



United Nations
Environment
Programme



Distr.
GENERAL



UNEP/OzL.Pro.WG.II(1)/7
23 November 1989

ORIGINAL: ENGLISH

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

**First session of the second meeting
Geneva, 13-17 November 1989**

**REPORT OF THE FIRST SESSION OF THE SECOND MEETING OF THE OPEN-ENDED
WORKING GROUP OF THE PARTIES TO THE MONTREAL PROTOCOL**

I. INTRODUCTION

1. The first session of the second meeting of the Open-ended Working Group of the Parties to the Montreal Protocol was held at the Palais des Nations in Geneva from 13 to 17 November 1989 to review and adopt the Synthesis Report (UNEP/OzL.Pro.WG.I(2)/4, Annex II) based on the reports of the four Assessment Panels established by the First Meeting of the Parties (Helsinki, 2-5 May 1989), and to consider further proposals for adjustments and amendments of the Montreal Protocol for submission to the Parties in accordance with Articles 9 and 10 of the Vienna Convention and Article 2, paragraphs 9 and 10, of the Montreal Protocol.

II. ORGANIZATIONAL MATTERS

2. The meeting was attended by delegations from the following 35 Contracting Parties:

Australia, Austria, Belgium, Byelorussian SSR, Canada, Denmark, Egypt, European Community, Finland, France, German Democratic Republic, Federal Republic of Germany, Ghana, Greece, Italy, Japan, Kenya, Luxembourg, Mexico, Netherlands, New Zealand, Nigeria, Norway, Panama, Portugal, Spain, Sweden, Switzerland, Thailand, Tunisia, Ukrainian SSR, Union of Soviet Socialist Republics, United Kingdom, United States of America and Venezuela.

3. In addition, the following 15 non-contracting countries participated:

Argentina, Bahrain, Brazil, Chile, People's Republic of China, Cuba, Democratic People's Republic of Korea, India, Indonesia, Lebanon, Malawi, Republic of Korea, Qatar, Sudan, Turkey and Yugoslavia.

4. The following 19 organizations also participated in the meeting:

United Nations Conference on Trade and Development (UNCTAD), United Nations Development Programme (UNDP), Air Conditioning and Refrigeration Association, Alliance for Responsible CFC Policy, European Council of Chemical Manufacturers Federation Industry (CEFIC), Federation of European Aerosol Associations (FEA), Friends of the Earth International, Greenpeace International, Halogenated Solvent Industry Alliance (HSIA), International Chamber of Commerce (ICC), International Institute of Refrigeration, International Council of Environmental Law, Japan Association for Hygiene of Chlorinated Solvents, Japan Electrical Manufacturers' Association (JEMA), Motor Vehicles Manufacturers' Association USA, Natural Resources Defense Council, Pharmaceutical Aerosol CFC Coalition and American Lung Association, Regional Organization for Protection of the Marine Environment (ROPME), and the University of Karlsruhe.

5. In accordance with the decision of the second session of the first meeting of the Open-ended Working Group, the Bureau elected at that session continued as follows:

Chairman:	Mr. Victor Buxton, Canada
Vice Chairman:	Ms. Eileen Claussen, USA
Vice Chairman:	Mr. Sergei Stepanov, USSR
Rapporteur:	Ms. K.N. Kinyanjui, Kenya

6. The meeting was opened by the Chairman, who welcomed delegates and reminded them of the need to consider adjustments and amendments to be submitted to the Parties six months in advance of the second meeting scheduled for 20 June 1990 in London.

7. The Chairman then turned to consideration of item 2 on the provisional agenda: "Adoption of the agenda". The Agenda was adopted by the Parties as it appears in Annex to this document.

8. The Chairman invited the Executive Director of UNEP, Dr. M.K. Tolba, to address agenda item 3, "Report on the work of the second session of the first meeting of the Open-ended Working Group (Nairobi, 28 August - 5 September 1989)". In this regard, Dr. Tolba noted that the Working Group had accomplished a great deal during the course of the last meeting, but that a number of points had been left open. In reviewing those points, including a request for information from the Parties on critical uses of halons, he noted that, in response to a request from UNEP for such information, he had received only two replies. He urged Parties to respond as soon as possible or to present their positions regarding these essential uses during this meeting since this information is critical to the amendment and adjustment proposals dealing with halons. He also noted that the Legal Drafting Group established by the last meeting had explicitly left open consideration of amendments relating to Article 10 and technology transfer. In this regard, he noted that UNEP was proceeding with consultations on impediments to technology transfer and possible solutions - basically financial resources and proprietary rights (patents). The latter are being reviewed with the industry itself through the International Chamber of Commerce (ICC) or with the World Intellectual Property Organization (WIPO). However, he recommended to the Working Group that it consider recommending to the Parties a general type of amendment in this area to facilitate further discussion and clarification in the coming months.

