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**Implementation Committee under the
Non-compliance procedure for the
Montreal Protocol**

Thirty-second meeting
Geneva, 17 and 18 July 2004

**Report of the Implementation Committee under the
Non-Compliance Procedure for the Montreal Protocol on the
work of its thirty-second meeting**

I. Opening of the meeting

1. The thirty-second meeting of the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol was held at the Geneva International Conference Centre on 17 and 18 July 2004.

A. Opening statements

2. The President of the Committee, Mr Hassen Hannachi (Tunisia) opened the meeting at 10.15 a.m. on 17 July 2004, and welcomed the members of the Committee, the representatives of the Multilateral Fund and in particular its new Chief Officer, Ms. Maria Nolan, and representatives of the implementing agencies and of those Parties present at the invitation of the Committee.

3. Mr. Marco González, Executive Secretary of the Ozone Secretariat, added his welcome to that of the President. He underlined the importance of the work of the Implementation Committee in ensuring the effectiveness of the Montreal Protocol. The meeting would be considering production and consumption data reported for 2002 and 2003 together with information on progress made by Parties with meeting their requirements for data reporting. Three Parties had put forward requests for changes in their baseline data. The Committee would also be examining information on compliance with the control measures – a total of 11 possible cases of non-compliance with the control measures had been identified – and on commitments made by Parties in response to earlier decisions of the Committee. Finally, the Committee would consider information on licensing systems and on obligations of Parties to the Beijing Amendment under Article 4 of the Protocol with respect to hydrochlorofluorocarbons (HCFCs), based on information received by the Secretariat pursuant to decision XV/3. He urged the participants to address the issues on the agenda in accordance with the non-compliance procedure and also to be guided by past practice of the Implementation Committee in making their recommendations.



B. Attendance

4. The following members of the Committee attended the meeting: Australia, Belize, Ethiopia, Honduras, Italy, Jordan, Maldives, Russian Federation and Tunisia. Lithuania was unable to attend.
5. The representatives of Israel, Lebanon, Nepal, Philippines, St. Vincent and the Grenadines and Thailand also attended at the invitation of the Committee.
6. The meeting was also attended by representatives of the Secretariat of the Multilateral Fund for the Implementation of the Montreal Protocol, and the implementing agencies of the Fund – the United Nations Environment Programme (UNEP), the United Nations Industrial Development Organization (UNIDO), the United Nations Development Programme (UNDP) and the World Bank. The full list of participants is contained in the annex to the present report.

II. Adoption of the agenda and organization of work

7. The Committee adopted the following agenda, based on the provisional agenda circulated as document UNEP/OzL.Pro/ImpCom/32/1, with the addition of Israel, Uruguay and Guatemala to the list of countries under item 6 (e) (Review of compliance with specific decisions by individual Parties) and the reordering of items, as follows:
 1. Opening of the meeting.
 2. Adoption of the agenda and organization of work.
 3. Report of the Secretariat on data and consideration of compliance issues.
 4. Statements by:
 - (a) Fund Secretariat;
 - (b) Implementing agencies (the United Nations Development Programme (UNDP), the United Nations Environment Programme (UNEP), the United Nations Industrial Development Organization (UNIDO) and the World Bank), on the activities carried out in Article 5 Parties and Parties with economies in transition to facilitate the implementation of and compliance with the Montreal Protocol;
 - (c) Global Environment Facility (GEF).
 5. Information on compliance by Parties present at the invitation of the Implementation Committee.
 6. Review of the status of non-compliance with specific decisions of the Parties and recommendations of the Implementation Committee:
 - (a) Non-compliance with data-reporting requirements for one or more of the base years (1986, 1989 or 1991) for one or more groups of controlled substances under Article 7 of the Montreal Protocol by Parties operating under Article 5 of the Protocol, concerning Cape Verde, Haiti, Libyan Arab Jamahiriya, Mali, Nauru and Sao Tome and Principe (decision XV/16);
 - (b) Non-compliance with data reporting requirements under Article 7 of the Montreal Protocol by Parties temporarily classified as operating under Article 5 of the Protocol, concerning Cape Verde and Sao Tome and Principe (decision XV/17);
 - (c) Non-compliance with data reporting requirements for the purpose of establishing baselines under Article 5, paragraphs 3 and 8 *ter* (d) (decision XV/18), concerning:

- (i) Annex A substances: Cape Verde and Sao Tome and Principe;
Annex B substances: Cape Verde, Djibouti, Grenada, Liberia and Sao Tome and Principe;
 - (ii) Annex E substance: Cape Verde, India, Mali and Sao Tome and Principe;
- (d) Potential non-compliance with consumption of substances in Annex A, Groups I and II (CFCs and halons), Annex C, Group II (hydrobromofluorocarbons) and Annex E (methyl bromide) (decisions XV/21, XV/22 and XV/25):
- (i) Potential non-compliance with consumption of Annex A, Group I substances (CFCs): data for the control period 2001 and/or 2002: Dominica, Haiti, Saint Kitts and Nevis, and Sierra Leone (decision XV/21);
 - (ii) Potential non-compliance with consumption of Annex A, Group II substances (halons) in 2002: Malaysia, Mexico, Nigeria and Pakistan (decision XV/22);
 - (iii) Potential non-compliance with consumption of Annex E substances (methyl bromide) in 2002: Barbados, Egypt, Paraguay, Philippines, Saint Kitts and Nevis, and Thailand (decision XV/25);
- (e) Review of compliance with specific decisions by individual Parties:
- (i) Azerbaijan (decision XV/28);
 - (ii) Cameroon (decision XV/32);
 - (iii) Democratic Republic of Congo (decision XV/33);
 - (iv) Kazakhstan (decision XIII/19);
 - (v) Nepal (decision XV/39);
 - (vi) Qatar (decision XV/41);
 - (vii) Saint Vincent and the Grenadines (decision XV/42);
 - (viii) Tajikistan (decision XIII/20);
 - (ix) Uganda (decision XV/43);
 - (x) Viet Nam (decision XV/45);
 - (x) Israel (decision XV/24);
 - (xi) Uruguay (decision XV/44);
 - (xii) Guatemala (decision XV/34);
- (f) Review of any information on requests for change of baseline data by some Parties (decision XV/19);
7. Consideration of information received by the Secretariat pursuant to decision XV/3 (Obligations of Parties to the Beijing Amendment under Article 4 of the Montreal Protocol with respect to hydrochlorofluorocarbons) of the Fifteenth Meeting of the Parties.

8. Consideration of the report of the Secretariat on Parties that have established licensing systems (Article 4B, paragraph 4, of the Montreal Protocol).
9. Other matters.
10. Adoption of the report of the meeting.
11. Closure of the meeting.

III. Report of the Secretariat on data and consideration of compliance issues

8. The representative of the Ozone Secretariat presented the report of the Secretariat on information provided by Parties in accordance with Article 7 of the Montreal Protocol, as contained in document UNEP/OzL.Pro/ImpCom/32/3, focusing mostly on non-compliance issues arising from the report. The document contained information on compliance both with data reporting requirements (for base years, baselines and annual data) and with the control measures for 2002 and 2003. The presentation updated the figures contained in the document to take account of recent data reports by Parties.

9. As at 7 July 2004, seven Parties had still not reported complete base year data: Armenia, Bosnia and Herzegovina, Libyan Arab Jamahiriya, Cape Verde, Cook Islands, Niue and Sao Tome and Principe; the last four of those had never reported any data of any kind and might perhaps be identified as such in recommendations of the Committee. The same four Parties were the only remaining Parties that had not yet reported baseline data. Three Parties, Lebanon, Philippines and Thailand, were requesting changes in their baseline data for methyl bromide.

10. With regard to annual data reporting, 172 Parties (92 per cent of the total) had fully complied with all their data reporting requirements under Article 7, paragraphs 3 and 4. That was a significant increase from the previous year, when only 143 Parties (78 per cent) had reported by November 2003. In all, 176 Parties (95 per cent) had reported annual data for 2002 and 101 Parties (54 per cent) annual data for 2003; again, those were significant increases on comparable figures in the previous year. A total of 14 Parties had not reported annual data for one or more years.

11. With regard to compliance with control measures, tables 4, 5 and 6 of document UNEP/OzL.Pro/ImpCom/32/3 on information provided by the Parties in accordance with Article 7 of the Montreal Protocol contained details of deviations from the control measures, together with explanations, where available, for the excess consumption or production. After taking account of those explanations, one non-Article 5 Party (Azerbaijan) and 10 Article 5 Parties (Congo, Guatemala, Guinea Bissau, Honduras, Marshall Islands, Oman, Pakistan, Palau, Saint Vincent and the Grenadines and Somalia) appeared to be in a state of non-compliance with the control measures for 2003. Of those Parties that had submitted their 2002 data too late to be assessed for compliance in 2003, four Parties (Lesotho, Mozambique, Somalia and Suriname) appeared to be in a state of non-compliance with the control measures for 2002.

12. The President thanked the Secretariat for its presentation and reminded Committee members that the information presented would be considered further under agenda item 6.

13. Subsequently, the representative of the Secretariat also drew the Committee's attention to document UNEP/OzL.Pro/ImpCom/32/2, which summarized the status of implementation of previous decisions on non-compliance. Recalling the earlier discussion on data reporting (see paragraphs 8-12 above), the Committee observed that four Parties, including two that had only recently ratified the Montreal Protocol, had not yet reported any data to the Secretariat. Rather than list them all in several draft decisions, the Committee decided to prepare two draft decisions identifying all the data that needed to be submitted from the Parties concerned.

14. The standard draft decision urging all Parties to report data promptly would also be prepared, and would include a note of appreciation for all the Parties that had reported data by 30 June this year. The Committee also hoped that the eight Parties that had still to report data from particular years would do so before its next meeting.

