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**Open-ended Working Group of the Parties to
the Montreal Protocol on Substances that**

Deplete the Ozone Layer

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Item 5 of the provisional agenda*

Consideration of methyl-bromide-related issues

Quarantine and pre-shipment

Report by the Secretariat

I. Introduction

1. The Eighteenth Meeting of the Parties to the Montreal Protocol, by its decision XVIII/14, paragraph 5, requested the Secretariat to provide factual information on the definitions of the terms “quarantine” and “pre-shipment” under the Protocol and the International Plant Protection Convention.
2. In paragraph 4 of the same decision, the Parties requested the Secretariat to continue liaising with the International Plant Protection Convention secretariat as appropriate in line with decision XVII/15 to build on interactions already developed and to report comprehensively to the Parties on secretariat-level cooperation and joint activities.
3. The present document addresses those two requests.

* UNEP/OzL.Pro.WG.1/27/1.

Part I: Definitions of the terms “quarantine” and “pre-shipment”

II. Definitions under the Montreal Protocol

4. In October 1994, the Sixth Meeting of the Parties took decision VI/11, which defined “quarantine” and “pre-shipment” for implementation by Parties not operating under Article 5. In December 1995, the Seventh Meeting of the Parties, in its decision VII/5, agreed to adopt the same definitions for Parties operating under Article 5 as in decision VI/11:

“(a) ‘Quarantine applications’, with respect to methyl bromide, are treatments to prevent the introduction, establishment and/or spread of quarantine pests (including diseases), or to ensure their official control, where:

- (i) Official control is that performed by, or authorized by, a national plant, animal or environmental protection or health authority;*
- (ii) Quarantine pests are pests of potential importance to the areas endangered thereby and not yet present there, or present but not widely distributed and being officially controlled;*

(b) ‘Pre-shipment applications’ are those treatments applied directly preceding and in relation to export, to meet the phytosanitary or sanitary requirements of the importing country or existing phytosanitary or sanitary requirements of the exporting country;

(c) In applying these definitions, all countries are urged to refrain from use of methyl bromide and to use non-ozone-depleting technologies wherever possible. Where methyl bromide is used, Parties are urged to minimize emissions and use of methyl bromide through containment and recovery and recycling methodologies to the extent possible;”

5. The Eleventh Meeting of the Parties in November 1999 took decision XI/12, to clarify the definition of “pre-shipment”, which states:

“That pre-shipment applications are those non-quarantine applications applied within 21 days prior to export to meet the official requirements of the importing country or existing official requirements of the exporting country. Official requirements are those which are performed by, or authorized by, a national plant, animal, environmental, health or stored product authority;”

6. The Technology and Economic Assessment Panel’s 1999 Progress Report, in volume 2, summarizes the comments on quarantine and pre-shipment issues that the Panel had made during the period 1994–1998 to assist the Parties in their deliberations. That report also explains the aims the Parties were trying to achieve in deciding on the definition in decisions VI/11 and VII/5 as follows:

“For quarantine treatments, Parties decided to:

- Base the exemption on a narrow FAO 1994 definition of a quarantine pest, but to delete “economic” from “...economic importance...” in the definition as there were more than just “economic” reasons when considering “importance”;*
- Restrict the exemption under quarantine to treatments carried out by government plant, health, animal, or environmental authorities; and*
- Include quarantine treatments for commodities moved interstate or region within the one territory.*

Unlike ‘quarantine’, in 1994 there was neither a definition for ‘pre-shipment’ under the FAO or elsewhere. Currently, the concept of ‘pre-shipment’ remains peculiar to the Protocol. The Parties saw the need to introduce and define the term ‘pre-shipment’ to:

- Allow an exemption for [methyl bromide] applied prior to export for non-quarantine pests infesting commodities or associated structures and transport vehicles that stored or conveyed these commodities;*
- Exempt treatments to those applied ‘directly preceding’ export, thus excluding multiple, routine[methyl bromide] treatments from the exemption;*
- Exclude treatments authorised by commercial or contractual purposes, and*

- *Require that the regulation specifying [methyl bromide] treatment must have been in place at the time of the Decision in order to avoid subsequent legislation that might allow exemptions to be generated without the consent of the Parties.”*

7. The stricter definition of “pre-shipment” in decision XI/12 as contained in paragraph 5 above addressed concerns over potential inconsistencies in the interpretation of the term “pre-shipment”. Those concerns included the following:

(a) Only methyl bromide treatments authorized by official authorities rather than commercial-contractual agents should be considered exempt under the Protocol and “stored product authorities” should be added to the list of authorities performing official control;

(b) Methyl bromide pre-shipment treatment defined under decisions VI/11 and VII/5 as “directly preceding ... export” might result in multiple methyl bromide application over any period of time before export. In order to be clear for practical implementation purposes, a time limit needed to be defined. A time limit of 21 days prior to shipment was agreed by the Parties. Methyl bromide application more than 21 days before shipment would not be exempt.

