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

Eighth meeting
Copenhagen, 17-20 November 1992

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

I. INTRODUCTION

1. The eighth meeting of the Open-ended Working Group of the Parties to the Montreal Protocol was held at the Bella Center, Copenhagen, from 17 to 18 November 1992.

II. ORGANIZATIONAL MATTERS

A. *Opening of the meeting*

2. Mr. Per Stig Moller, Minister for the Environment of Denmark, welcomed the participants on behalf of the Government and people of Denmark.

3. He stated that the protection of the ozone layer was one of the most important aspects of the protection of the global environment and that, despite some initial scepticism, the Montreal Protocol had proved itself to be a flexible, dynamic and efficient legal instrument. In particular, the review mechanism that had been included in the Protocol made it possible to take prompt action when new scientific and technological information became available. Thus, two years previously, in London, the Protocol had been updated to reflect what had then been scientifically advisable and technically achievable.

4. Since then, it had become known that the depletion of the ozone layer was occurring at a much more alarming rate than ever before, the probability of harmful effects on human health and the environment had been further confirmed and, for the first time, an increase in surface UV radiation had actually been measured in connection with the depletion of the ozone layer.

5. Many countries, both developed and developing, had made immense efforts to meet the requirements of the Montreal Protocol. Industry worldwide had risen to the challenge and discovered that, in its own interest, it needed to be environmentally sound and generate "green" growth. The result had been that technological development had occurred much more rapidly than had been expected two years previously and it had become possible to respond quickly and tighten the phase-out schedule considerably.

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6. The Fourth Meeting of the Parties to the Montreal Protocol had thus an

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opportunity to put into practice the fine words of the United Nations Conference on Environment and Development concerning the precautionary principle and the need for anticipatory action. It had also to decide on controls on the transitional substances and other chemicals, such as methyl bromide, that depleted the ozone layer.

7. Having given an account of his country's activities and achievements in protecting the ozone layer, he expressed the hope that progress would be made towards significantly faster phase-outs of the controlled substances; that all countries, without exception, would accept such an accelerated phase-out schedule; that concrete control measures for the ozone-depleting substances as yet uncontrolled by the Protocol would be developed and that the fine example set by the Protocol regarding financial and technological cooperation with the developing countries would be maintained.

8. Dr. Mostafa K. Tolba, Executive Director of the United Nations Environment Programme, said that the eighth meeting of the Open-ended Working Group was expected to arrive at agreed recommendations on the Montreal Protocol and to submit them - through the forthcoming Preparatory Meeting - to the Fourth Meeting of the Parties for its consideration. A number of issues required further negotiation. They were:

(a) Adjustments to the phase-out schedule for substances already controlled by the Protocol, as amended in London;

(b) Controls for HCFCs, HBFCs and methyl bromide;

(c) The phase-out schedule for Parties operating under Article 5, paragraph 1;

(d) The budget for the Protocol and its Fund secretariat; and

(e) The establishment of the Multilateral Fund and the size of contributions for 1993, 1994 and 1995 or, at very least, for 1993 and 1994.

9. At its seventh meeting, the Open-ended Working Group had made considerable progress regarding the proposals for control measures on the substances of Annexes A and B of the Protocol, i.e. CFCs, halons, carbon tetrachloride and methyl chloroform. There was unanimity regarding the need for a 100 per cent phase-out of CFCs by the end of 1995, and near unanimity concerning a 75 per cent reduction by the end of 1993. A similar consensus existed on the phase-out of methyl chloroform and carbon tetrachloride by the end of 1995, with an intermediate reduction of 50 per cent by the end of 1993 for methyl chloroform and an 85 per cent reduction by the end of 1994 for carbon tetrachloride.

10. On the control of halons, the Working Group had before it the report of the Halons Technical Options Committee, which showed that there was a considerable stock of halons in the world and that, with appropriate recycling and a system for managing an international halon bank, it should be possible to phase out those substances completely by the end of 1993. That was a very significant advance on the London adjustment. There might, however, be some essential uses for halons that needed to be specified.

11. His note (UNEP/OzL.Pro.4/10) contained some detailed proposals concerning methyl bromide. They were very modest and could be implemented by all. Quarantine fumigation uses would be exempted and it was proposed that, by the year 2000, production and consumption would be reduced by 25 per cent only, a signal that the substance was a dangerous ozone-depleting one and was on the way out.