15. The Committee *agreed* to forward the following draft decision to the Sixteenth Meeting of the Parties for its consideration and possible adoption:

Decision XVI/– Data and information provided by the Parties in accordance with Article 7 of the Montreal Protocol

1. To note that the implementation of the Protocol by those Parties that have reported data is satisfactory;
2. To note with appreciation that [XX] Parties out of the 184 that should have reported data for 2003 have now done so, but that [XX] have still not reported to date;
3. To note also that lack of timely data reporting by Parties impedes effective monitoring and assessment of Parties' compliance with their obligations under the Montreal Protocol;
4. To recall decision XV/15, which encouraged the Parties to forward data on consumption and production to the Secretariat as soon as the figures were available, and preferably by 30 June each year, in order to enable the Implementation Committee to make recommendations in good time before the Meeting of the Parties;
5. To note further with appreciation that [XX] Parties out of the 184 that could have reported data by 30 June 2004 succeeded in meeting that deadline;
6. To urge Parties to continue to report consumption and production data as soon as the figures are available, and preferably by 30 June each year;

Recommendation 32/1

16. With respect to data reporting requirements under Articles 5 and 7 by Parties temporarily classified as operating under Article 5, the Committee also *agreed*:
 - (a) To recall decisions XV/16, XV/17 and XV/18 of the Fifteenth Meeting of the Parties, on non-compliance with data reporting requirements for base years, on Parties temporarily classified as operating under Article 5, and on Parties in non-compliance with data reporting requirements for the establishment of baselines for Annexes A, B and E to the Protocol;
 - (b) To note that the following Parties, temporarily classified as operating under Article 5, which were included in these decisions, have still not reported any consumption or production data to the Secretariat: Cape Verde and Sao Tome and Principe;
 - (c) To request the Secretariat to ask those Parties to submit the data no later than 30 September 2004;
 - (d) To forward, in the absence of submission of the data, the following draft decision to the Sixteenth Meeting of the Parties for approval:

Decision XVI/– Non-compliance with data reporting requirements under Articles 5 and 7 by Parties temporarily classified as operating under Article 5 of the Montreal Protocol

1. To recall decisions XV/16, XV/17 and XV/18 of the Fifteenth Meeting of the Parties, on non compliance with data reporting requirements for base years, on Parties temporarily classified as operating under Article 5, and on Parties in non-compliance with data reporting requirements for the establishment of baselines for Annexes A, B and E to the Protocol;
2. To note with appreciation that most Parties listed in those decisions, namely China, Djibouti, Grenada, Guinea Bissau, Haiti, Honduras, India, Liberia, Mali, Marshall Islands, Micronesia (Federated States of), Nauru, Nigeria, Somalia and Suriname, have now submitted data for all these purposes;

3. To note nevertheless that the following Parties, temporarily classified as operating under Article 5, which were included in these decisions, have still not reported any consumption or production data to the Secretariat: Cape Verde and Sao Tome and Principe;

4. To note that that situation places those Parties in non-compliance with their data reporting obligations under the Montreal Protocol;

5. To urge those Parties to work together with the United Nations Environment Programme under the Compliance Assistance Programme and with other implementing agencies of the Multilateral Fund to report data as quickly as possible to the Secretariat, and to request the Implementation Committee to review the situation of those Parties with respect to data reporting at its next meeting;

Recommendation 32/2

17. In considering the status of data reporting by Parties recently ratifying the Montreal Protocol, the Committee further *agreed*:

(a) To note that the following Parties, temporarily classified as operating under Article 5, have not reported any consumption or production data to the Secretariat: Cook Islands and Niue;

(b) To acknowledge that both those Parties have only recently ratified the Montreal Protocol and also to note that neither of them has as yet received assistance with data collection from the Multilateral Fund through the implementing agencies;

(c) To request the Secretariat to ask those Parties to submit the data no later than 30 September 2004;

(d) To forward, in the absence of submission of the data, the following draft decision to the Sixteenth Meeting of the Parties for approval:

Decision XVI/– Non-compliance with data reporting requirements under Articles 5 and 7 of the Montreal Protocol by Parties recently ratifying the Montreal Protocol

1. To note that the following Parties, temporarily classified as operating under Article 5, have not reported any consumption or production data to the Secretariat: Cook Islands and Niue;

2. To note that that situation places those Parties in non-compliance with their data reporting obligations under the Montreal Protocol;

3. To acknowledge that both those Parties have only recently ratified the Montreal Protocol and also to note that neither of them has as yet received assistance with data collection from the Multilateral Fund through the implementing agencies;

4. To urge those Parties to work together with the United Nations Environment Programme under the Compliance Assistance Programme and with other implementing agencies of the Multilateral Fund to report data as quickly as possible to the Secretariat, and to request the Implementation Committee to review the situation of those Parties with respect to data reporting at its next meeting;

Recommendation 32/3

18. The Committee *agreed*:

(a) To note that Albania, Angola, Grenada, Indonesia, Libyan Arab Jamahiriya, Micronesia (Federated States of), Monaco and Turkmenistan have not yet reported some or all of the data for one or more of the years 1999, 2000, 2001 and 2002, as required under Article 7, paragraphs 3 and 4, of the Montreal Protocol;

(b) To request the Secretariat to ask those Parties to submit the necessary data no later than 30 September 2004;

(c) To review the situation with regard to those Parties at its thirty-third meeting.

Recommendation 32/4

19. The Committee also recalled the latest data reports contained in document UNEP/OzL.Pro/ImpCom/32/3, which showed that a number of Parties had reported data for 2003, or had submitted late data for 2002, suggesting that they were in non-compliance in one or both of those years for the control measures for CFCs, halons, methyl chloroform or methyl bromide. The Committee decided to adopt the approach which it had taken on previous occasions, seeking explanations from the Parties concerned and, if appropriate, plans of action to return to compliance. The relevant implementing agencies would be sent copies of the letters that the Secretariat would write to the Parties.

20. One member of the Committee wondered whether it would be better to wait until all Parties had reported 2003 data before beginning this process. Other members observed, however, that there was no guarantee that all Parties would have reported 2003 data by the Committee's next meeting, and also that dealing with Parties in non-compliance promptly was helpful for them, enabling explanations to be considered and plans of actions to be approved within a single year. The Committee had on occasion been accused of acting too slowly, and the increase in the number of Parties reporting data earlier than the 30 September deadline should be welcomed as giving an opportunity to the Committee to speed up its procedures. Committee members also suggested that the process could be accelerated even further if Parties were given a deadline of 30 September to provide explanations for their non-compliance, and were also invited to attend the next meeting of the Committee, if necessary.

21. It was also pointed out that in some cases the excess consumption was at a very low level, of just a few kilograms, and the idea of a cut-off level below which no action needed to be taken was floated. Members of the Committee disagreed, however, pointing out that even low levels of consumption might be important for some low-volume-consuming countries, and that in any case the schedules set out in the Montreal Protocol were quite specific, and could not allow any deviation without further amendment.

22. The Committee also *agreed*:

(a) To note that the following Article 5 Parties have reported annual data for CFCs for 2003 which are above their requirement for a freeze in consumption: Guinea Bissau and Palau;

(b) To request the Secretariat to ask those Parties to submit an explanation for the excess consumption no later than 30 September 2004, and to invite them to submit, where relevant, a plan of action with time-specific benchmarks to ensure a prompt return to compliance;

(c) To invite Guinea Bissau and Palau, if necessary, to send representatives to the thirty-third meeting of the Committee to discuss the matter;

(d) To forward, in the absence of an explanation of the excess consumption, the following draft decision to the Sixteenth Meeting of the Parties for approval:

Decision XVI/– Potential non-compliance with consumption of Annex A, group I, ozone-depleting substances (CFCs) by Article 5 Parties for 2003, and requests for plans of action

1. To note that the following Article 5 Parties have reported annual data for Annex A, group I, ozone-depleting substances (CFCs) for 2003 which are above their requirement for a freeze in consumption: Guinea Bissau and Palau. In the absence of further clarification, those Parties are presumed to be in non-compliance with the control measures under the Protocol;

2. To request those Parties, as a matter of urgency, to provide for consideration at the next meeting of the Implementation Committee explanations for their excess consumption, together with plans of action with time-specific benchmarks to ensure a prompt return to compliance. Those Parties may wish to consider including in their plans of action the establishment of import quotas to freeze imports at baseline levels and support the phase-out schedule, a ban on imports of ODS-using equipment, and policy and regulatory instruments that will ensure progress in achieving the phase-out;

3. To monitor closely the progress of those Parties with regard to the phase-out of CFCs. To the degree that those Parties are working towards and meeting the specific Protocol control measures, they should continue to be treated in the same manner as Parties in good standing. In that regard, those Parties should continue to receive international assistance to enable them to meet their commitments in accordance with item A of the indicative list of measures that may be taken by a Meeting of the Parties in respect of non-compliance. Through the present decision, however, the Meeting of the Parties cautions those Parties, in accordance with item B of the indicative list of measures, that, in the event that any Party fails to return to compliance in a timely manner, the Meeting of the Parties will consider measures consistent with item C of the indicative list of measures. Those measures may include the possibility of actions available under Article 4, such as ensuring that the supply of CFCs (that is, the subject of non-compliance) is ceased and that exporting Parties are not contributing to a continuing situation of non-compliance;

Recommendation 32/5

23. The Committee *agreed* further:

(a) To note that the following Article 5 Parties have reported annual data for halons for 2002 or 2003 which are above their requirement for a freeze in consumption: Lesotho and Somalia;

(b) To request the Secretariat to ask those Parties to submit an explanation for the excess consumption no later than 30 September 2004, and to invite them to submit, where relevant, a plan of action with time-specific benchmarks to ensure a prompt return to compliance;

(c) To invite Lesotho and Somalia, if necessary, to send representatives to the thirty-third meeting of the Committee to discuss the matter;

(d) To forward, in the absence of an explanation of the excess consumption, the following draft decision to the Sixteenth Meeting of the Parties for approval:

Decision XVI/– Potential non-compliance with consumption of Annex A, group II, ozone-depleting substances (halons) by Article 5 Parties in 2002 and in 2003, and requests for plans of action

1. To note that Somalia has reported annual data for Annex A, group II, ozone-depleting substances (halons) for both 2002 and 2003 which are above its requirement for a freeze in consumption;

2. To note also that Lesotho has reported annual data for halons for 2002 which are above its requirement for a freeze in consumption, and has not yet reported data for 2003;

3. To note further that, in the absence of further clarification, those Parties are presumed to be in non-compliance with the control measures under the Protocol;

4. To request those Parties, as a matter of urgency, to provide for consideration at the next meeting of the Implementation Committee explanations for their excess consumption, together with plans of action with time-specific benchmarks to ensure a prompt return to compliance. Those Parties may wish to consider including in their plans of action the establishment of import quotas to freeze imports at baseline levels and support the phase-out schedule, a ban on imports of ODS-using equipment, and policy and regulatory instruments that will ensure progress in achieving the phase-out;

