

Distr.  
GENERAL

UNEP/OzL.Pro/WG.1/9/2  
3 May 1993

ORIGINAL: ENGLISH

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

Ninth meeting  
Geneva, 30 August - 3 September 1993

*Report of the Secretariat*

1. The Open-Ended Working Group of the Parties is to consider issues on the agenda as communicated to the Parties in document UNEP/OzL.Pro/WG.1/9/1 and make recommendations to the next meeting of the Parties.

*Agenda items 3 (a) and (b): Presentation of significant developments with regard to the ozone layer*

2. In Decision IV/13 (4) of the Fourth Meeting of the Parties to the Montreal Protocol, the Assessment Panels were urged to meet once a year so as to enable their co-chairpersons to bring to the notice of the meetings of the Parties to the Montreal Protocol any significant developments which, in their opinion, deserved such notice. The co-chairpersons of the panels in question will make brief presentations before the Working Group on the scientific and environmental effects assessments of the ozone layer.

*Agenda items 3 (c): Technical progress in reducing the use and emissions of controlled substances.*

3. In its Decision IV/13 (2), the Fourth Meeting of the Parties requested the Technology and Economic Assessment Panel and its Technical and Economic Options Committees to report annually to the Open-Ended Working Group of the Parties to the Montreal Protocol on the technical progress achieved in reducing the use and emissions of controlled substances and to assess the use of alternatives, particularly with regard to their direct and indirect global warming effects. The report of the Panel will be communicated to the Parties well before the meeting of the Working Group. The co-chairpersons of the Panel will present the report to the meeting.

*Agenda item 3 (d) (i): Essential uses of halons*

4. The adjustments adopted by the Fourth Meeting of the Parties to the Protocol were notified by the Depository of the Protocol on 22 March 1993 and will enter into force on 22 September 1993.

5. In accordance with these adjustments, all controlled substances in Annexes A and B, apart from halons, are to be phased out by 1996 by Parties not operating under Article 5, while halons are to be phased out by 1994, save to the extent that the Parties decide to permit the level of production or consumption needed to satisfy uses agreed by them to be essential. In their Decision IV/25, the Parties decided on the criteria for, and the procedure to be used in assessing, an essential use for the purposes of control measures under Article 2 of the Protocol.

6. Each Party was requested to nominate, in accordance with the criteria approved, any use it considered "essential" to the Secretariat at least six months in the case of halons and nine months in the case of other substances prior to each meeting of the Parties that was to reach a decision on that issue. The fifth meeting in 1993 has to decide on such essential uses for halons, while the sixth meeting in 1994 will decide on the essential uses of other controlled substances. Consequently, the Secretariat requested the Parties to nominate the essential uses for halons by 15 May 1993 and for other substances by 30 September 1993, on the assumption that the 1994 meeting would be held in July 1994. All nominations received by the Secretariat from the Parties with regard to halons have been referred to the Halons Technical Options Committee and the Technology and Economic Assessment Panel, which have been requested to develop, in accordance with the criteria in paragraphs 1(a) and 1(b) of Decision IV/25, recommendations on the nominations, after such consultations with experts as might be required. The report of the Committee and Panel will shortly be dispatched to all the Governments. The Open-Ended Working Group of the Parties may wish to consider the report of the Technology and Economic Assessment Panel and make its recommendations on halons to the fifth meeting of the Parties.

*Agenda item 3 (d) (ii): International recycled  
halon bank management*

7. Decision IV/26 of the Fourth Meeting of the Parties urged the Parties *inter alia*, to encourage the recovery, recycling and reclamation of halons in order to meet the needs of all the Parties, particularly those operating under Article 5, paragraph 1, of the Protocol. The decision also requested the Technology and Economic Assessment Panel (Halon Technical Options Committee) to report on a number of aspects of recycled halon bank management programmes and the Open-Ended Working Group of the Parties is to consider the report of the Committee and submit recommendations to the fifth meeting of the Parties. The report of the Panel will shortly be circulated to all the Governments. The Open-Ended Working Group may wish to consider this report and make appropriate recommendations to the fifth meeting of the Parties.