12. He was aware of the fact that some people considered those proposals

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very inadequate, since alternatives were available for most uses of methyl bromide. He was also aware that others regarded any control of methyl bromide as a threat to international trade. The approach adopted, as in the past, was to respect the feelings of both groups and to convince them by means of further scientific and technical information. After the proposed detailed study had been carried out, he felt sure that the current sceptics would voluntarily propose further controls in a few years' time.

13. In the same note (UNEP/OzL.Pro.4/10), he also dealt with some other decisions which needed to be taken by the Parties to support the control measures suggested. The most important of them concerned the recovery, reclamation and recycling of controlled substances. He urged their favourable consideration.

14. The Working Group had ended its seventh meeting without reaching any conclusions with regard to HCFCs and HBFCs. On the basis of subsequent expert advice, he had formulated some proposals in his note on the subject (UNEP/OzL.Pro.4/10/Add.1). Some would regard those proposals as very modest, thinking as they did that HCFCs should be eliminated soon. Others, however, had yet to be convinced of such a possibility. He, himself, had always taken the view that it was better to make an immediate beginning through consensus rather than postpone decisions because of differences of opinion.

15. Another vital issue was the phase-out schedule for Parties operating under Article 5, paragraph 1. Experts from developing countries had given reasons for their proposal that any measures subsequent to the London Meeting should apply to them only after the review provided for in Article 5, paragraph 8, had taken place. Both their position and his own response thereto were contained in paragraph 13 of his note (UNEP/OzL.Pro.4/10).

16. Because of the written commitments in the Protocol regarding assistance to the developing countries, those countries were not hesitating to accept further obligations, and many of their country programmes revealed their determination to phase out much more rapidly than was likely to be required by the adjustments and amendment adopted by the Fourth Meeting of the Parties. Any hesitation they might show arose solely from a lack of experience with the financial mechanism and the transfer of technology. He thus appealed to the developed countries to accept that position in good faith and to the developing countries to bear in mind that the contributions to the Fund had so far been made on the assumption that the phase-out schedule for developing countries would be much faster than stipulated in the London adjustments and Amendment.

17. The Parties had, at the London Meeting, decided that they would establish the Fund at their first meeting following the entry into force of the London Amendment and would transfer any money left in the Interim Fund to the established Fund. It was vital that that should be done. A deal had been struck in London, a delicate compromise that could not be allowed to fall apart. There was, indeed, a draft resolution submitted by France and Italy calling, *inter alia*, for a review of the methods of functioning of the Fund. That did not clash with the London decision but complemented it. There must, however, be no postponement of the establishment of the Fund.

B. Attendance

18. The meeting was attended by delegations from the following Contracting Parties: Argentina, Australia, Austria, Bangladesh, Belarus, Belgium, Botswana, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, Chile, China, Costa Rica, Cuba, Denmark, Ecuador, Egypt, European Community, Finland,

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France, Gambia, Germany, Ghana, Greece, Guatemala, Guinea, Hungary, Iceland, India, Indonesia, Ireland, Israel, Italy, Japan, Jordan, Kenya, Libyan Arab Jamahiriya, Luxembourg, Malawi, Malaysia, Malta, Mauritius, Mexico, Netherlands, New Zealand, Norway, Panama, Philippines, Poland, Portugal, Republic of Korea, Russian Federation, Singapore, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Thailand, Togo, Tunisia, Turkey, Uganda, United Kingdom, United States of America, Uruguay, Venezuela and Yugoslavia.

19. Delegations of the following countries, not Contracting Parties, also participated: Chad, Colombia, Dominican Republic, Guyana, Iraq, Kuwait, Laos, Mauritania, Morocco, Mozambique, Niger, Oman, Pakistan, Peru, Senegal, Solomon Islands, Sudan, Swaziland, United Republic of Tanzania, Yemen and Zimbabwe.

20. Representatives of the following United Nations bodies and specialized agencies also participated in the meeting: United Nations Development Programme (UNDP), United Nations Environment Programme (UNEP), World Bank and the World Meteorological Organization (WMO).

21. The following intergovernmental organizations were also represented: International Institute of Refrigeration (IIR) and the Nordic Council.