8. The Technology and Economic Assessment Panel’s 1999 Progress Report (volume 2, p. 26) also provided a so-called quarantine and pre-shipment “logic diagram” in an attempt to assist Parties in their determination of whether a methyl bromide use was quarantine use, a pre-shipment use or neither. An updated version of the logic diagram is contained in annex I to the present document. The Technology and Economic Assessment Panel has also provided some examples of methyl bromide treatments that it believed to be quarantine or pre-shipment or non-quarantine and non-pre-shipment in the light of decisions VI/11 and VII/5 (Technology and Economic Assessment Panel 1999 Progress Report, volume 2, pp. 27–32). In its 2002 Progress Report the Panel provided further examples, including on the operation of decision XI/12 (Technology and Economic Assessment Panel April 2002 Progress Report, volume 1, pp. 142–147).

III. Definitions under the International Plant Protection Convention

9. The International Plant Protection Convention is a multilateral treaty for cooperation on plant protection and health. First drafted in 1929, it entered into force in 1952 and has since then been amended twice. The first amendment to the Convention (1979) came into force in 1991 and the second (1997) in 2005. The Convention is deposited with the Food and Agriculture Organization of the United Nations (FAO) and is implemented through the cooperation of member State Governments and regional plant protection organizations. FAO established the Convention secretariat in 1992. As of November 2006, the Convention had 159 contracting Parties. Article I, paragraph 1 of the Convention defines its purpose as “...securing common and effective action to prevent the spread and introduction of pests of plants and plant products.”

10. The Convention plays a prominent role in the Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement) under the General Agreement on Tariffs and Trade (GATT) of the World Trade Organization (WTO). Its role is to encourage international harmonization and elaborate international standards to help ensure that phytosanitary measures are not used as unjustified barriers to trade. The latest amendment to the Convention (1997) reflects its contemporary role, particularly with respect to the relationship of the Convention to the SPS Agreement, and addresses cooperation and the exchange of information toward the objective of global harmonization and the establishment and use of international standards for phytosanitary measures (ISPMs).

11. The Convention works with the following definitions relevant to quarantine, which are stated under Article II of the Convention:

... *“Quarantine pest” – a pest of potential economic importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled;...*

... *“Regulated non-quarantine pest” – a non-quarantine pest whose presence in plants for planting affects the intended use of those plants with an economically unacceptable impact and which is therefore regulated within the territory of the importing contracting party;...*

... *“Regulated pest” – a quarantine pest or a regulated non-quarantine pest;...*

IV. Comments

12. In general, methyl bromide used in quarantine treatments targets quarantine pests, which are carefully defined by regulatory authorities. The definition of “quarantine” under the Montreal Protocol includes control of “quarantine pests”. The definition of “quarantine pest” under the Montreal Protocol differs from that under the International Plant Protection Convention by one word, “economic”: the Montreal Protocol refers to “pests of potential importance” while the Convention definition refers to “pests of potential economic importance”. The Montreal Protocol’s definition encompasses environmental and other pests that might endanger a region without direct quantifiable economic loss, whereas the Convention deals specifically with agricultural pests (including those affecting forestry but not livestock) that would have potential economic impact. Human health aspects are also not specifically taken into consideration under the Convention. In the case of the Montreal Protocol, quarantine as well as pre-shipment requirements relate not only to official phytosanitary treatments but may also apply to other “sanitary” treatments (e.g., against human or animal pathogens and vectors).

13. All methyl bromide treatments for quarantine and pre-shipment uses reported by the Parties in response to the surveys called for in decisions XI/13 (paragraph 6) and XVI/10 (paragraph 2) were related to plant-related pests and diseases and therefore fall within the scope of the International Plant Protection Convention. The results of the surveys were reported in the Technology and Economic Assessment Panel 2006 Progress Report. However, there are also other unreported Montreal Protocol quarantine and pre-shipment uses which are not plant-related that the Methyl Bromide Technical Options Committee identified in its 2006 assessment. Those include treatment of shipments of used car tyres against mosquitoes; treatment of personal effects against lice, bedbugs and cockroaches; fumigation of hides and skins; fumigation of beehives against insect and mite pests; and fumigation of ships, aircraft and other transport vehicles against rodents and snakes. These uses of QPS methyl bromide, which are not required by the International Plant Protection Convention, are estimated by the Methyl Bromide Technical Options Committee to consume not more than 1 per cent of the total 2005 quarantine and pre-shipment production of about 13,800 metric tonnes.

14. The use of methyl bromide in a quarantine treatment may only be for pests that are officially recognized as quarantine pests and must be officially authorized by a competent authority and not a commercial organization. Under the Montreal Protocol definitions, “competent authorities” include not only national plant protection organizations but also national animal or environmental protection authorities or national official health authorities. The International Plant Protection Convention definition relates to control only by an official national plant protection organization.