5. To monitor closely the progress of those Parties with regard to the phase-out of halons. To the degree that those Parties are working towards and meeting the specific Protocol control measures, they should continue to be treated in the same manner as Parties in good standing. In that regard, those Parties should continue to receive international assistance to enable them to meet their commitments in accordance with item A of the indicative list of measures that may be taken by a Meeting of the Parties in respect of non-compliance. Through the present decision, however, the Meeting of the Parties cautions those Parties, in accordance with item B of the indicative list of measures, that, in the event that any Party fails to return to compliance in a timely manner the Meeting of the Parties will consider measures consistent with item C of the indicative list of measures. Those measures may include the possibility of actions available under Article 4, such as ensuring that the supply of halons (that is, the subject of non-compliance) is ceased and that exporting Parties are not contributing to a continuing situation of non-compliance;

Recommendation 32/6

24. The Committee *agreed*:

(a) To note that the following Article 5 Parties have reported annual data for methyl chloroform for 2003 which are above their requirement for a freeze in consumption: the Marshall Islands and Oman;

(b) To request the Secretariat to ask those Parties to submit an explanation for the excess consumption no later than 30 September 2004, and to invite them to submit, where relevant, a plan of action with time-specific benchmarks to ensure a prompt return to compliance;

(c) To invite Marshall Islands and Oman, if necessary, to send representatives to the thirty-third meeting of the Committee to discuss the matter;

(d) To forward, in the absence of an explanation of the excess consumption, the following draft decision to the Sixteenth Meeting of the Parties for approval:

Decision XVI/– Potential non-compliance with consumption of the controlled substance in Annex B, group III (methyl chloroform) by Article 5 Parties in 2003, and requests for plans of action

1. To note that the following Article 5 Parties have reported annual data for the controlled substance in Annex B, group III (methyl chloroform), for 2003 which is above their requirement for a freeze in consumption: Marshall Islands and Oman. In the absence of further clarification, those Parties are presumed to be in non-compliance with the control measures under the Protocol;

2. To request those Parties, as a matter of urgency, to provide for consideration at the next meeting of the Implementation Committee explanations for their excess consumption, together with plans of action with time-specific benchmarks to ensure a prompt return to compliance. Those Parties may wish to consider including in their plans of action the establishment of import quotas to freeze imports at baseline levels and support the phase-out schedule, a ban on imports of ODS-using equipment, and policy and regulatory instruments that will ensure progress in achieving the phase-out;

3. To monitor closely the progress of those Parties with regard to the phase-out of methyl chloroform. To the degree that those Parties are working towards and meeting the specific Protocol control measures, they should continue to be treated in the same manner as Parties in good standing. In that regard, those Parties should continue to receive international assistance to enable them to meet their commitments in accordance with item A of the indicative list of measures that may be taken by a Meeting of the Parties in respect of non-compliance. Through the present decision, however, the Meeting of the Parties cautions those Parties, in accordance with item B of the indicative list of measures, that, in the event that any Party fails to return to compliance in a timely manner the Meeting of the Parties will consider measures consistent with item C of the indicative list of measures. Those measures may include the possibility of actions available under Article 4, such as ensuring that the supply of methyl chloroform (that is, the subject of non-compliance) is ceased and that exporting Parties are not contributing to a continuing situation of non-compliance;

Recommendation 32/7

25. The Committee also *agreed*:

(a) To note that the following Article 5 Parties have reported annual data for methyl bromide for 2002 which are above its requirement for a freeze in consumption and has not yet reported data for 2003: Mozambique;

(b) To request the Secretariat to ask those Parties to submit an explanation for the excess consumption no later than 30 September 2004, and to invite them to submit, where relevant, a plan of action with time-specific benchmarks to ensure a prompt return to compliance;

(c) To invite the Congo and Mozambique, if necessary, to send representatives to the thirty-third meeting of the Committee to discuss the matter;

(d) To forward, in the absence of an explanation of the excess consumption, the following draft decision to the Sixteenth Meeting of the Parties for approval:

Decision XVI/– Potential non-compliance with consumption of the ozone-depleting substance in Annex E (methyl bromide) by Article 5 Parties in 2002 and/or 2003, and requests for plans of action

1. To note that Congo has reported annual data for the controlled substance in Annex E (methyl bromide) for 2003 which are above its requirement for a freeze in consumption;

2. To note that Mozambique has reported annual data for methyl bromide for 2002 that are above its requirement for a freeze in consumption, and has not yet reported data for 2003;

3. To note further that, in the absence of further clarification, those Parties are presumed to be in non-compliance with the control measures under the Protocol;

4. To request those Parties, as a matter of urgency, to provide for consideration at the next meeting of the Implementation Committee explanations for their excess consumption, together with plans of action with time-specific benchmarks to ensure a prompt return to compliance. Those Parties may wish to consider including in their plans of action the establishment of import quotas to freeze imports at baseline levels and support the phase-out schedule, a ban on imports of ODS-using equipment, and policy and regulatory instruments that will ensure progress in achieving the phase-out;

5. To monitor closely the progress of those Parties with regard to the phase-out of methyl bromide. To the degree that those Parties are working towards and meeting the specific Protocol control measures, they should continue to be treated in the same manner as Parties in good standing. In that regard, those Parties should continue to receive international assistance to enable them to meet their commitments in accordance with item A of the indicative list of

measures that may be taken by a Meeting of the Parties in respect of non-compliance. Through the present decision, however, the Meeting of the Parties cautions those Parties, in accordance with item B of the indicative list of measures, that, in the event that any Party fails to return to compliance in a timely manner the Meeting of the Parties will consider measures consistent with item C of the indicative list of measures. Those measures may include the possibility of actions available under Article 4, such as ensuring that the supply of methyl bromide (that is, the subject of non-compliance) is ceased and that exporting Parties are not contributing to a continuing situation of non-compliance;

Recommendation 32/8

IV. Statements by the Fund Secretariat, implementing agencies and the Global Environment Facility on the activities carried out in Article 5 Parties and Parties with economies in transition to facilitate the implementation of and compliance with the Montreal Protocol

26. In accordance with the arrangement agreed on by the Committee, the Secretariat of the Multilateral Fund and the implementing agencies gave a combined statement on the activities carried out in Article 5 Parties and Parties with economies in transition to facilitate the implementation of and compliance with the Montreal Protocol. The statement was delivered by two representatives of the Fund Secretariat.

27. The first representative of the Fund Secretariat reported on Executive Committee actions relative to compliance since its forty-first meeting and the three-year (2004–2006) compliance-oriented model that identified phase out needs of Article 5 Parties to meet control measures since the forty-first meeting, the Executive Committee had approved the 2004–2006 business plans of the implementing agencies on the basis of that model. Those plans included projects and activities to enable all Article 5 Parties to achieve compliance with the Protocol's 2005–2007 control measures.

28. Reviewing the Committee's actions relating to outstanding compliance activities in the 2004 business plans, she reported that 179 projects and 22 new multi-year agreements remained to be submitted to the Committee at its forty-fourth meeting, to be held in November in Prague, and relayed the Committee's encouragement to agencies to give priority to projects intended for countries at risk of non-compliance, including Albania, Bosnia and Herzegovina, Cape Verde, Dominica, Nauru, Nigeria, Pakistan, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Sao Tome and Principe, Somalia, Thailand and Uganda. She also informed the meeting that, as of December 2003, in projects currently under implementation, 36,399 ODP tonnes in the consumption sector and 7,914 tonnes in the production sector still remained to be phased out and listed the remaining tonnage of ozone-depleting substance consumption that still had to be addressed by the Committee, broken down by substances, which totalled 18,220 ODP tonnes. She pointed out that those figures were based on consumption and sectoral data submitted to the Executive Committee and could be regarded as maximums. Finally, she noted the shift in the Committee's focus from project approval to implementation and compliance and its decision to increase funding for institutional strengthening projects for very-low-volume-consuming countries, in particular, to enable them to engage full-time ozone officers, a step that should greatly enhance their prospects of compliance.

29. The second representative of the Fund Secretariat reviewed the Committee's report on the status of and prospects for compliance, contained in its document UNEP/OzL.Pro/ExCom/43/6/Rev.1 and Corr.1, which contained data from the implementation of country programmes submitted by 1 May of each year, considered the impact of approved projects, agreement and plans, forecast when projects were to be completed in the light of information from the implementing agencies and donors as at 31 December 2003 and provided information on remaining activities in the 2003 business plans. In that context, he listed 2003 data that the Fund Secretariat had received but had not yet been reported to the Ozone Secretariat, which suggested, among other things, that Bosnia and Herzegovina and Qatar might now be in compliance, while 2003 consumption of CFCs by the Democratic People's Republic of Korea and of methyl bromide by Thailand was above the freeze level.

30. On the issue of the 2005 control measures for carbon tetrachloride, he explained that some 30 countries might need additional assistance in that regard: ten had already received assistance from the

Fund, six had projects in the 2004 business plan and the remaining countries had consumption of less than 12 ODP tonnes. Of the five countries that might need assistance to achieve the 2003 freeze in methyl chloroform consumption, three had already received assistance from the Fund, one had a project in the business plan and the remaining country had consumption of 2.8 ODP tonnes. With regard to the issue of non-reporting of data, he provided additional information regarding certain Parties, which would be submitted to the Executive Committee at its forty-fourth meeting.

31. Finally, he provided information supplementing the data in the Secretariat's report contained in document UNEP/OzL.Pro/ImpCom/32/3, relating to changes in baseline data (table 3 of the Secretariat report); deviation from consumption reduction schedules by Article 5 Parties in 2003 (table 6); and late reporting by Article 5 Parties of consumption data (table 7). With regard to requested baseline changes, he noted, among other things, that Lebanon had met the conditions for the requested change in its methyl bromide baseline and that the World Bank would be submitting methyl bromide phase-out projects for the Philippines and Thailand to the Executive Committee at its forty-fourth meeting.