22. The following other organizations were represented: Air Conditioning and Refrigeration Institute, Alliance for Responsible CFC Policy, Allied Signal Inc., American Society of Heating, Refrigeration and Air-Conditioning Engineers (ASHRAE), Association of Home Appliance Manufacturers (AHAM), Association of Methyl Bromide Industry Japan (AMBIJ), Australian Conservation Foundation, CFC Alliance, Chamber of Mines Research Organisation, Confederation of Danish Industries, CSERGE/LSE, DOWELANCO, Dansk Naturfredning, Dupont Brazil (ABINEE), Dupont Canada Inc., Dupont International S.A. (Switzerland), Eurobrom, European Chlorinated Solvents (ECSA), European Council of Federations of the Chemical Industry (CEFIC), Friends of the Earth, Greenpeace, Halogenated Solvents Industry Alliance (HSIA), Halon Alternatives Research Corporation, Halozone Recycling Inc., Halozone Technologies Inc. (Canada), Hankook Shinwha Co. Ltd. (Republic of Korea), Industrial Technology Research Institute (ITRI), Institute for Energy and Environmental Research (IEER), International Chamber of Commerce (ICC), International Council of Environmental Law (ICEL), International Pharmaceutical Aerosol Consortium (IPAC), Japan Association for Hygiene of Chlorinated Solvents (JAHCS), Japan Automobile Manufacturers' Association (JAMA), Japan Electrical Manufacturers' Association (JEMA), Japan Flon Gas Association (JFGA), Japan Industrial Conference for Ozone Layer Protection (JICOP), Japan Refrigeration and Air Conditioning Industry Association (JRAIA), MC Solvents Co. Ltd., Methyl Bromide Global Coalition, Motor Vehicle Manufacturers' Association Inc. (MVMA/ICIA), MTI, Program for Alternative Fluorocarbon Toxicology Testing (PAFT), Refrigeration Industry Board (RIB), Schering Plough Corporation, Shanti Consultants Ltd., Toshiba Corporation and the Worldwatch Institute.

23. Three delegations made statements concerning attendance and these are to be found in the annex to the present report.

C. Organization of the meeting

Adoption of the agenda

24. The meeting adopted the following agenda, as contained in document UNEP/OzL.Pro/WG.1/8/1.

1. Opening of the meeting.

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2. Organization of the meeting:
Adoption of the agenda
3. Substantive matters:
Further consideration of the proposals on adjustments and amendment to the Montreal Protocol.
4. Other matters.
5. Adoption of the report.
6. Closure of the meeting.

III. SUBSTANTIVE MATTERS

Further consideration of the proposals on adjustments and amendment to the Montreal Protocol

25. The Chairman suggested that the Working Group should base its discussion mainly on the report of the Legal Drafting Group (UNEP/OzL.Pro.4/2) and on the annex to the report of the Working Group on its sixth meeting (UNEP/OzL.Pro/WG.I/6/5), which contained proposals for adjustments and amendments proposed by the Parties and communicated to all the Parties before the six-month deadline. Reference might also be made to the notes by the Executive Director on further adjustments and amendment to the Montreal Protocol (UNEP/OzL.Pro.4/10) and on amendment to the Montreal Protocol with respect to HBFCs and HCFCs (UNEP/OzL.Pro.4/10/Add.1).

26. He reminded the Working Group that the purpose of the discussion was to identify probable outcomes for each substantive subject, on the basis of which the Legal Drafting Group could prepare its second report.

ADJUSTMENTS

Article 2A: CFCs

27. After a discussion, based on the proposal in the Executive Director's note (UNEP/OzL.Pro.4/10, para. 7) that there should be a 100 per cent phase-out of production and consumption by 1996 and a 75 per cent reduction in production and consumption by 1994, during which both higher and lower percentages for the interim reduction were suggested and the advisability of making the interim reduction mandatory was questioned, it was decided to refer the Executive Director's proposal to the Legal Drafting Group, but with the figure of 75 per cent in square brackets. One delegation reserved its position subject to a decision on the larger question of the application of any measures beyond those approved at the Second Meeting of the Parties in London to Parties operating under Article 5, paragraph 1. The same reservation would apply to all new control measures.