15. The Montreal Protocol’s definition of “pre-shipment” is unique to the Protocol. Pre-shipment treatments normally target non-quarantine pests and must be applied within 21 days prior to export to meet the official requirements of either the exporting or importing country. Under the International Plant Protection Convention, “regulated non-quarantine pests” are those present in plants for planting that would result in an economically unacceptable impact, but they are to be regulated only within the territory of the importing country. Thus, control of “regulated non-quarantine pests” under the Convention would involve a completely different set of treatments than those falling within the “pre-shipment” category under the Montreal Protocol.

16. As requested in decision XVII/15, the present document deals with quarantine and pre-shipment definitions under the Montreal Protocol and the International Plant Protection Convention. Other international agreements that deal with quarantine and pre-shipment issues include:

(a) The World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures (the SPS Agreement). This agreement defines the basic rights and obligations of Parties with regard to the use of measures applied to protect human, animal or plant life or health, including procedures for testing, diagnosing, isolating, controlling or eradicating diseases and pests. The International Plant Protection Convention is recognized by the SPS Agreement as the organization under which international standards for phytosanitary measures are established. In practice, the International Plant Protection Convention focuses primarily on quarantine issues;

(b) The World Trade Organization Technical Barriers to Trade (TBT) Agreement aims to avoid unnecessary obstacles to trade associated with technical regulations and standards for industrial and agricultural products. The TBT applies to measures which may be used to assure quality. Pre-shipment treatments would generally be considered to deal with “quality” for World Trade Organization and Plant Protection Convention purposes and they would regard pre-shipment as falling under the TBT Agreement.

17. The above issues are addressed in greater detail in the 2006 Assessment Report of the Methyl Bromide Technical Options Committee.

Part II: Liaison, cooperation and joint activities between the secretariat of the International Plant Protection Convention and the Ozone Secretariat

18. The Ozone Secretariat was invited to the second session of the Commission on Phytosanitary Measures (CPM-2) of the International Plant Protection Convention, which was held in Rome from 26 to 30 March 2007, at the same time and venue as the annual meeting of the Technology and Economic Assessment Panel. The Ozone Secretariat, in cooperation with the Chair of the Quarantine and Pre-shipment Task Force, prepared and submitted a paper entitled "Montreal Protocol and International Plant Protection Convention – cooperation and areas of mutual concern". The paper was presented at CPM-2 by the Executive Secretary under agenda item entitled "Report on Promotion of the IPPC and Cooperation with Relevant International Organizations".

19. Following a discussion of the Parties participating at CPM-2, a decision was taken to continue and enhance cooperation and coherence with the Montreal Protocol. In that decision the Committee:

“agreed to continue to cooperate and coordinate with the Ozone Secretariat on issues of common concern with a view to identifying and promoting activities that would benefit and enhance the coherence of the two international agreements. Such activities include:

- Inviting experts from the Montreal Protocol to IPPC meetings that are relevant to methyl bromide use in accordance with the relevant rules and procedures;
- Exploring ways to coordinate data collection and information gathering on methyl bromide use for quarantine purposes and alternatives to this use;
- Updating the "Recommendation on the future of MB for phytosanitary purposes" as adopted by ICPM-5 (2003) in consultation with experts and submitting it to the SPTA for consideration at its next meeting and aiming at possible adoption at CPM-3.

encouraged contracting parties to promote best fumigation practices, recapture technology and development and use of alternatives to methyl bromide in phytosanitary measures where this is technically and economically feasible.”

20. Further discussions were held between representatives of the Ozone Secretariat and the International Plant Protection Convention secretariat on the implementation of the decision taken by CPM-2 and decision XVIII/14 of the Parties to the Montreal Protocol. It was agreed that:

(a) Detailed information would be exchanged on the mandate, work and membership of the technical bodies under both international agreements to enable the participation of common experts who would participate in the work of both International Plant Protection Convention and Montreal Protocol technical bodies;

(b) A joint brochure would be published by the two secretariats on issues of common interest on methyl bromide uses for quarantine and pre-shipment purposes, in time for the Nineteenth Meeting of the Parties;

(c) Further work would be carried out on joint data collection and database establishment on methyl bromide uses for phytosanitary purposes and alternatives thereto, and the International Plant Protection Convention secretariat would request the national plant protection organizations to provide relevant data as a follow-up to the decision of CPM-2;

(d) Draft standards, one of which is on alternatives to methyl bromide, would be made public on 20 June 2007 for 100-day review through the International Plant Protection Convention website and the Ozone Secretariat would inform Parties to the Montreal Protocol to enable comments to be submitted through their national plant protection organizations;

(e) The International Plant Protection Convention secretariat would keep the Ozone Secretariat informed regarding the updating of the document referred to in the decision of CPM-2, entitled "Recommendation on the future of MB for phytosanitary purposes", which was expected to start in June this year.

21. The elements of the actions mentioned above will be implemented in consultation with the Quarantine and Pre-Shipment Task Force under the Montreal Protocol, taking into account the request of the Parties in paragraph 2 of decision XVIII/14.

Annex

Quarantine and pre-shipment logic diagram to assist in deciding whether a treatment should be categorized as a “quarantine” treatment, a “pre-shipment” treatment or neither