9. Dr. Tolba also noted that two of the major elements that needed to be considered by the Parties are: (1) monitoring of the atmosphere, including four key components: long-lived CFCs, halons, HFCs and HCFCs and the state of the stratosphere; and (2) a short-term (about three years), highly-focused research effort to be made to make sure that all of the proposed substitutes are environmentally safe. Although there is monitoring of the atmosphere and information about the ozone-depleting potential (ODP) and global warming potential (GWP) of the substitutes themselves, he noted the need for additional information on the ODP and GWP of the degradation products of proposed controlled substance substitutes. With regard to specific proposals for amendments or adjustments to Article 2 of the Montreal Protocol, Dr. Tolba noted the need to provide industry with clear signals on what was going to be regulated and over what time frame so that it could make new investments with confidence.

10. The Chairman then moved for consideration of agenda item 4, "Note by the Executive Director (UNEP/OzL.Pro.WG.II(1)/2)". In this regard, Dr. Tolba noted that the amendments and adjustments proposed at the second session of the first meeting of the Working Group had been reviewed by the Bureau of the Parties to the Montreal Protocol at their first meeting (Geneva, 27-29 September 1989). After due consideration of the proposals, the Bureau recommended that the Working Group should consider along with the Parties proposals a particular phase-out regime for ozone-depleting substances which was contained in the Executive Director's Note. One delegation questioned whether it was within the Bureau's mandate to make such recommendations, but other delegations expressed the view that there was such a mandate.

11. Referring to the proposal for deletion from paragraph 2 of Article 4 of the words "operating under Article 5", Dr. Tolba stated that if this logical proposal is accepted then sub-paragraph (c) of Article 3 should be reconsidered and its last sentence deleted. Regarding the proposal to add "Addition of Reporting of HCFCs/HFCs" to Article 7, Dr. Tolba pointed out that the fact that biennial reporting of data is required under decision 2 of the Conference of the Parties to the Vienna Convention does not change the fact that there is a need for reporting of these substitute substances according to the system required by the Montreal Protocol if they are going to be controlled.

III. GENERAL DEBATE

12. The Chairman then proposed the following work plan for the meeting: firstly, consideration of the Assessment Panel reports, and secondly, consideration of proposals for adjustments and amendments to the Protocol. With regard to this latter point, the Chairman pointed out that, in accordance with the requirements of the Vienna Convention, all proposed amendments must be supported by a Party to the Protocol and that if non-Parties wished to have amendments proposed for submission to the Parties, they would have to find Party sponsors for their proposals.

13. The Chairman then turned to consideration of the Assessment Panel reports and asked the Chairman of the Science Panel to present a revised paper on transient scenarios for atmospheric chlorine and bromine. This presentation is reflected in Appendix B to the Synthesis Report (UNEP/OzL.Pro.WG.II(1)/4).

14. One delegation drew the Working Group's attention to the Noordwijk Declaration of 7 November 1989 on atmospheric pollution and climate change and its reference to CFCs and funding mechanisms.

15. The Working Group then proceeded to consider potential reduction in emissions of methyl chloroform in the context of the Technology Review Panel Report. In this regard, a presentation was made on behalf of three industrial association on current regional use patterns and future trends for methyl chloroform consumption. The person making the presentation stated his belief that global reductions of 7 per cent methyl chloroform emissions were possible by the year 2000 in the absence of additional regulation. If regulations were imposed, global emissions could be reduced by about 23 per cent. In response, the Technical Assessment Panel noted the feasibility of a total phase-out of methyl chloroform by the year 2000. Another observer organization drew attention to the need to consider the scientific ramifications of the continued use of methyl chloroform. In this regard, the Scientific Assessment Panel noted that even a 20 per cent reduction in 1986 methyl chloroform emissions in the year 2000 would still add 0.4 ppb chlorine to the atmospheric chlorine concentrations as compared to a phase-out of methyl chloroform and would delay recovery of the ozone hole by about 30 years.

