of reclamation facilities

and report annually thereon to the Implementation Committee and the Meeting of the Parties;

- (iv) The Secretariat should publicize the list of Parties who have not reported their data under Article 7 in the required format and by the due date, and no Party should trade in used/recycled substances with them;
- (v) Each Party should check, as frequently as possible, that the substances traded in the name of used/recycled substances are actually used/recycled.

B. Status of recycled controlled substances under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal

8. The attention of the Working Group is invited to draft decision 10 suggested by Australia and contained in the annex to UNEP/OzL.Pro/WG.12/2, by which the Seventh Meeting of the Parties would recommend that Parties to the Basel Convention agree that recycled CFCs/halons which meet usable purity specifications are not considered waste for the purposes of the Basel Convention.

The Ozone Secretariat has approached the Basel Convention Secretariat on the basis of this draft decision and the recommendations of the Technology and Economic Assessment Panel. Consultations have been held with the Co-Chairs of the Technology and Economic Assessment Panel in this regard. A proposal was sent to the Basel Convention Secretariat for submission to the Technical Working Group to Prepare Draft Technical Guidelines for the Environmentally Sound Management of Hazardous Wastes Subject to the Basel Convention.

9. The Coordinator of the Ozone Secretariat and a Co-Chair of the Technology and Economic Assessment Panel, Dr. Kuijpers, have discussed these issues with the Coordinator of the Basel Convention Secretariat. They also attended the meeting of the Technical Working Group in Geneva on 22-23 June 1995 and explained the details to the Group. The Working Group has agreed to recommend to the next Meeting of the Basel Convention in September 1995 that:

"The controlled substances of the Montreal Protocol which are recovered and purified to usable purity specifications prescribed by appropriate international and/or national organizations including the International Standards Organization (ISO) do not fall under the scope of the Basel Convention."

10. To date, international specifications have been approved in case of halons.

In case of refrigerants, such specifications have been approved only by one national organization and are under consideration by ISO. The recommendation by the Technical Working Group of the Basel Convention recognizes that any used controlled substance which has been purified to a usable purity specification cannot be considered a waste and does not fall under the scope of the Basel Convention. This gives certain flexibility to the Parties to the Montreal Protocol in conducting the trade in such purified substances.

11. Draft decision 10 proposes that international transfers of CFCs/halons that

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cannot meet usable purity specifications should only occur if the recipient country has recycling facilities that can process the received CFCs/halons to these standards. One of the experts who attended the Technical Working Group meeting has informally suggested the addition of the words "or destruction facilities incorporating technologies approved by the Parties". The purpose of this suggestion is to provide for transfer of used substances for the purposes of destruction, since not every Party may have such destruction facilities.

C. Dumping of obsolete technologies and products (draft decision 13)

12. In accordance with the decision of the Open-ended Working Group at its eleventh meeting (UNEP/OzL.Pro/WG.1/11/10, para. 180), the Ozone Secretariat has written to the World Trade Organization (WTO) to comment on the proposal on dumping of obsolete technologies and products. The Coordinator held informal discussions in this regard with the concerned officials of WTO. The WTO secretariat has referred this issue to the Chairman of the WTO Committee on Trade and Environment. Further information is awaited from WTO.