Article 2B: Halons

28. After a discussion, during which a number of delegations supported the Executive Director's proposal in paragraph 8 of his note while some expressed doubts concerning it and others stressed the relevance of the essential uses procedure, the Working Group decided to refer the proposal to the Legal Drafting Group.

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Article 2C: Other Fully Halogenated CFCs

29. On the Chairman's suggestion, the Working Group asked the Legal Drafting Group to examine Article 2C in parallel with Article 2A.

Article 2D: Carbon Tetrachloride

30. The Working Group decided to refer to the Legal Drafting Group the Executive Director's proposal in paragraph 9 of his note.

Article 2E: 1,1,1-Trichloroethane (Methyl Chloroform)

31. The Working Group decided to refer to the Legal Drafting Group the Executive Director's proposal in paragraph 10 of his note.

AMENDMENTS

Article 1, paragraph 4

32. The Chairman said, and the Working Group agreed, that, since the paragraph was being discussed in connection with a possible decision, there was no need to refer it to the Legal Drafting Group.

Article 1, paragraph 10

33. The Chairman said, and the Working Group agreed, that since the issue of essential uses was being considered through a decision, there was no need to refer it to the Legal Drafting Group.

Article 2, paragraph 5

34. On the understanding that the paragraphs would depend on the decision to be taken regarding newly controlled substances, the Working Group referred the subject to the Legal Drafting Group.

Article 2, paragraph 5 bis

35. The Working Group referred the paragraph to the Legal Drafting Group, requesting it to take into account the proposal made by one delegation that the measure should be limited to HCFCs and to receiving countries not operating under Article 5, paragraph 1, whose consumption in 1989 was less than 0.25 kg per capita.

Article 2, paragraph 13

36. The Chairman said, and the Working Group agreed, that the paragraph was being discussed in connection with a possible decision. There was thus no need to refer it to the Legal Drafting Group.

Articles 2A and 2B and Articles 2C to 2E

37. The Chairman said that the decisions regarding essential uses would be taken by the Parties. However, some reference would be needed in the Protocol. The Working Group decided to ask the Legal Drafting Group to prepare a suitable text for the purpose.

Article 2F: Hydrochlorofluorocarbons [and Hydrobromofluorocarbons]

38. The Working Group based its discussion of the matter on the Executive Director's note (UNEP/OzL.Pro.4/10/Add.1).

Paragraph 3

39. The Working Group decided to transmit that paragraph to the Legal Drafting Group.

Paragraph 4

40. Some delegations said that elimination of the grace period for Parties operating under Article 5, paragraph 1, would set a precedent which was not acceptable and that any measures beyond those decided at the Second Meeting of the Parties should not be made applicable to Parties operating under Article 5, paragraph 1, until the review by the Meeting of the Parties in 1995.

41. Another delegation pointed out that HBFCs were not being used at present in the developing countries and therefore there was no need for a grace period for developing countries for HBFCs.

42. The meeting agreed that the substance of paragraph 10 of the document should be inserted in place of paragraph 4 for HBFCs with provisions relating to base levels and reduction schedules deleted.

Paragraph 5

43. Some delegations expressed the view that the paragraph should not be incorporated into the Protocol as it was not specific enough with regard to allowed uses of HCFCs. Other delegations said that the regulations on application could be considered in 1994 after consideration of the report of the Technology and Economic Assessment Panel on the issue. One delegation said that the wording was not specific enough. Some delegations stated, however, that the current wording of the paragraph was appropriate.

44. A number of delegations objected to the application of the paragraph to Parties operating under Article 5, paragraph 1. They pointed out that the paragraph introduced a new element proposing to regulate application through the Protocol which was not mentioned anywhere in the original proposal, where "consumption" was proposed. The scope was clearly defined in the Protocol. They considered that that represented a new proposal which should not be considered by the Meeting. The Chairman pointed out that the proposal's provisions reflected earlier proposals which had been introduced more than six months before the Meeting. He suggested that the concern on the application of that paragraph might be met by prefacing the text by the words "Each Party shall endeavour to ensure that ...". A number of delegations disagreed with the Chairman's interpretation of the status of the proposal.

45. After some discussion, the Working Group decided to insert the words that the Chairman had suggested, placing the words "endeavour to" in square brackets; to place the entire paragraph within square brackets; and to refer it to the Legal Drafting Group. Several delegations disagreed with the Chairman's interpretation. They drew attention to the implied trade restrictions and registered their opposition to the inclusion of paragraph 5.