*Agenda item 3 (e): Feasibility of banning or restricting  
import of products produced with, but not containing  
controlled substances in Annex A of the Protocol:*

8. Article 4, paragraph 4, of the Montreal Protocol provides that, by 1 January 1994, the Parties shall determine the feasibility of banning or restricting the import from States not party to the Protocol, of products produced with, but not containing, controlled substances in Annex A. If determined feasible, the Parties shall, following the procedures in Article 10 of the Convention, annex a list of such products. Parties that do not object to the annex prepared in accordance with those procedures shall ban, within one year of the annex having become effective, the import of those products from any State not party to the Protocol.

9. By Decision IV/27 of the Fourth Meeting of the Parties, the Technology and Economic Assessment Panel was requested to study the feasibility, in accordance with Article 4, paragraph 4, of the Protocol, of banning or restricting, from States not party to the Protocol, the import of products produced with, but not containing, controlled substances in Annex A of the Protocol and to report its findings to the Secretariat with the view to their consideration at the fifth meeting of the Parties. The report of the Panel on this issue will be circulated shortly to all the Governments. The Open-Ended Working Group may wish to consider this report and make appropriate recommendations thereon to the fifth meeting of the Parties.

*Agenda item 3 (f) (i) and (ii): Report of the Executive  
Committee of the Multilateral Fund*

10. By its Decision IV/18, the Fourth Meeting of the Parties requested the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol to submit to the Open-Ended Working Group of the Parties, at its next meeting, a report on some aspects of the Fund and also requested the Working Group to assess the Executive Committee's report and make recommendations, as appropriate, to the fifth meeting of the Parties. The Meeting of the Parties also requested the Open-Ended Working Group to make a recommendation to the fifth meeting of the Parties on the level of replenishment for the Multilateral Fund for the period 1994-1996, in the light of:

- (a) Decisions taken by the Fourth Meeting of the Parties on the issue;
- (b) The report prepared by the Executive Committee;
- (c) Other assessments of the level of resources needed for the period 1994-1996 available to the Open-Ended Working Group; and
- (d) The status of commitments and disbursements of the Financial Mechanism.

At its ninth meeting held at Montreal on 8-10 March 1993, the Executive Committee of the Multilateral Fund considered the issues referred to it by the Fourth Meeting of the Parties and its report, to be finalized at its tenth meeting scheduled for Montreal from 28-30 June 1993, will be communicated to all the Governments shortly after that meeting.

11. UNEP commissioned Dr. A. Markandya of Metro-economic Consultants to update his earlier estimates of the incremental costs to Article 5 Parties in the light of recent technological developments and the proposals for further adjustments and amendments. His report was circulated to participants in the seventh meeting of the Open-Ended Working Group. The report estimates the total for 1994-2010 as \$2.416 billion and the cost for 1994-96 as \$416 million. The non-investment costs have not been calculated.

12. A draft paper by the United States Environmental Protection Agency, circulated to the Open-Ended Working Group, at its seventh meeting, calculated the requirements for 1994-96 as follows:

	<i>\$ million</i>
Fund Secretariat	6.0
UNEP work programme	6.0
Institutional strengthening	4.0
Country programme updates	1.0
Investments projects	467.0
	-----
	484.0

The Open-Ended Working Group may wish to consider these documents and make appropriate recommendations to the Fifth Meeting of the Parties.

*Bromide projects*

13. Methyl bromide was listed as a controlled substance (Annex E to the Protocol) by the Amendment to the Protocol adopted at the Fourth Meeting of the Parties in November 1992 at Copenhagen (Copenhagen Amendment). By this Amendment, the consumption of methyl bromide is to be frozen from 1995 onwards at the 1991 level. Production may exceed that limit by up to 10 per cent of 1991 production to satisfy the basic domestic needs of the Parties operating under Article 5, paragraph 1. The Fourth Meeting of the Parties also resolved that a decision should be taken at their seventh meeting in 1995 on a general control scheme for methyl bromide on the basis of further assessments by the Scientific and Technology and Economic Assessment Panels.