32. Where a deviation from consumption reduction schedules was concerned, he noted that no information had been received on Belize with regard to Annex B substances; that Congo was part of a regional methyl bromide technical assistance and regulatory support project under implementation by UNDP, expected to enable Congo to achieve its 20 per cent reduction in 2005; that UNIDO was implementing a methyl bromide phase out project for Guatemala, whose consumption was now below the 880 tonnes agreed in its action plan; that a UNDP/UNEP-implemented refrigerant management plan and country programme had been approved for Guinea Bissau to enable it to comply with control measures through 2007; that, with corrections to an error in its data reporting, which had been conveyed to the Ozone Secretariat, Haiti should now be in compliance with the halon freeze; that measures had been taken to tackle the issue of methyl chloroform data in the Marshall Islands; that no information had been received on methyl chloroform from Oman; that, in Somalia, data on halon consumption had not been available at the time of the development of the 2004 business plans, but additional assistance could be made available and that, to that end, UNEP was preparing a national phase-out strategy and a refrigerant management plan but that those projects were delayed for security reasons; that no information had been received from Uganda with regard to Annex B substances but that, with regard to methyl bromide, UNIDO was implementing an agreement that should enable the country to achieve the 2007 reductions; and, finally, that the World Bank was preparing a phase-out project for Viet Nam that would collect information on its methyl bromide phase-out needs.

33. With regard to late reporting of 2002 consumption data, he said that a total phase-out management plan had been approved for Lesotho and was currently under implementation by Germany; that, in Mozambique, part of the regional methyl bromide project under UNDP implementation had started to increase, owing to an influx of new tobacco farmers into the region. Where Somalia was concerned, the same security considerations applied as for its halon data, in table 7 of document UNEP/OzL.Pro/ImpCom/32/3; and in the case of Suriname, 2003 country programme implementation data indicated that the country had returned to compliance. Furthermore, it had received funding for a refrigerant management plan.

34. Following that presentation, the representative of UNDP, who was also speaking on behalf of GEF, further clarified that the projects in Azerbaijan and Tajikistan, mentioned in section G of the Secretariat report (UNEP/OzL.Pro/ImpCom/32/2), which were being implemented in collaboration with UNEP, were almost completed, barring certain institutional strengthening elements, and that, in general, most of the investment projects funded by GEF were almost completed. Noting that GEF funding for institutional strengthening was granted on a one-off basis, he suggested that the Committee should note that countries with economies in transition had continued difficulties with data reporting and they might need further assistance to ensure that they remained in compliance.

35. With regard to the situation of Nepal, also mentioned in section G of the Secretariat report, he said that a refrigerant management plan was being formulated in conjunction with UNEP for submission to the Meeting of the Parties in November, which would take into account that country's large stockpile of CFCs, which had been illegally imported but seized by the authorities. In addition, he informed the meeting that Brazil had since ratified the Montreal and Beijing amendments and would now be included in the licensing system.

36. The representative of UNIDO drew attention to the problems faced by Bosnia and Herzegovina in reporting correct data figures for the years 1989–1996, when that country had been in a state of serious upheaval. During the years 1989–1991, when the country had been at war, its CFC production and consumption levels had naturally been very low; given the importance of such data for determining

baselines for countries' phase-out plans, that atypically low consumption would mean that Bosnia and Herzegovina was bound to be in non-compliance when its economy returned to normality, and he wondered how that issue could be resolved. He also noted with concern that, despite his organization's efforts to obtain data from the Libyan Arab Jamahiriya, such data were still not forthcoming, but that Albania had stated that its 2003 data had been submitted to the Ozone Secretariat.

37. On the issue of methyl bromide use for high-moisture dates, he noted that such use was continuing in Algeria and Tunisia and wondered whether those countries would be categorized as in non-compliance with their phase-out requirements, even though no acceptable alternatives for such use had as yet been identified. Cameroon and Egypt, however, were now in compliance in that regard.

38. Finally, he reported on the development of a halon banking system in Pakistan, designed to help that country achieve compliance with its relevant phase-out requirements.

39. The representative of the World Bank informed the meeting that the Bank was working with the Philippines and Thailand to finalize their methyl bromide sector plans for submission to the Sixteenth Meeting of the Parties in November 2004. Noting that China was the world's only exporter of halons, and that its declared exports in 2002 measured 800 tonnes, while imports by consumers totalled more than 4,000 tonnes, he suggested that the discrepancy was accounted for by recycled halons and that the Committee should bear that in mind when reviewing non-compliance.

40. Responding to some of the concerns raised by the implementing agencies, the Executive Secretary of the Ozone Secretariat explained, with regard to institutional strengthening projects in countries with economies in transition, that at its last Council meeting GEF had been requested to reconsider the continued funding of such projects, to ensure their proper follow-up. With regard to the problems faced by Bosnia and Herzegovina in the determination of its baseline, he pointed out that any Party could submit a request for change of its baseline: the Committee was considering three such requests at the current meeting.

41. The representative of the Secretariat also clarified that, under the provisions of Article 7, paragraphs 1 and 2, Parties could report the best data estimates available, if actual data were not available and, if correct data became available subsequently, those could be forwarded to the secretariat, which would make the necessary adjustments. On the issue of methyl bromide use for high moisture dates, he recalled decision XV/12, by which the Parties had agreed that no action would be taken against Parties making such use, so long as there were no alternatives available. Even when an alternative was identified, it would take about two years for Technology and Economic Assessment Panel to establish its suitability. Use of the substance would show in the country's data reporting but it would not be subject to any consequential recommendation by the Implementation Committee to the Meeting of the Parties on non-compliance.

V. Information on compliance by Parties present at the invitation of the Implementation Committee

A. Philippines

42. The representative of the Secretariat drew the Committee's attention to decision XV/25, which had listed the Philippines as being potentially in a state of non-compliance with the methyl bromide consumption freeze, and to the explanations furnished by the country, as set out in paragraphs 20 and 21 and annex II of the Secretariat report (UNEP/OzL.Pro/ImpCom/32/2). In providing the data requested, the Government had discovered that methyl bromide consumption for 1998 had been erroneously reported as zero, and also that the 2002 data had not been broken down between quarantine and pre-shipment uses and non-quarantine and pre-shipment uses. The country was requesting that its 1998 consumption figure should be corrected to 9.8 ODP-tonnes, which would then lead to a change in its baseline consumption, to 10.3 instead of 8.01 ODP-tonnes, and also that its 2002 figure should be recorded as 7.799 ODP-tonnes, which would place it back in compliance. The country had been invited to attend the Committee's meeting, to provide possible clarifications requested by members of those explanations.

43. In response to requests from members, in particular for further details of its data collection and verification survey (information also required by decision XV/19), the representative of the Philippines explained that methyl bromide use in his country was regulated by both the Department of Agriculture

and the Fertilizer and Pesticides Authority, while compliance issues were overseen by the Department of Environment and Natural Resources. Insufficient coordination in the past between those bodies had led to the error in the original baseline figures provided for methyl bromide consumption. The objective of the survey was to verify and correct the reported data on methyl bromide use, with a view to establishing a realistic baseline. He further explained that the survey had been based on the licensing of imports and use and that importers, distributors and end-users had been surveyed. In response to another question, he also confirmed that the survey methodology was designed to distinguish between quarantine and pre-shipment and non-quarantine and pre-shipment uses of methyl bromide. A report of the survey had been prepared and would be submitted to the Secretariat through the appropriate diplomatic channels by the country's Department for Foreign Affairs.

44. In response to a question regarding the effects of the 19881–989 economic crisis on consumption of ozone-depleting substances, he pointed out that agricultural activities had continued unabated throughout that period and the crisis had consequently had little perceptible impact on methyl bromide consumption. It was suggested by one representative that the clarifications provided by the Philippines during the current meeting should be corroborated in writing by the Department for Foreign Affairs, which should also confirm the correction of the arithmetical error, pointed out during the current meeting, in the subtotal for non-quarantine and pre-shipment uses of methyl bromide by sector in 2002, presented in table 3 of the country's submission.

B. Lebanon

45. The representative of Lebanon presented his country's request for a change in its baseline consumption of methyl bromide. He explained that when the original baseline figure, 152.4 ODP tonnes, had been established, the important agricultural area of south Lebanon had been under occupation by Israel. After the area had been liberated, in 2000, the Government of Lebanon had been able to carry out a comprehensive survey of methyl bromide use in all areas of the country, with assistance from UNDP and UNIDO, which had suggested that the baseline figure should be revised to 236.4 ODP tonnes. After completion of the survey, an official request for a change in the baseline had been submitted to the Secretariat. Full supporting justification, which was in front of the Committee, had been submitted in response to the Secretariat's letter of October 2003.

46. In response to questions from members of the Committee, he clarified that the survey had resulted in revised consumption figures for each of the years from 1995 to the end of the occupation of South Lebanon, including the baseline period 1995–1998. The provision of those data formed part of Lebanon's agreement with the Executive Committee of the Multilateral Fund for funding for methyl bromide phase-out projects. The methodology of the survey was explained in the full survey report, which could be made available to the Committee.

47. Representatives of UNDP and UNIDO clarified that Lebanon's original request, in 2001, for a revision in baseline data had been responded to by the Secretariat, but that Lebanon had not then realised that it had had to submit supporting justifications. It had proceeded on the basis that its request had been agreed, and the Executive Committee had approved the phase-out projects on the basis of the revised figures. Lebanon had thus far met the phase-out schedule set out in the agreement with the Executive Committee, but since the revision to the baseline had not in fact been agreed, it had ended up in non-compliance with the Protocol.

C. Thailand

48. The representative of the Secretariat drew the attention of the Committee to decision XV/25, which had listed Thailand as being potentially in a state of non-compliance with the freeze in consumption of methyl bromide in 2002.

49. The representative of Thailand explained that the 2002 data had wrongly included methyl bromide for quarantine and pre-shipment use alongside methyl bromide for non-quarantine and pre-shipment use. Correcting that error gave a figure of 241.80 ODP tonnes of consumption, still, in fact, leading to a state of non-compliance but by a much smaller margin. The Government had set a maximum import quota for 2004 that would ensure that Thailand met the freeze target, and was preparing a national methyl bromide phase-out strategy with the assistance of the World Bank.

50. He added that investigation of the error had revealed that earlier data reported to the Secretariat had also been incorrect. The data-reporting format used by the Secretariat prior to 1997 had not required a breakdown between quarantine and pre-shipment and non-quarantine and pre-shipment uses, and the

data submitted by Thailand for 1995 and 1996 had included both, as in 2002. The data for 1997 and 1998, however, had been based on an assumption that up to 90 per cent of the total quantity imported had been used for quarantine and pre-shipment uses, which, on the basis of more accurate recent data, seemed implausible. Verified data collected for the period 1999–2002 showed that 43 per cent of the total imported had been for quarantine and pre-shipment uses, and he believed that that proportion should be applied to the 1995–1998 data to allow a more accurate calculation of the baseline consumption figure. On that basis, Thailand wished to request a change in its baseline consumption of methyl bromide from 164.89 to 183.14 ODP tonnes.