Paragraph 6

46. After a detailed discussion, the meeting decided to communicate the following to the Legal Drafting Group as a basis for drafting a relevant provision: control should be limited to consumption and not include production; 1989 could be the base year; both HCFC consumption and a percentage of CFC consumption should be included in the base consumption level; the percentages could be (2 - 3) per cent.

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Paragraphs 7, 8 and 9

47. Some delegations felt that the timetable suggested by the Executive Director for the phase-out was too long while others thought it was too short. A provision for servicing existing equipment beyond the phase-out dates was suggested by one delegation.

48. At the request of a delegation, Mr. Watson, Co-Chairman of the Ozone Scientific Assessment Panel, explained that the differences in chlorine loading into the atmosphere as a result of adoption of the different proposals would be very small and insignificant from the point of view of protection of the ozone layer.

49. Despite the establishment of a small informal working group to consider paragraphs 7 to 9, no consensus proved possible. The Working Group decided, after some discussion, to refer the paragraphs to the Legal Drafting Group without dates or percentage figures, their place being taken by blank square brackets. It urged the informal working group to continue its consideration of the issue, in the hope that it might yet produce some useful results.

50. The small working group had subsequently produced dates and figures for insertion in paragraphs 7 and 8. One delegation was unable to accept them on the grounds that the dates were too early, and asked that they, and the corresponding percentages, be placed in square brackets. Another delegation agreed, but for different reasons. The Working Group decided that the figures in question should be placed in square brackets and the Legal Drafting Group so informed.

51. The small working group submitted three options for the phase-out of HCFC consumption. The Working Group decided to transmit them to the Legal Drafting Group.

Paragraph 10

52. The Working Group decided to transmit the paragraph to the Legal Drafting Group. It also asked the Legal Drafting Group to insert a specific reference to all relevant information available, including the assessments under Article 6 and the 1995 review.

Paragraph 11

53. The Working Group decided to transmit the paragraph to the Legal Drafting Group, drawing its attention to the fact that the reference to an Annex might have implications and inviting the Group to make any appropriate comments.

Paragraph 12

54. The Working Group decided to place the paragraph in square brackets and refer it to the Legal Drafting Group.

55. The observer for a non-governmental organization said that it was inappropriate to look at the relative significance of HCFCs with long-term ODPs with respect to their impact on the ozone layer when the risk to humans and ecosystems was at its greatest in the short term. Short-term ODPs, of about 10 years, would more effectively reflect the real hazard. If the 2020 phase-out date for HCFCs was adopted, much, if not all, of the gains from tightening the controls on CFCs would be eliminated.

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Annex C

56. The Co-Chairman of the Ozone Scientific Assessment Panel stated that the number of HCFCs and HBFCs, including the isomers, amounted to more than 500. The Working Group, therefore, discussed ways of simplifying the list of controlled substances and, following the discussion, established an informal subcommittee to consider the issue.

Methyl bromide

57. Many delegations emphasized the commercial importance of methyl bromide, the dependence of millions of farmers in developing countries on methyl bromide for food crop protection as well as the non-availability of substitutes for quarantine fumigation of agricultural exports and opposed the inclusion of methyl bromide as a controlled substance until further studies had been carried out. Some delegations, supporting the inclusion of methyl bromide, expressed the view that the base year should be an historical year: 1991.

58. The Working Group decided to ask the Legal Drafting Group to draft language on methyl bromide containing the elements in the proposal made by the Executive Director (UNEP/OzL.Pro.4/10), with the provisions concerning the schedule and base year for freezing and reducing production and consumption in brackets and 1991 as the base year. The provisions as a whole should be in square brackets.

59. The Co-Chairman of the Ozone Scientific Assessment Panel stated that the current best estimate of the ODP for methyl bromide, as identified in the interim UNEP Assessment Report, was 0.7 and that the ODP for methyl bromide was less certain than for any substance currently listed for control.

60. The Working Group also asked the Legal Drafting Group to include the clarification that quarantine uses included pre-shipment quarantine fumigation and that the 25 per cent reduction represented a reduction in non-quarantine uses. In addition, the Working Group asked the Legal Drafting Group to list methyl bromide in a separate annex and that the annex as a whole should be placed in square brackets.