16. The Chairman then opened discussion on the Synthesis Report. Following a short discussion, the Synthesis Report was adopted without amendment, taking note of the subsidiary reports on which it was based and other documents which might be of use to decision makers. In this regard, one delegation indicated that two additional reports on methyl chloroform would be made available to the Working Group to facilitate its discussions on amendments concerning methyl chloroform.

17. The Working Group having adopted the Synthesis Report UNEP/OzL.Pro.WG.II.(1)/4, and having taken note of the background assessment reports, further notes that the Report of the Technology Review Panel states on page v (para. 6) that there are many destruction techniques currently available and many more under development and the establishment of approval criteria as called for in Article 1 (5) of the Protocol requires detailed technical consideration on a "per technique" basis. The Working Group recognizes that the expertise required to make a recommendation to the Parties on approval criteria will have to vary accordingly. The Working Group therefore recommends that the Parties create a small and balanced technical advisory committee with responsibility for recommending such approvals to the Parties. This small group should be provided the flexibility to utilize specialized technical expertise, including consultants as required. In light of this, the Working Group further recommends that the "meeting of the Chairmen of the Technical Assessment Panel" called for in UNEP/OzL.Pro.WG.II(1)/Inf.1 be cancelled.

18. One delegation suggested that the next technical assessment should include two issues related to the successful implementation of the Protocol: (1) the environmental acceptability of substitutes (particularly with respect to toxicity, flammability and worker exposure concerns, and the potential impacts of substitutes on energy efficiency and global climate change, stratospheric chlorine levels and air and water quality; and (2) the treatment of "essential uses" for which substitutes are not yet available (e.g. metered dose inhalers, life-saving fire-fighting applications).

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19. One Observer Group noted that the Alternative Fluorocarbon Environmental Acceptability Study (AFEAS) agreement concluded in 1988 between chemical industries around the world generated the annex to the report of the Science Panel. He also announced that eight companies have now agreed in principle to establish a "second generation" AFEAS II consortium to support and participate in the development of information that is essential to complete the studies. AFEAS II will be a three-year multi-million-dollar programme focused on research to yield, in the short-term, answers to questions outstanding on potential environmental effects of the alternatives and their degradation products. He noted that the participating companies are confident that these products will not be associated with ozone-depleting substances in a way which could deter or delay their development and commercialization.

20. One delegation proposed that the collection of data on production, distribution and use of HCFCs and HFCs should be established by voluntary agreement with the industrial producers on the specifications of scientific experts and should be noted in an appropriate form e.g. statement by the Parties. This should make reference to reviewing the implementation of the agreement at the next meeting of the Parties.

21. The Chairman then turned to consideration of adjustments and amendments to the Montreal Protocol. The Working Group established a Legal Drafting Group under the Chairmanship of Dr. Hans Lammers of the Netherlands. Following a discussion of the adjustments and amendments proposed at the last meeting of the Working Group, which are contained in the Report of the Legal Drafting Group to the second session of the first meeting of the Open-ended Working Group (UNEP/OzL.Pro.WG.I(2)/4, Annex III), several new amendments were proposed and several changes to the proposals contained in the Legal Drafting Group's last report were recommended. These new proposals and changes were reviewed and revised from a legal point of view by the Legal Drafting Group established by this session of the Working Group, and all the proposals for adjustments or amendments to the Montreal Protocol put forward by Parties are reflected in the Legal Drafting Group's Report to this session UNEP/OzL.Pro.WG.I(2)/5. The Legal Drafting Group noted that the treatments of adjustments and the various types of amendments to the Protocol called for further consideration.

22. The developing countries in submitting amendments to Article 5 and 10 of the Protocol emphasized the need to promote the participation of all States in protecting the ozone layer. Those countries linked the compliance with the provisions of the Protocol to the availability of financial resources through a UNEP trust fund, and the transfer, on a non-commercial basis of the necessary technology.