51. Responding to a question about the possible impact of the Asian financial crisis on consumption, he said that, in his view, there had been no impact on methyl bromide use in the period in question. Agricultural production and patterns of agricultural exports and imports had not been particularly affected; for example, Thailand had remained the world's largest rice exporter throughout the entire period. The original data submitted for baseline consumption, which had set quarantine and pre-shipment use at zero for some years and 90 per cent for others, had to be wrong. The representative of the World Bank informed the Committee that the Bank's work with the Government of Thailand had included a systematic process of collecting full data from all users, and he was satisfied that the data survey was of an acceptable quality.

D. Nepal

52. The representative of the Secretariat introduced the situation of Nepal, as set out in paragraphs 32–34 of the Secretariat's report on the status of implementation of the decisions of the Parties on non-compliance (UNEP/OzL.Pro/ImpCom/32/2). The Government of Nepal had undertaken to manage the ozone-depleting substances which had been imported illegally but seized by the authorities in a manner consistent with its phase-out commitments under the Protocol and had been invited to attend the Committee's meeting to offer clarifications of its planned measures. He also drew attention to decision XIV/7, pursuant to which no seized substances could be used within a country but suggested that those provisions might be waived in the case of Nepal, given its undertaking to cease further imports.

53. The representative of Nepal explained that his country, which was deeply committed to protection of the ozone layer, had been placed in a critical situation by decision XV/39, paragraph 5 of which stated that it would be in non-compliance if it released any of the confiscated ozone-depleting substances on to its domestic market. Its inability to release the substances, which it had planned to do in quantities not exceeding its limits under the Protocol, was likely to encourage further illegal imports. Noting that the substances in question were neither exportable nor disposable, he urged the Committee to consider amending the terms of decision XV/39, so that Nepal would be able to release the substances on to the domestic market in quantities consistent with its phase-out limits, which would be sufficient to cover its domestic needs until 2008 and preclude the need for further imports. He also pointed out that no ozone-depleting substances had been imported since the introduction of the country's regulatory system and that no import licenses would be issued until 2008.

54. In the ensuing debate, members of the Committee sought clarification as to whether the amounts to be released on the domestic market were within the limits that the country was permitted to consume; whether the import freeze applied to all CFCs, or only to CFC 12, as listed in the table; why the confiscated substances could not be returned to the country of origin; and whether there were penalties for illegal importers. One member drew attention, in the light of his own country's similar experience, to the heavy burden imposed by managing stored amounts of CFCs and the possible need for assistance to be granted to Nepal in that regard.

55. In response, the representative of Nepal clarified that the import freeze applied to CFC-12, but pointed out that no import licenses had been issued since the regulations had come into force. He agreed that storage of the substances, which totalled 74 tonnes, in customs warehouses on his country's border with India was indeed imposing a burden on its resources and hoped that the Committee could accept his country's plan, if necessary with amendments, which Nepal would be happy to make.

E. Israel

56. The representative of the Secretariat drew the attention of the Committee to decision XV/24, which had listed Israel as being potentially in a state of non-compliance with the goal of a 50 per cent reduction in the consumption of methyl bromide by 2002. Israel had subsequently submitted data for

2003 showing it to be in compliance with the methyl bromide phase-out schedule, but had requested an opportunity to explain the 2002 situation to the Committee.

57. The representative of Israel explained that domestic consumption in 2002 had in fact been 52 per cent below the baseline, but that one company had also exported a quantity of methyl bromide to a non-party, and that figure had to be included in the total consumption reported to the Secretariat. Israel had subsequently amended its regulations to ensure that exports to non-parties were included in companies' quotas, and had returned to compliance in 2003. The representative of Israel added that he would have preferred to have been able to present this information to the Committee in 2003, before seeing his country subjected to a potential non-compliance decision by the Meeting of the Parties, and suggested that the Committee might like to consider modifying its procedures to provide an earlier chance for countries to present their explanations.

58. Responding to questions, the representative of Israel clarified that in 2002 the country had not been a party to the Montreal Amendment. He accepted that now, after having ratified the Montreal Amendment, Israel was in any event not permitted to export methyl bromide to non-parties to the Copenhagen Amendment.

F. Saint Vincent and the Grenadines

59. The representative of the Secretariat drew attention to decisions XIV/24 and XV/42, which had identified Saint Vincent and the Grenadines as being in a state of non-compliance with respect to the CFC consumption freeze. In response, the country had submitted a plan of action designed to ensure a prompt return to compliance, but had failed as yet to provide the updated information requested by the Secretariat following that original submission. He also drew attention to paragraphs 37 and 38 of the Secretariat's report on status of implementation of the decisions of the Parties on non-compliance (UNEP/OzL.Pro/ImpCom/32/2), describing the situation pertaining to the country. Accordingly, the country had been invited to attend the current meeting, in order to provide any clarifications sought by members.

60. The representative of Saint Vincent and the Grenadines explained that his country's non-compliance could be attributed to four primary factors: first, delays in the implementation of its refrigerant management plan; second, lacunae in the legislative system covering ozone-depleting substances – the country had no customs training nor any licensing system and trade in ozone-depleting substances therefore continued on a business-as-usual basis; third, its limited human resources – the relevant authority, the Environmental Services Unit, had only two technical staff and there was no single person exclusively assigned to ozone duties; and, fourth, the appearance of new supply sources, fuelled by the rapid growth in consumption of ozone-depleting substances during the 1990s, brought about by, among other factors, the growth in the country's tourism industry. He pointed out that the current goal of 50 per cent phase-out by 2005 was unrealistic and incompatible with the country's sustainable development imperatives. Accordingly, it had prepared the modest and realistic proposal set out in the Secretariat report. He also informed the Committee that training for customs officers was now to be provided and stressed the need for a dedicated ozone officer, for which post a suitable candidate had been identified.

61. In response to questions by members, he clarified that the country neither produces nor exports ozone-depleting substances and that its regulations pertained, therefore, only to imports and licensing; that it hoped to introduce a quota system by the end of 2004; and that it would be working on an update of its refrigerant management plan over the following months. With regard to the proposed revised baseline of 3.648 ODP tonnes, he explained that that figure had been drawn from the country programme and that adherence to the official baseline of 1.8 ODP tonnes, which was unrealistically low, would have the effect of keeping the country in a vicious cycle of non-compliance. He also explained that the development of the country's hotel industry, responsible for the peak in consumption of ozone-depleting substances, could be regarded as a one-off venture and that account had also been taken, in the country's proposed phase-out plan, of the tapering off of consumption of ozone-depleting substances in car air-conditioners, as replacements became available.

VI. Review of the status of non-compliance with specific decisions of the Parties and recommendations of the Implementation Committee

A. Non-compliance with data-reporting requirements for one or more of the base years (1986, 1989 or 1991) for one or more groups of controlled substances under Article 7 of the Montreal Protocol by Parties operating under Article 5 of the Protocol, concerning Cape Verde, Haiti, the Libyan Arab Jamahiriya, Mali, Nauru and Sao Tome and Principe (decision XV/16)

62. The representative of the Secretariat drew the Committee's attention to paragraphs 2 and 3 of document UNEP/OzL.Pro/ImpCom/32/2, which listed Parties that still had to submit base year data. The Committee noted with appreciation that most of the Parties listed in decision XV/16 had now submitted the data. The Committee also agreed that a deadline would be set for the remaining Parties, and also that the relevant implementing agencies would be sent copies of the letters from the Secretariat requesting the missing data.

63. The Committee *agreed*:

(a) To recall decision XV/16 of the Fifteenth Meeting of the Parties, on non-compliance with data-reporting requirements for the purpose of reporting data for base years;

(b) To note that Armenia, Bosnia and Herzegovina and Libyan Arab Jamahiriya have not yet reported some or all of the base year data which they are required to submit under Article 7, paragraphs 1 and 2, of the Montreal Protocol;

(c) To request the Secretariat to ask those Parties to submit the data no later than 30 September 2004;

(d) To forward, in the absence of submission of the data, the following draft decision to the Sixteenth Meeting of the Parties for its consideration and possible adoption:

Decision XVI/– Non-compliance with data reporting requirements under Article 7, paragraphs 1 and 2, of the Montreal Protocol

1. To recall decision XV/16 of the Fifteenth Meeting of the Parties, on non-compliance with data reporting requirements for the purpose of reporting data for base years;

2. To note with appreciation that almost all the Parties listed in decision XV/16, namely China, Federated States of Micronesia, Guinea Bissau, Haiti, Honduras, Liberia, Mali, Marshall Islands, Nauru, Nigeria, Somalia and Suriname, have submitted data for their base years following the adoption of decision XV/16;

3. To note, however, that Libyan Arab Jamahiriya, which was listed in decision XV/16, has still not reported data for the base years (1986 and 1989) for the controlled substances in Annexes A, B, and C, as required by Article 7, paragraphs 1 and 2, of the Montreal Protocol;

4. To note further that Armenia, which has recently ratified the London and Copenhagen Amendments, has not reported data for the base years (1989 and 1991) for the controlled substances in Annexes B, C and E, as required by Article 7, paragraphs 1 and 2, of the Montreal Protocol;

5. To note further that Bosnia and Herzegovina, which has recently ratified the London and Copenhagen amendments, has not reported data for the base years (1989 and 1991) for the controlled substances in Annexes B and E, as required by Article 7, paragraph 2, of the Montreal Protocol;

6. To note further that Article 7, paragraphs 1 and 2, of the Protocol provide for Parties to submit best possible estimates of the data referred to in those provisions where actual data are not available;

7. To request the relevant implementing agencies of the Multilateral Fund to make available to the Secretariat any data that they have obtained which may be relevant;

8. To request the Secretariat to communicate with the Parties referred to in paragraphs 3, 4 and 5 above and to offer assistance in reporting such estimates in accordance with decision XIV/15;

Recommendation 32/9

B. Non-compliance with data reporting requirements under Article 7 of the Montreal Protocol by Parties temporarily classified as operating under Article 5 of the Protocol, concerning Cape Verde and Sao Tome and Principe (decision XV/17)

64. The representative of the Secretariat drew the Committee's attention to paragraphs 4 and 5 of document UNEP/OzL.Pro/ImpCom/32/2, which listed Parties that still had to submit the data needed to remove their temporary classification as Article 5 Parties. The Committee noted that the only two remaining Parties listed in decision XV/17 had already been covered in its earlier recommendation 32/2, and the two new Parties that still needed to report data in recommendation 32/3.