61. The Legal Drafting Group was also asked to include an option that reflected the position of some countries that no controls were needed for methyl bromide.

62. Finally, one delegation asked that the reduction by the year 2000 should be 25 to 100 per cent, placed in square brackets.

63. The observer for a non-governmental organization said that it was most disturbing that so many delegations were clearly unwilling to include methyl bromide in the amended Protocol. Methyl bromide was a potent and proven ozone destroyer and, if no action were taken, would be responsible for 15 per cent of total global ozone depletion by the year 2000. The Fourth Meeting of the Parties would be regarded by the general public as a failure if it did not set dates for the phase-out of all known ozone destroyers, including methyl bromide.

Article 4

64. The Working Group discussed whether trade controls should apply to the newly-included substances. There was no proposal to exempt HBFCs from the trade provision.

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65. The Working Group requested the Legal Drafting Group to prepare a text on trade controls for methyl bromide similar to the text it was preparing on trade controls for HCFCs and to place the text in square brackets.

Article 5, paragraph 1

66. A number of delegations stated that the intention of the first part of the proposed amendment was unclear, several of them wondering whether it had originally been addressed to what had, since the coming into force of the London Amendment, become Article 5, paragraph 3. One delegation said that, if the amendment related to paragraph 1 as it currently existed, its effect would be to classify all developing countries as Parties operating under Article 5, paragraph 1. Other delegations pointed out that, since production by Parties operating under Article 5, paragraph 1, was currently uncontrolled, other than indirectly by the consumption cap, the result of the amendment would be to restrict production rather than encourage it. The first part of the amendment was withdrawn by its sponsors.

67. After some discussion, the Working Group recommended that a draft decision should be adopted calling for a review of the supply of controlled substances to countries operating under Article 5, paragraph 1, during the grace and phase-out periods. The Open-ended Working Group could consider the report of the Executive Committee of the Interim Multilateral Fund on meeting the needs of Article 5 Parties (UNEP/OzL.Pro/Ex.Com/8/25 and Add.1) and make a recommendation on whether or not the Protocol should be amended so as to guarantee supplies from and to countries operating under Article 5, paragraph 1.

68. The Working Group decided, with respect to the second part of the amendment, that the wording used in paragraph 10 of the Executive Director's note (UNEP/OzL.Pro.4/10/Add.1) with relation to HCFCs should also be applied to HBFCs and methyl bromide; that all adjustments should be placed in square brackets and that no amendments would be placed in square brackets unless a separate decision had been taken concerning them; and that its decision should be conveyed to the Legal Drafting Group.

Article 5, paragraph 8

69. The Working Group decided that the decision recorded in the preceding paragraph made the amendment redundant.

Article 5 bis: Special Situation of Countries with Economies in Transition

70. Several delegates strongly supported the proposed new article. Some others, while aware of the difficulties it was designed to remedy, were unconvinced of its necessity or suitability.

71. A number of delegations took exception to the term "economies in transition" because it had never been defined and because it would establish an unacceptable third category of Parties to the Protocol. The amendment was, consequently, withdrawn by its sponsor in favour of the proposal - originally by the Netherlands - contained in the annex to the report of the sixth meeting of the Open-ended Working Group (UNEP/OzL.Pro/WG.1/6/5). The consequential amendment to Article 10, paragraph 6, was also withdrawn.

Article 7, paragraph 5

72. The Working Group decided to refer to the Legal Drafting Group the text of the proposed amendment.

Article 9 bis: Recovery of Controlled Substances and Annex E

73. Since the amendment was likely to be replaced by a draft decision, the Working Group decided that there was no need to refer to it to the Legal Drafting Group.

Article 10, paragraph 1

74. The Working Group requested the Legal Drafting Group to prepare a revised text of paragraph 1 of Article 10 to enable countries operating under Article 5, paragraph 1, to comply with control measures on HCFCs, HBFCs and methyl bromide, if and when controls on those substances were adopted. The Legal Drafting Group was also requested to prepare wording that ensured that the procedure was implemented automatically so that countries operating under Article 5, paragraph 1, could utilize the resources of the Fund for those substances immediately any controls were adopted.

75. One delegation, which was not present during discussion of the paragraph, later expressed its opposition to the text and stated its intention to raise the matter again at a later stage.