14. The Copenhagen Amendment also modified Article 5, paragraph 1, so that any future amendments to the adjustments or amendments adopted at the Second Meeting of the Parties in London on 29 June 1990 will apply to the Parties operating under that paragraph after the review provided for in paragraph 8 of the said Article has taken place and will be based on the conclusions of that review. The amendment also added a paragraph 1 bis to Article 5 whereby the Parties are to decide, by 1 January 1996, on the basis of the review under Article 5, paragraph 8, and other information, the base year, initial levels and control schedules for consumption and production of methyl bromide that will apply to Parties operating under Article 5, paragraph 1.

15. The Copenhagen Amendment will enter into force on 1 January 1994 if 20 Parties have ratified it by that date. Otherwise the Amendment will enter into force on the ninetieth day following the date on which the twentieth ratification is received. The Amendment was formally communicated by the Depository of the Protocol to all the Governments on 22 March 1993.

16. At the ninth meeting of the Executive Committee of the Multilateral Fund, the Committee considered a request by UNDP to fund a project in China for the collection of methyl bromide information. Some members took the view that the project should not be funded because of the terms of the Protocol as decided by the Fourth Meeting of the Parties and that priority should be given to the phase-out of CFCs, while some others considered that funding should be provided for the collection of information on methyl bromide. Other members indicated that their countries would explore informally opportunities for supporting methyl bromide data collection and would report back to the Executive Committee at its next meeting. The Executive Committee suggested that the Open-Ended Working Group of the Parties should consider the issue and recommend a decision for adoption by the Parties at their fifth meeting.

17. The reservation concerning the funding of the collection of information on methyl bromide expressed by some members of the Executive Committee was probably due to the following factors:

(a) Methyl bromide will not be a controlled substance for those Parties that do not ratify the Copenhagen Amendment, and

(b) For the Parties operating under Article 5, paragraph 1, which ratify the amendment, the control measures regarding methyl bromide will be decided on 1 January 1996 only.

18. The options in this regard are as follows:

(a) No funding to be supplied for any project related to methyl bromide for any Party operating under Article 5, paragraph 1, until it becomes clear that the Party is committed to implementing control measures for methyl bromide;

(b) Funding the collection of information only on the consumption of methyl bromide by Parties operating under Article 5, paragraph 1, to the exclusion of projects which go beyond such data collection, e.g. training to reduce the use of methyl bromide, recycling of methyl bromide, etc.; or

(c) Funding all projects relating to methyl bromide in all the Parties operating under Article 5, since those Parties may, under Article 2 paragraph 11, adopt more stringent measures than those required by the Protocol.

*Agenda item 3 (g): Contributions to the Multilateral  
Fund from developing countries classified as not  
operating under Article 5*

19. According to Article 10, paragraph 6, of the amended Montreal Protocol on the financial mechanism, the Multilateral Fund is to be financed by contributions from Parties not operating under Article 5, paragraph 1. According to Article 5, paragraph 1, developing country Parties whose consumption of controlled substances on the date of entry into force of the Protocol for it, or any time thereafter until 1 January 1999, is below the limits specified in Article 5 are eligible for classification as operating under Article 5. The list of developing countries is set out in Decision 12 E of the First Meeting of the Parties. Subsequently, the Third Meeting of the Parties classified Turkey as a developing country also. A developing country Party may, for example, be classified one year as *not* operating under Article 5, paragraph 1, but can, in a subsequent year, operate under the Article if its consumption falls below the ceiling prescribed in Article 5.

20. The basis for classifying a developing country as operating under Article 5 is the data submitted by that country under Article 7 of the Protocol. However, some Parties are late in submitting their data. Moreover, the closing date for the submission of data for a year is the end of the ninth month of the following year. Thus, for example, a Party which ratified the Protocol in 1990 has to report its data for 1990 by 30 September 1991 only. However, it is necessary to classify a developing country as operating, or not operating, under Article 5 immediately after its ratification of the Protocol, for the purposes of either assigning the contribution due from that Party to the Multilateral Fund, if it is deemed not to be operating under Article 5, or to enable it to prepare projects for funding by the Multilateral Fund, if it is deemed to be operating under Article 5. The Second Meeting of the Parties instructed the Secretariat to publish an updated list of developing countries which were considered to be operating under Article 5, paragraph 1, on the basis of complete or incomplete data submission or estimated data (Decision II/10). The Secretariat makes such a classification every month for the new Parties who ratify during the month in question, on the basis of the information available, and communicates it to all the Parties. According to the classification of November 1992, for example, Bahrain, Republic of Korea, Malta, Singapore and United Arab Emirates are developing countries classified as not operating under Article 5, paragraph 1.