C. Non-compliance with data reporting requirements for the purpose of establishing baselines under Article 5, paragraphs 3 and 8 ter (d) (decision XV/18), concerning: Annex A substances: Cape Verde and Sao Tome and Principe; Annex B substances: Cape Verde, Djibouti, Grenada, Liberia and Sao Tome and Principe; Annex E substance: Cape Verde, India, Mali and Sao Tome and Principe

65. The representative of the Secretariat drew the Committee's attention to paragraphs 6 and 7 of document UNEP/OzL.Pro/ImpCom/32/2, which listed Parties that still had to submit baseline data. The Committee noted that the only two remaining Parties listed in decision XV/18 had already been covered in its earlier recommendation 32/2, and the two new Parties that still needed to report data in recommendation 32/3.

66. Representatives of UNDP and UNEP reported that they were working with Cape Verde and Sao Tome and Principe to prepare country programmes and collect the necessary data, and expected them to be submitted relatively soon. The Committee noted that the submission of baseline data was a matter of considerable importance, since the control measures were calculated in reference to the baselines, and requested the Secretariat to encourage the Parties to report the missing data as a matter of urgency.

D. Potential non-compliance with consumption of substances in Annex A, Groups I and II (CFCs and halons), Annex C, Group II (hydrobromofluorocarbons) and Annex E (methyl bromide) (decisions XV/21, XV/22 and XV/25)

1. Potential non-compliance with consumption of Annex A, Group I substances (CFCs): Data for the control period 2001 and/or 2002: Dominica, Haiti, Saint Kitts and Nevis, and Sierra Leone (decision XV/21)

67. The representative of the Secretariat drew the Committee's attention to paragraphs 8 and 9 of document UNEP/OzL.Pro/ImpCom/32/2, which listed the Parties that had been identified in decision XV/21 as being in a state of non-compliance with the CFC consumption freeze. The Committee noted with appreciation that, since that decision had been adopted, all the Parties listed had reported data for 2003 showing them now to be in compliance.

2. Potential non-compliance with consumption of Annex A, Group II substances (halons) in 2002: Malaysia, Mexico, Nigeria and Pakistan (decision XV/22)

68. The representative of the Secretariat drew the Committee's attention to paragraphs 11–15 of document UNEP/OzL.Pro/ImpCom/32/2, which listed the Parties that had been identified in decision XV/22 as being in a state of non-compliance with the halon consumption freeze. Since that decision had been adopted, Nigeria had reported 2003 consumption showing it now to be in compliance, and Malaysia had explained that it had wrongly reported imports of recycled halons as consumption; in fact its consumption for 2002 should have been zero, as was its consumption in 2003.

69. Of the two other Parties listed in decision XV/22, Mexico had accepted that its 2002 consumption figure placed it in non-compliance, but had stated that it expected to return to compliance in 2003, although it had not yet reported 2003 data. The representative of UNDP commented that the Programme was working with Mexico to establish a halon banking programme that would enable the country to reduce consumption. Pakistan had reported 2003 data showing it still to be in non-compliance.

70. The Committee *agreed*:

(a) To note Mexico's non-compliance in 2002 with the requirement for a freeze in consumption of halons;

(b) To note further that Mexico has not yet formally submitted data for 2003, but had indicated that it expected to return to compliance in 2003;

(c) To request Mexico to provide the Implementation Committee, through the Secretariat, with 2003 data as soon as possible, and at any rate no later than 30 September 2004;

(d) To review the situation with regard to halon consumption in Mexico at its thirty-third meeting.

Recommendation 32/10

71. The Committee *agreed*:

(a) To note Pakistan's non-compliance in both 2002 and 2003 with the requirement for a freeze in consumption of halons;

(b) To note with appreciation Pakistan's advice on the measures that it is taking to return to compliance;

(c) To request the Secretariat to draw the attention of Pakistan to decision XV/22, which requested Pakistan to submit to the Implementation Committee, as a matter of urgency, for consideration at its next meeting, an explanation of the excess halon consumption, together with a plan of action with time-specific benchmarks to ensure a prompt return to compliance;

(d) To review the situation with regard to halon consumption in Pakistan at its thirty-third meeting.

Recommendation 32/11

3. Potential non-compliance with consumption of Annex E substances (methyl bromide) in 2002: Barbados, Egypt, Paraguay, Philippines, Saint Kitts and Nevis, and Thailand (decision XV/25)

72. The representative of the Secretariat drew the Committee's attention to paragraphs 16–24 of document UNEP/OzL.Pro/ImpCom/32/2, which listed the Parties that had been identified in decision XV/25 as being in a state of non-compliance with the methyl bromide consumption freeze. Since that decision had been adopted, four of the Parties listed had reported 2003 data showing them now to be in compliance, and the remaining two (Philippines and Thailand) were requesting changes in the baseline data (see paragraphs 42–44 and 48–51 above).

E. Review of compliance with specific decisions by individual Parties:**1. Azerbaijan (decision XV/28)**

73. The representative of the Secretariat drew attention to the data reported by Azerbaijan for 2003, as recorded in paragraphs 25 and 26 of the report on non-compliance (UNEP/OzL.Pro/ImpCom/32/2), showing that it had reduced its consumption of CFCs by 98 percent, and had not therefore achieved full phase-out by 2001, as requested under decision X/20. To date the country had not responded to the Secretariat's requests for updated information, and must therefore be considered to be in non-compliance.

74. The Committee agreed to note with approval that Azerbaijan had reported zero consumption of halons for 2003, but had not yet reported on the status of its halon import ban, as requested under decision XV/28, and had reported CFC consumption for 2003, failing to achieve its commitment to complete phase-out by 2001. It also suggested that Azerbaijan might wish to explore its eligibility under the relevant GEF Council decision for assistance for institutional strengthening.

75. The Committee *agreed*:

(a) To recall decision XV/28, under which Azerbaijan had undertaken to ban the import of halons by 1 January 2001 and of CFCs by 1 January 2003;

(b) To note that Azerbaijan had not yet reported on the status of its halon import ban;

(c) To note further that Azerbaijan was in a state of non-compliance in 2003 with the requirement for a freeze in consumption of CFCs;

(d) To request the Secretariat to ask Azerbaijan to provide the Implementation Committee with a report on the status of its halon import ban and an explanation for its excess consumption of CFCs in 2003;

(e) To review the situation of Azerbaijan at its thirty-third meeting.

Recommendation 32/12**2. Cameroon (decision XV/32)**

76. The representative of the Secretariat drew attention to paragraphs 28 and 29 of the report on non-compliance (UNEP/OzL.Pro/ImpCom/32/2), confirming that Cameroon had submitted data showing that it was now in a state of compliance. The Committee noted with appreciation the country's return to compliance status.

3. Democratic Republic of the Congo (decision XV/33)

77. The representative of the Secretariat drew attention to paragraphs 30 and 31 of the report on non-compliance (UNEP/OzL.Pro/ImpCom/32/2), confirming that the Democratic Republic of the Congo had submitted data showing that it was now in a state of compliance. He drew attention to the dramatic reduction in halon consumption achieved over a single year and suggested that the country's experience in achieving such a reduction could be useful for other countries. The representatives of UNEP and UNDP explained that the reduction had actually been due to improved data collection: previous data had been inaccurate, largely because the country had confused ODP tonnes and metric tonnes, rendering its figures unrealistically high. The Committee noted with appreciation the country's return to compliance status.

4. Kazakhstan (decision XIII/19)

78. The representative of the Secretariat introduced the situation of Kazakhstan, which should have achieved phase-out by 2003 but had thus far failed to submit data, so it had been impossible to assess its compliance status. The representative of UNDP clarified that the country's GEF-funded projects were almost all concluded but that some loose ends remained and there was a consequent need for institutional strengthening. The Committee agreed to ask the Secretariat to write to the country

requesting it to report its 2003 data as a matter of urgency, in time for the Parties' consideration at their sixteenth meeting.

5. Nepal (decision XV/39)

79. Recalling the presentation by the representative of Nepal (see paragraphs 42–44 above), the Committee noted with appreciation his subsequent submission of a plan of action designed to ensure that the illegal CFCs which had been seized were released on to the domestic market in annual quantities that would not exceed the amounts permitted under the relevant control measures. There was a problem, however, with the consumption figure for 2003 included in the submitted plan; since the year had now passed, it would not be possible to include that amount in the plan of action, and that would leave Nepal with a residual quantity of 8.4 tonnes in 2010, when it should be achieving full phase-out. It was proposed that the Secretariat could suggest to the Government of Nepal that it could revise its import and export ban to allow the export of the surplus and that, if possible, further information should be reported back to the Committee at its next meeting.

80. The Committee also recalled that the question of the interpretation of paragraph 7 of decision XIV/7, on the subsequent use of illegal ozone-depleting substances that had been seized, had been raised at the meeting of the Open-ended Working Group. In response to a question about the powers of the Implementation Committee to interpret decisions in that way, the Executive Secretary observed that, while it was the Committee's role to address all issues relating to compliance, it was only the Meeting of the Parties that could interpret or clarify its own previous decisions. The Committee agreed to place paragraph 3 of the draft decision in square brackets and to draw it to the attention of the Meeting of the Parties when the draft decision was discussed.