76. The Working Group decided to remove the square brackets in Article 3, paragraph 1, of the amendment procedure.

Proposals for adjustments and amendments submitted by Parties to the Montreal Protocol at the sixth meeting of the Open-ended Working Group, too late for consideration by the Legal Drafting Group (UNEP/OzL.Pro/WG.1/6/5, Annex)

77. The Chairman pointed out that all the proposals in question had been disposed of in one way or another except the Netherlands' proposal - since withdrawn but reintroduced by two new sponsors - to add a new article 5 bis to the Protocol.

Article 5 bis: Special Situation of Certain Countries

78. Several delegations objected that the status of the proposal was contested and legally unclear. Others thought it unnecessary, since the situation was covered by the proposed non-compliance procedure. After some discussion, the proposal was withdrawn.

IV. OTHER MATTERS

79. There were no other matters.

V. ADOPTION OF THE REPORT

80. The Working Group adopted the present report, on the basis of the draft report contained in UNEP/OzL.Pro/WG.1/8/L.1/Rev.1, on 20 November 1992.

VI. CLOSURE OF THE MEETING

81. After an exchange of courtesies, the Chairman declared the meeting closed on 20 November 1992.

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Annex

QUESTION OF YUGOSLAVIA

*Statement by the representative of the United Kingdom
on behalf of the European Community **

"As we have already made clear on a number of occasions, the European Community and its member States do not accept that the Federal Republic of Yugoslavia is the automatic continuation of the Socialist Federal Republic of Yugoslavia.

"In this context, we take note of General Assembly resolution 47/1, adopted on 22 September 1992, in which the Assembly considered that the Federal Republic of Yugoslavia (Serbia and Montenegro) cannot continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations, and decided that the Federal Republic of Yugoslavia (Serbia and Montenegro) should therefore apply to join the United Nations and shall not participate in the work of the General Assembly.

"The European Community and its member States have also noted the United Nations Legal Counsel's advice on the applicability of the General Assembly resolution to other United Nations bodies. We regard General Assembly resolution 47/1 as a model for action in the specialized agencies and other United Nations bodies in due course, as appropriate."

Statement by the representative of Austria

"The Austrian Government has repeatedly voiced its opinion in different international fora that there is no legal basis for an automatic continuation of the legal existence of the former Socialist Federal Republic of Yugoslavia by the so-called Federal Republic of Yugoslavia, which therefore cannot be considered to continue the Yugoslav membership of the former Yugoslavia in the United Nations. Austria therefore fully supported the resolutions adopted by the Security Council on 19 September and the General Assembly on 22 September which, *inter alia*, decided that the Federal Republic of Yugoslavia (Serbia and Montenegro) should apply for membership of the United Nations and that the Federal Republic of Yugoslavia should not participate in the work of the General Assembly. Resolution 47/1, according to the legal interpretation of the United Nations Legal Counsel, also applies to entities directly under the auspices of the United Nations General Assembly such as UNEP.

"As this is a meeting under the auspices of UNEP, we do not recognize the participation of the delegation of the Federal Republic of Yugoslavia in the Open-ended Working Group as valid. We would also like to emphasize that the participation of a representative of the so-called Federal Republic of Yugoslavia (Serbia and Montenegro) in this meeting or any future meeting of this committee does not constitute in any way a form of recognition by Austria or a prejudice to any future decision or action the Austrian Government or any international organization may take in the future."

* This statement was supported by the delegations of Australia, Malaysia, Norway and the United States of America.

Statement by the representative of Yugoslavia

"We are sorry about the statements of some countries raising the question of the status of the Federal Republic of Yugoslavia. We would like to stress that this approach as well as the imposed sanctions against Yugoslavia are essentially contrary to the basic premises of both the Vienna Convention and the Montreal Protocol.

"This conference is devoted to the protection of the ozone layer, a question of global character, and raising political issues does not help in reaching the goals of this meeting.

"Yugoslavia respects the resolutions of the United Nations. Yugoslavia does not participate, we hope temporarily, in the meetings of the General Assembly, but Yugoslavia is not expelled from the United Nations and its bodies and works intensively to fulfil their goals.

"At the same time we would like to give our positive contribution to the work of this conference, aware of the fact that it is of global interest and in our own interest."

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