21. The developing country Parties classified as not operating under Article 5 are included in the list of contributors to the Multilateral Fund

/...

by each annual meeting of the Parties and their contributions for that year, and for two subsequent years also, are decided. This has given rise to some anomalies. When such developing country Parties subsequently furnish data which prove that they are Parties operating under Article 5 in the case of the same year for which the Meeting of the Parties has prescribed a contribution by them to the Multilateral Fund, they assert that they need not contribute to the Multilateral Fund. For example, Bahrain ratified the Protocol in 1990 but did not submit its data for 1991 until 20 February 1993, when it was revealed as operating under Article 5, paragraph 1. On the basis of the initial data estimates submitted by Bahrain in 1990, the country was classified as not operating under Article 5 and the classification was made known to the Third Meeting of the Parties in June 1991. The Secretariat reported to that Meeting that Malta, Singapore, United Arab Emirates, Bahrain and Jordan were to be classified as not operating under Article 5. Jordan protested that the data it had reported earlier, on which that decision was based, was not correct. The Parties gave Jordan time to present its correct data. No other country disputed the classification. The Third Meeting, therefore, included Malta, United Arab Emirates, Bahrain and Singapore in the list of contributors to the Multilateral Fund for the years 1991, 1992 and 1993. The situation was repeated at the Fourth Meeting in 1992 and they were included in the list of contributions for the years 1993 and 1994. If such countries are reclassified as operating under Article 5, paragraph 1, for a particular year, as in the case of Bahrain for 1991, it may not be logical to insist that they contribute to the Multilateral Fund for that year. Moreover, it will not be possible to collect the amount due from Bahrain for past years from other Parties not operating under Article 5.

22. At present, the developing countries not operating under Article 5 are the Republic of Korea, United Arab Emirates, Malta, Singapore, Kuwait and Saudi Arabia. Their control schedules oblige them to phase-out the consumption of controlled substances of Annexes A and B by 1 January 1996.

This implies that they may very soon reduce their consumption below the limits specified in Article 5 and, once they have done so, they will be eligible for classification under Article 5. However, this information will not be available to the Secretariat until nine months after the end of that year and, in the meantime, the annual meetings of the parties will have assigned to them contributions to the Multilateral Fund. There will thus be more cases in the future like that of Bahrain. The Working Group may wish to decide what course of action is to be adopted in such cases. The suggestion is made that there is no other option than to write off the amounts assessed against such Parties for those years in which their consumption was below the limits specified in Article 5. The loss to the Fund may not be significant, as the percentages collected from the countries in question are small, as shown in the following table:

PARTY	UN SCALE OF ASSESSMENTS IN FORCE AS AT 25 NOVEMBER 1992	UN SCALE OF ASSESSMENTS FOR 1993-1994	PERCENTAGES ADJUSTED TO EXCLUDE NON CONTRIBUTORS	ADJUSTED PERCENTAGES WITH 25% CEILING CONSIDERED	1991 CONTRIBUTION BY PARTIES (\$US)	1992 CONTRIBUTION BY PARTIES (\$US)	1993 CONTRIBUTION BY PARTIES (\$US)	1994 CONTRIBUTION BY PARTIES (\$US)
Bahrain	0.03%	0.03%	0.03%	0.04%	12 553	16 904	37 971	39 971
Korea, Republic of	0.69%	0.69%	0.69%	0.81%			919 330	919 330
Malta	0.01%	0.01%	0.01%	0.01%	6 276	8 452	13 324	13 324
Singapore	0.12%	0.12%	0.12%	0.14%	69 041	92 973	159 883	159 883
United Arab Emirates	0.21%	0.21%	0.21%	0.25%	119 253	160 590	279 796	279 796

-----

/...