81. The Committee *agreed* to forward the following draft decision to the Sixteenth Meeting of the Parties for approval:

Decision XVI/– Non-compliance with the Montreal Protocol by Nepal

1. To recall that in its decision XV/39 the Fifteenth Meeting of the Parties had congratulated Nepal on seizing 74 ODP-tonnes of imports of CFCs that had been imported without an import license, and on reporting the quantity as illegal trade under the terms of decision XIV/7;

2. To recall that paragraph 5 of decision XV/39, had stated that, if Nepal decided to release any of the seized quantity of CFCs into its domestic market, it would be considered to be in non-compliance with its obligations under Article 2A of the Montreal Protocol and would therefore be required to fulfil the terms of decision XIV/23, including submitting to the Implementation Committee a plan of action with time-specific benchmarks to ensure a prompt return to compliance;

[3. To clarify the meaning of paragraph 5 of decision XV/39 so that it is understood to mean that Nepal would only be considered to be in non-compliance if the amount of CFCs released on to the market in any one year exceeded its permitted consumption level under the Protocol for that year;]

4. To note further that Nepal's baseline for CFCs is 27 ODP tonnes;

5. To note with appreciation Nepal's submission of its plan of action to manage the release of the seized CFCs, and to note further that, under the plan, Nepal specifically commits itself:

- (a) To release no more than the following amount of CFCs in each year as follows:
- (i) 27.0 ODP-tonnes in 2004;
 - (ii) 13.5 ODP-tonnes in 2005;
 - (iii) 13.5 ODP-tonnes in 2006;
 - (iv) 4.05 ODP-tonnes in 2007;

- (v) 4.05 ODP-tonnes in 2008;
- (vi) 4.00 ODP-tonnes in 2009;
- (vii) Zero in 2010, save for essential uses that may be authorized by the Parties;

(b) To monitor its existing system for licensing imports and exports of ODS, including quotas, introduced in 2001, which includes a commitment not to issue import licenses for CFCs, in order to remain in compliance with its plan of action;

6. To note that the measures listed in paragraph 5 above will enable Nepal to remain in compliance;

7. To monitor closely the progress of Nepal with regard to the implementation of its plan of action and the phase-out of CFCs. To the degree that Nepal is working towards and meeting the specific Protocol control measures, it should continue to be treated in the same manner as a Party in good standing. In that regard, Nepal should continue to receive international assistance to enable it to meet those commitments in accordance with item A of the indicative list of measures that may be taken by a Meeting of the Parties in respect of non-compliance. Through the present decision, however, the Meeting of the Parties cautions Nepal, in accordance with item B of the indicative list of measures, that, in the event that it fails to abide by the limits specified in its plan of action, the Meeting of the Parties will consider measures consistent with item C of the indicative list of measures. Those measures may include the possibility of actions available under Article 4, such as ensuring that the supply of CFCs (that is, the subject of non-compliance) is ceased and that exporting Parties are not contributing to a continuing situation of non-compliance;

Recommendation 32/13

6. Qatar (decision XV/41)

82. The representative of the Secretariat drew attention to paragraphs 35 and 36 of the report on non-compliance (UNEP/OzL.Pro/ImpCom/32/2) and informed members that, since publication of the report, additional information had been received from Qatar clarifying the error in its data: 15 cylinders had been entered as 15 metric tonnes, and adjustment of that error had placed the country back in compliance. With regard to its halon consumption, the information in paragraph 36 of the report was still valid and Qatar was elaborating measures to address the problem.

83. In response to a question from a member of the Committee, the representative of UNIDO clarified that his organization was implementing a refrigerant management plan in Qatar which, following some initial delays, was now functioning smoothly, and the representative of the Secretariat explained that the country's reported data for 2003 showed that it was in compliance with its consumption limits for 2003 with both CFC and halon consumption and confirmed that it had an operational licensing system for both CFCs and halons. The Committee noted with appreciation the efforts made by Qatar to return to compliance status and its timely data reporting under Article 7 of the Protocol.

7. Saint Vincent and the Grenadines (decision XV/42)

84. Recalling the presentation by the representative of Saint Vincent and the Grenadines (see paragraphs 59–61 above), the Committee noted with appreciation his submission of a plan of action designed to bring his country back into compliance. Noting, however, that it would not bring Saint Vincent and the Grenadines into compliance until 2010, members of the Committee wondered if a future refrigerant management plan update might be able to accelerate the process. The representative of UNEP, however, observed that planning for an update could not begin until all the activities associated with the first refrigerant management plan, such as training and the establishment of a full-time ozone officer post, had been completed. An updating process could not begin until 2005 at the earliest.

85. It was clarified that Saint Vincent and the Grenadines was not requesting any changes in its baseline consumption figure, although its representative was of the opinion that the figure was probably too low. One member of the Committee, whose country had been through a similar process, urged the Committee to be flexible in its approach to the country and other very-low-volume-consuming countries like it, which faced enormous difficulties in gathering accurate data and establishing the necessary regulatory systems. He also accepted, however, that the Committee had to be very clear in reminding Parties of their obligations and in helping them to meet those obligations.

86. The Committee *agreed* to forward the following draft decision to the Sixteenth Meeting of the Parties for approval:

Decision XVI/– Non-compliance with the Montreal Protocol by Saint Vincent and the Grenadines

1. To note that, in accordance with decision XV/42 of the Fifteenth Meeting of the Parties, Saint Vincent and the Grenadines was requested to submit to the Implementation Committee a plan of action with time-specific benchmarks to ensure a prompt return to compliance;

2. To note with appreciation Saint Vincent and the Grenadines' submission of its plan of action, and to note also that, under the plan, Saint Vincent and the Grenadines specifically commits itself:

(a) To reducing CFC consumption from 3.07 ODP-tonnes in 2003 as follows:

(i) To 2.46 ODP-tonnes in 2004;

(ii) To 1.97 ODP-tonnes in 2005;

(iii) To 1.47 ODP-tonnes in 2006;

(iv) To 1.10 ODP-tonnes in 2007;

(v) To 0.84 ODP-tonnes in 2008;

(vi) To 0.62 ODP-tonnes in 2009;

(vii) To phasing out CFC consumption by 1 January 2010, as required under the Montreal Protocol, save for essential uses that may be authorized by the Parties;

(b) To monitoring its existing system for licensing imports of ODS and its ban on imports of ODS-using equipment, introduced in 2003;

(c) To introducing an ODS quota system by [the last quarter of 2004];

3. To note that the measures listed in paragraph 2 above should enable Saint Vincent and the Grenadines to return to compliance by 2010, and to urge Saint Vincent and the Grenadines to work with the relevant implementing agencies to implement the plan of action and phase out consumption of ozone-depleting substances in Annex A, group I (CFCs);

4. To monitor closely the progress of Saint Vincent and the Grenadines with regard to the implementation of its plan of action and the phase-out of CFCs. To the degree that Saint Vincent and the Grenadines is working towards and meeting the specific Protocol control measures, it should continue to be treated in the same manner as a Party in good standing. In that regard, Saint Vincent and the Grenadines should continue to receive international assistance to enable it to meet those commitments in accordance with item A of the indicative list of measures that may be taken by a Meeting of the Parties in respect of non compliance. Through the present decision, however, the Meeting of the Parties cautions Saint Vincent and the Grenadines, in accordance with item B of the indicative list of measures, that, in the event that it fails to remain in compliance, the Meeting of the Parties will consider measures consistent with item C of the

indicative list of measures. Those measures may include the possibility of actions available under Article 4, such as ensuring that the supply of CFCs (that is, the subject of non-compliance) is ceased and that exporting Parties are not contributing to a continuing situation of non-compliance;

Recommendation 32/14

8. Tajikistan (decision XIII/20)

87. The representative of the Secretariat explained that the situation regarding Tajikistan was comparable to that of Kazakhstan, in that it should have achieved phase-out by 2003 but had thus far failed to submit data, so it had been impossible to assess its compliance status. The Committee agreed to ask the Secretariat to write to the country requesting it to report its 2003 data as a matter of urgency, in time for the Parties' consideration at their sixteenth meeting.

9. Uganda (decision XV/43)

88. The representative of the Secretariat drew attention to paragraphs 41 and 42 of the report on non-compliance (UNEP/OzL.Pro/ImpCom/32/2), confirming that Uganda had submitted data showing that it was now in a state of compliance. The Committee noted with appreciation the country's return to compliance status but decided to remind Uganda of its obligations, pursuant to decision XV/43, to introduce an import ban and to invite it to report on any action it had taken to that end.

10. Viet Nam (decision XV/45)

89. The representative of the Secretariat drew attention to paragraphs 44–46 of the Secretariat note (UNEP/OzL.Pro/ImpCom/32/2), setting out the situation in Viet Nam, which had to continue making heavy use of halon 2402 to service its oil platforms, every three or four years, and, in the absence of alternatives, risked being in non-compliance in those years, although its average consumption over the entire period was likely to be below its baseline.

90. In response to a question by a member of the Committee, the representative of the World Bank informed the Committee that the Bank was working with Viet Nam to develop a national phase-out plan, which would include halons. An amount of \$25,000 had been provided by UNIDO, to fund a workshop on alternatives, and, under Executive Committee rules, the country was also entitled to apply for funding from the Multilateral Fund and its phase-out plan would be submitted for consideration by the Executive Committee at its next meeting. He also explained that the suggested approach whereby Viet Nam would import halons annually up to its permitted level and then store those for use every three or four years, thereby avoiding the risk of non-compliance, raised the problem of stockpiling the imported halons, with its attendant costs. He also clarified that, while the Bank had no information about the ownership of the off-shore oil platforms, it was safe to assume that they were serviced by Vietnamese companies.

91. The representative of the secretariat clarified, in response to a suggestion that Viet Nam might apply for a critical use exemption for the substance, that such exemptions only entered into effect after a Party had achieved complete phase-out.

92. The Committee *agreed*:

(a) To recall decision XV/45, under which Viet Nam had been identified as being in a state of non-compliance with regard to the consumption of halons, and had been requested to submit a plan of action to the Implementation Committee;

(b) To note with appreciation that Viet Nam had reported data for halons for 2003 that showed it to have returned to compliance;

(c) To note with concern, however, Viet Nam's expectation that it might return to a state of non-compliance periodically owing to the need to replenish the halon fire protection systems in its oil vessels and platforms;

(d) To request Viet Nam to consider adopting measures to avoid this return to a state of non-compliance, such as importing only recycled halons and implementing emission minimization measures.

Recommendation 32/15

11. Uruguay

93. The representative of the Secretariat drew attention to paragraph 43 of the report on non-compliance (UNEP/OzL.Pro/ImpCom/32/2), confirming that Uruguay had submitted data showing that it was now in a state of compliance. The Committee noted with appreciation the country's return to compliance status.

12. Guatemala

94. The representative of the Secretariat informed the Committee that a letter had been received from Guatemala regarding its deviation from the methyl bromide phase-out plan for that country but not providing any data. The Committee agreed that Guatemala should be requested to submit the necessary official data explaining its deviation.

