

Explanatory Note

to the Appendix of Decision I in UNEP/OzL.Pro.WG.1/25/9 on “Preventing
Illegal Trade in Ozone Depleting Substances” submitted by the European
Community at the 25th OEWG in Montreal 27-30 June 2005

The Appendix to Decision I in UNEP/OzL.Pro.WG.1/25/9 contains a “Draft Terms of Reference for a Feasibility Study on Developing a System for Tracking the Movement of Ozone-Depleting Substances Between the Parties” which was proposed by the European Community based on the draft Terms of Reference for such a study prepared by the Ozone Secretariat (included in the Report from the Workshop of Experts – document UNEP/OzL.Pro.WG.1/25/3).

The European Community made some amendments at the 25th OEWG to the Terms of Reference proposed by the Ozone Secretariat. These amendments were mostly based on the comments made by participants at the Workshop of Experts held in Montreal on 3 April 2005. The comments were included in the Report from the Workshop. Consideration of these comments has resulted in the following text changes to the Draft Terms of Reference prepared by the Ozone Secretariat, as described in the Appendix to Decision I in UNEP/OzL.Pro.WG.1/25/9:

Paragraph 1 = paragraph 1 of the Draft Terms of Reference prepared by the Ozone Secretariat except for the following: “necessitated” was replaced with “necessary” and the words: “...and suggest an appropriate threshold for bulk quantities” were added at the end of paragraph 1.

Paragraph 2 = first sentence of paragraph 4 of the Draft Terms of Reference prepared by the Ozone Secretariat except for the following: the words “...or re-export” were added after the word “..export”. The rest of paragraph 4 was compressed and included in paragraph 6 of the Draft Terms of Reference proposed by the European Community (see explanatory text to paragraph 6 below).

Paragraph 3 = paragraph 2 of the Draft Terms of Reference prepared by the Ozone Secretariat except for the following: the words “such quantities” were replaced with “bulk quantities” and the words “by Parties” were inserted.

Paragraph 4 is new.

Paragraph 5 = paragraph 3 of the Draft Terms of Reference prepared by the Ozone Secretariat except for the following:

- the Kimberley Process on Conflict Diamonds was removed from the list of international agreements to be looked at because the European Community proposal considered only environmental agreements;
- the European Union Action Plan for Forest Law Enforcement, Governance and Trade (under development) was removed from the list of international agreements to be looked at since the European Community considered it was not an international agreement;

- Cartagena Protocol was added as suggested at the Workshop of Experts; and
- The new text: “Examine costs and practical difficulties associated with tracking systems under the above mentioned international agreements in order to provide an estimate of the practical difficulties and costs with regard to implementation of a tracking system for ozone depleting substances” was added at the end of paragraph 3.

Paragraph 6 = combined:

- The second part of paragraph 4 of the Draft Terms of Reference prepared by the Ozone Secretariat is presented in a compressed form and with the addition of further details to be included in the customs information (among other possible elements of that information);
- Paragraph 5 of the Draft Terms of Reference prepared by the Ozone Secretariat with addition of the following sentence (suggested by the participants of the Workshop of Experts): “Investigate implications of the WTO and Trade Related Aspects of Intellectual Property Rights agreements”.

Paragraph 7 = paragraph 6 of the Draft Terms of Reference prepared by the Ozone Secretariat with the following additions to the first sentence:

- “...as well as with five to seven re-exporting country Governments and international distributors in those countries” (suggested by the participants of the Workshop of Experts);
- “...and their views on whether such a system would impact on legitimate trade”.

Paragraph 8 = paragraph 7 of the Draft Terms of Reference prepared by the Ozone Secretariat except for replacing in the second sentence the words: “...to facilitate their effective implementation “ with “...to facilitate effective implementation of the system”.