23. The Parties to the Montreal Protocol attending the first session of the second meeting of the Open-ended Working Group of the Parties established by the first meeting of the Parties to consider inter alia adjustments and amendments to the Montreal Protocol request the Secretariat of the Vienna Convention and Montreal Protocol, in accordance with Article 9 and 10 of the Vienna Convention and Article 2 of the Montreal Protocol, to communicate to the signatories of the Vienna Convention and the Parties to the Montreal Protocol the amendments and adjustments to the Montreal Protocol which were proposed by the Parties as contained in the report of the Legal Drafting Group established by the current meeting of the Working Group along with the "mechanical" working group report. Additionally, the Parties present at the meeting request the Secretariat to distribute these proposals to all non-Parties with a letter encouraging non-Parties to accede expeditiously to the Protocol.

24. The meeting established a "mechanical" working group under the leadership of Mr. Steve Lee Bapty of the United Kingdom. The group was given the responsibility to review the need for consequential changes to the Protocol Articles while taking note of the proposed changes to the Protocol and to pinpoint additional points of concern that might require specific changes. The Working Group's report is available in UNEP/OzL.Pro.WG.II(1)/6.

25. The Working Group found that there was insufficient meeting time to consider this report and to formulate specific changes necessitated by the proposals put forward by the mechanical working group in time for them to be formally circulated to the Contracting Parties six months before their Second Meeting. The Working Group took note of the advice of the Legal Working Group, that the Parties may consider proposals tabled after December 1989, so long as such proposals are sufficiently related to proposals communicated to the Parties in accordance with the Vienna Convention and the Montreal Protocol so that the Parties may be deemed to have had adequate opportunity to consider the merits of those proposals. They also noted that depending on which proposals were accepted in June 1990, certain amendments of a purely technical nature would have to be made. The Parties present at this Working Group session recommend to the Secretariat that the report of the mechanical working group be circulated to the Parties with, and as a commentary to, those amendments formally proposed. Any proposals for adjustments and amendments resulting from the mechanical working group report could then be regarded as consequential to those formally proposed and relating to the same issues.

26. One delegation noted that this meeting had further clarified the various negotiating positions of the Parties and this had been both necessary and useful. However, it noted that the meeting had not begun negotiations in earnest, and two concerns arose from this; firstly, time is short and it is crucial that, at the meeting of the Parties in June 1990, agreement is achieved on amendments that will substantially tighten the Montreal Protocol, as called for at the first meeting of the Parties in Helsinki on the basis of the scientific evidence. The scientific evidence presented at this meeting reinforced the urgency expressed at Helsinki. The second concern expressed was that an increase in the number of meetings means that countries wishing to remain involved in the amendment process face substantial additional costs. This problem is especially acute for small countries and those at a considerable distance from where the meetings are most often held.

IV. ADOPTION OF THE REPORT

27. At the time of adoption, the report was only available in English, and therefore, was adopted by the Working Group subject to comments, if any, which may arise due to the inability to fully review the report in languages.

V. CLOSURE OF THE MEETING

28. The Chairman thanked the delegates and particularly the two Working Groups Chairmen. The meeting was adjourned at 5 p.m. on 12 November 1989.

ANNEX

AGENDA FOR THE MEETING OF THE OPEN-ENDED WORKING GROUP OF THE PARTIES
TO THE MONTREAL PROTOCOL FIRST SESSION OF THE SECOND MEETING

1. Opening of the meeting.
2. Adoption of the agenda.
3. Report on the work of the second session of the first meeting of the Open-ended Working Group (Nairobi, 28 August - 5 September 1989).
4. Note by the Executive Director.
5. Further consideration and adoption of the Synthesis Report (UNEP/OzL.Pro.WG.I(2)/4, annex II).
6. Further consideration of the recommendations on adjustments and amendments to the Montreal Protocol:
 - (a) Article 2 ("Control measures");
 - (b) Article 3 ("Calculation of control levels");
 - (c) Article 4 ("Control of trade with non-parties");
 - (d) Article 7 ("Report of data");
 - (e) Article 5 ("Special situation of developing countries"),
 - (f) Article 13 ("Financial provisions");
 - (g) Article 10 ("Technical assistance");
 - (h) Article 19 ("Withdrawal");
 - (i) Preambular paragraphs;
 - (j) Annex A.
7. Other matters.
8. Adoption of the report.
9. Closure of the meeting.