G. Review of any information on requests for change of baseline data by some Parties (decision XV/19)

95. The Committee recalled the presentations that Philippines, Lebanon and Thailand had given in support of their requests for changes in baseline data (see paragraphs 42–51 above). The Committee also recalled decision XV/19, which set out the criteria to be used in assessing such requests. All three countries had based their requests on detailed surveys of users and, if copies of the surveys were to be submitted to the Committee, they should fulfil many of the requirements of decision XV/19, including explanations of the basis of the new data and the methodology used in collecting it.

96. One member of the Committee felt that the information submitted by the three Parties should be accepted by the Committee as adequate justification for changes in baseline data. It had been common for Article 5 Parties to experience problems with data collection in the early years, when baseline figures were set, and the quality of data reporting inevitably improved over time. Continuous questioning of Parties submitting requests would have a demoralizing effect, and the Committee ought to adopt a more positive approach. Another member stressed the need for the Committee to be flexible and to examine each case on its merits.

97. Other members felt that, if requests for changes in baseline data that did not wholly fulfil the requirements of decision XV/19 were presented to the Meeting of the Parties, there was the possibility that they might be turned down. The Committee needed to be sure that such requests were fully justified, and asking for more information from Parties should not be interpreted as adopting a negative approach, but, rather, as fulfilling its role as the Implementation Committee.

98. Members of the Committee also recalled that representatives of the Parties had offered to submit copies of their full survey reports. Representatives of some of the implementing agencies working with the Parties in question observed that they would be happy to provide the Committee with any supporting information that they possessed, such as detailed phase-out plans.

99. The Committee also discussed whether a standard format should be drawn up for submitting requests for changes in baseline data, but decided that decision XV/19 was clear enough in setting out the information that had to be supplied. It was agreed that, in approaching Parties for more information, the Committee had to be very precise in specifying what more it wanted.

100. With regard to the request from the Philippines for a change in its baseline data, the Committee *agreed*:

(a) To note with appreciation the information presented by the Philippines to support its request for a change in baseline data for consumption of methyl bromide;

(b) To recall that decision XV/19 set out the requirements for the assessment of requests for revision of baseline data;

(c) To request Philippines, pursuant to paragraph 2 (a) of decision XV/19, to submit to the Implementation Committee, through the Secretariat, an explanation of the methodology used in collecting and verifying the existing baseline data, and also a copy of its survey report, which the Committee understands will include the full survey findings, together with an explanation of the methodology used in collecting and verifying the proposed new baseline data;

(d) To review Philippines' request for a revision in its baseline data at its thirty-third meeting.

Recommendation 32/16

101. With regard to the request from Lebanon for a change in its baseline data, the Committee *agreed*:

(a) To note with appreciation the information presented by Lebanon to support its request for a change in baseline data for consumption of methyl bromide;

(b) To recall that decision XV/19 set out the requirements for the assessment of requests for revision of baseline data;

(c) To request Lebanon, pursuant to paragraph 2 (a) of decision XV/19, to submit to the Implementation Committee, through the Secretariat, a copy of its survey report, which the Committee understands will include the full survey findings, together with an explanation of the methodology used in collecting and verifying the proposed new baseline data;

(d) To review Lebanon's request for a revision in its baseline data at its thirty-third meeting.

Recommendation 32/17

102. With regard to the request from Thailand for a change in its baseline data, the Committee *agreed*:

(a) To note with appreciation the information presented by Thailand to support its request for a change in baseline data for consumption of methyl bromide;

(b) To recall that decision XV/19 set out the requirements for the assessment of requests for revision of baseline data;

(c) To request Thailand, pursuant to paragraph 2 (a) of decision XV/19, to submit to the Implementation Committee, through the Secretariat, a copy of its survey report, which the Committee understands will include the full survey findings, together with an explanation of the methodology used in collecting and verifying the proposed new baseline data;

(d) To review Thailand's request for a revision in its baseline data at its thirty-third meeting.

Recommendation 32/18

VII. Consideration of information received by the Secretariat pursuant to decision XV/3 (Obligations of Parties to the Beijing Amendment under Article 4 of the Montreal Protocol with respect to hydrochlorofluorocarbons) of the Fifteenth Meeting of the Parties

103. Introducing the item, the representative of the Secretariat referred to the background document on the obligations of Parties to the Beijing Amendment under Article 4 of the Montreal Protocol with respect to HCFCs, pursuant to decision XV/3 (UNEP/OzL.Pro/ImpCom/32/5) and drew attention, in particular, to the issue of the non-submission of information by the Russian Federation, an issue which had also been reviewed by the Open-ended Working Group at its just ended meeting, and reiterated that

the Secretariat had no record of the data which the Russian Federation said that it had submitted in March 2004. The Russian Federation had in the meantime presented a copy of the information submitted in March and the representative of the Secretariat informed the Committee that the country had now been included in the table.

104. One representative pointed out that, pursuant to decision XV/3, the Committee was required to report to the Meeting of the Parties on the item and, in that regard, she conveyed her delegation's uncertainty about the status of member countries of the European Community that had not ratified the Beijing Amendment. She suggested two scenarios that the Committee could consider for dealing with those countries, one based on the understanding that the European Community had competence to ratify the amendments on behalf of its member countries; and the other on the understanding that it did not have such competence. The representative of the Secretariat suggested that provision should be made for a third category, covering those member States that had only acceded to the Community after the deadline – 31 March 2004 – set for ratification of the Beijing Amendment.

105. Following that discussion, the Committee *agreed* to forward the following comments to the Sixteenth Meeting of the Parties pursuant to paragraph 3 of decision XV/3:

(a) The following Parties to the Montreal Protocol which are not party to the Copenhagen or Beijing Amendments to the Protocol have submitted the information prescribed in paragraph 1 (c) of decision XV/3 to the Secretariat before 31 March 2004, and would therefore appear to fall outside the definition of "State not party to this Protocol" until the Seventeenth Meeting of the Parties, provided that they update their submission to the Secretariat by 31 March 2005: Australia, Greece, Italy, Kazakhstan, Poland, Portugal, the Russian Federation and Ukraine;

(b) The following Parties to the Montreal Protocol which are not party to the Copenhagen or Beijing amendments to the Protocol have not submitted the information prescribed in paragraph 1 (c) of decision XV/3 to the Secretariat before 31 March 2004, and would therefore appear to fall within the definition of "State not party to this Protocol": Austria, Azerbaijan, Belarus, Belgium, Ireland, Latvia, Tajikistan, Turkmenistan and Uzbekistan;

(c) The following Parties to the Montreal Protocol which are not party to the Copenhagen or Beijing amendments to the Protocol have not submitted the information prescribed in paragraph 1 (c) of decision XV/3 to the Secretariat before 31 March 2004; they are, however, member States of the European Community, which became a Party to the Beijing Amendment on 25 March 2004: Austria, Belgium, Ireland and Latvia;

(d) The following Party to the Montreal Protocol which is not party to the Copenhagen or Beijing amendments to the Protocol has not submitted the information prescribed in paragraph 1 (c) of decision XV/3 to the Secretariat before 31 March 2004, and was not a member State of the European Community, which ratified the Beijing Amendment on 25 March 2004, but has since become a member: Latvia;

(e) Noting that, under the provisions of Article 4, paragraph 8, of the Protocol, Parties to the Beijing Amendment are permitted to import and export HCFCs from "any State not party to this Protocol", if that State is determined, by a Meeting of the Parties, to be in full compliance with Article 2, Articles 2A–2I and this Article, and have submitted data to that effect as specified in Article 7, those Parties that had not submitted the information prescribed in paragraph 1(c) of decision XV/3 to the Secretariat before 31 March 2004, may wish to consider submitting a request to the Sixteenth Meeting of the Parties, pursuant to Article 4, paragraph 8, of the Protocol.

Recommendation 32/19

VIII. Consideration of the report of the Secretariat on Parties that have established licensing systems (Article 4B, paragraph 4, of the Montreal Protocol)

106. Introducing document UNEP/OzL.Pro/ImpCom/32/4, on the licensing systems provided for under Article 4B, paragraph 4, of the Protocol, the representative of the Secretariat reported that

Belgium and Saint Vincent and the Grenadines had established licensing systems and could now be added to the list of countries that had established and implemented such systems but were not yet Parties to the Montreal Amendment (as contained in annex II to document UNEP/OzL.Pro/ImpCom/32/4); Brazil had become a party to the Montreal Amendment and had already established a licensing system and could now be added to the list contained in annex I to that document; Afghanistan had joined the Protocol and ratified the Montreal Amendment, but had not yet established a licensing system, and could therefore also be added to the list contained in annex I. In conclusion, he informed members that 72 out of the 115 Parties to the Montreal Amendment to the Montreal Protocol now had licensing systems and 45 States not yet party to the Montreal Amendment had established and implemented licensing systems.

107. The Committee *agreed* to forward the following draft decision to the Sixteenth Meeting of the Parties for approval:

Decision XVI/– Report on the establishment of licensing systems under Article 4B of the Montreal Protocol

1. To note with appreciation that [XX] Parties to the Montreal Amendment to the Montreal Protocol have established import and export licensing systems, as required under the terms of the Amendment;
2. To note also with appreciation that [XX] Parties to the Montreal Protocol that have not yet ratified the Montreal Amendment have also established import and export licensing systems;
3. To recognize that licensing systems bring the following benefits: monitoring of imports and exports of ozone-depleting substances; prevention of illegal trade; and enabling data collection;
4. To urge all the remaining [XX] Parties to the Montreal Amendment to provide information to the Secretariat on the establishment of import and export licensing systems, and for those that have not yet established such systems to do so as a matter of urgency;
5. To encourage all the remaining Parties to the Montreal Protocol that have not yet ratified the Montreal Amendment to ratify it and to establish import and export licensing systems if they have not yet done so;
6. To urge all Parties that already operate licensing systems to ensure that they are implemented and enforced effectively;
7. To review periodically the status of the establishment of licensing systems by all Parties to the Montreal Protocol, as called for in Article 4B of the Protocol;

Recommendation 32/20

IX. Adoption of the report of the meeting

108. At its fourth plenary meeting, on the afternoon of Sunday, 18 July, the Committee considered and approved the text of the draft recommendations. It agreed to entrust finalization of the report of the meeting to the Secretariat, working in consultation with the Vice-President, serving also as Rapporteur, and with the President.

X. Closure of the meeting

109. Following the customary exchange of courtesies, the President declared the meeting closed at 5 p.m. on Sunday, 18 July 2004.

Annex

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