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Implementation Committee under the
Non-compliance Procedure
for the Montreal Protocol

Third Meeting
Geneva, 11 April 1992

REPORT OF THE THIRD MEETING OF THE IMPLEMENTATION COMMITTEE UNDER THE NON-COMPLIANCE PROCEDURE FOR THE MONTREAL PROTOCOL

I. INTRODUCTION

1. The third meeting of the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol was held at the International Conference Centre, Geneva on 11 April 1992.

II. ORGANIZATIONAL MATTERS

2. The President of the, Implementation Committee, Mrs. Carola Bjorklund, opened the meeting and welcomed the participants, especially the new members of the Committee. She explained the reasons for the change in the timing of the meeting. She stressed the importance that the Committee be informed on the observed delay in receipt of data from the Parties.

3. The Committee had before it for its consideration the report of the third meeting of the Ad Hoc Working Group of Legal Experts on Non-Compliance with the Montreal Protocol (UNZP/OzL.Pro/WG.3/3/3) and the report of the Ozone Secretariat on the reporting of data in accordance with articles 4, 7 and 9 of the Montreal Protocol (UNZP/Oz.L.Pro./ImpCom/3/2).

4. The meeting was attended by Committee members from Hungary, Japan, Norway, Uganda, Chile, Thailand, and the United States of America. Also present, as an observer, was a representative of the Czech and Slovak Federal Republic, at his own request. The Committee noted that there was no provision for any observers to take part in the meeting, but there were no objections from the members to the presence of the observer.

5. The meeting adopted the following agenda contained in document UNEP/OzL.Pro./ImpCom/3/1:

1. Opening of the meeting
2. Adoption of the agenda
3. Substantive matters:

(a) Outcome of the Third Meeting of the Ad Hoc Working Group of Legal Experts on Non-Compliance, with the Montreal Protocol (Geneva, 5-8 November 1991)

- (b) Report of the Secretariat on data:
- (i) Status of reporting - 1986 data;
 - (ii) Status of reporting - 1989 data;
 - (iii) Status of reporting - 1990 data and status of compliance

4. Other matters
5. Adoption of the report
6. Closure of the meeting

III. SUBSTANTIVE MATTERS

A. Outcome of the Third Meeting of the Ad Hoc Working Group Of Legal Experts on Non-Compliance with the Montreal Protocol (Geneva. 5-8 November 1991)

6. The Committee noted the report of the Ad-hoc Working Group of Legal Experts in which a draft revised non-compliance procedure, a draft indicative list of possible situations of non-compliance, and a draft indicative list of measures that might be taken in cases of non-compliance had been provided. The Committee observed that there was still some disagreement among the legal experts on some issues. The Fourth Meeting of the Parties to the Montreal Protocol in November 1992 would take decisions on those Issues. Meanwhile the Implementation Committee would follow the procedures set out by the Second Meeting of the Parties in June 1990.

B. Report of the Secretariat on Data and Status of Compliance

7. The Secretariat introduced the, report on the current state of data reporting under the requirements of the Montreal Protocol.

8. The Committee reviewed the status of reporting for 1986, 1989, and 1990 and noted the following:

Number of Parties not operating under Art.5	Required to report	Fulfilled reporting requirements	Incomplete data or no report
1986 37	37	28	9
1989 37	32	24	8
1990 37		24	12
No of Parties operating under Art.5	Required to report	Fulfilled reporting requirement	Incomplete data or no report
1986 38	37	15	22
1989 38	16	6	10
1990 38	28	8	20

Note: There are at present 76 Parties to the Protocol. For one Party, the Protocol enters into force only on 27 May 1992. A Party is required to report only after the Protocol enters into force for it.

The Committee observed that the reporting process was slow and many Parties failed to report their data on time, while many others had serious difficulties in gathering their data and it discussed specific cases. It noted that the cases of failure to report generally involved the same Parties, and the same problems, for all reporting periods.

9. The Committee noted that the following Parties had not provided complete 1986 data - Parties not operating under Article 5: Belarus, Greece, Iceland, Italy, Liechtenstein, Malt, Portugal, Ukraine and United Arab Emirates; and Parties operating under Article 5: Bangladesh, Burkina Faso, Cameroon, China, Costa Rica, Ecuador, Fiji, Gambia, Ghana,

Guatemala, Islamic Republic of Iran, Kenya, Libya, Malawi, Maldives, Nigeria, Philippines, Syria, Togo, Trinidad and Tobago, Uganda and Uruguay. The following Parties had not provided complete 1989 data - Parties not operating under Article 5: Belarus, Greece, Iceland, Italy, Liechtenstein, Malta, Portugal and Ukraine; and Parties operating under Article 5: Burkina Faso, Cameroon, Egypt, Kenya, Maldives, Nigeria, Panama, Trinidad and Tobago, Tunisia and Uganda. The following Parties had not provided complete 1990 data - Parties not operating under Article 5: Bahrain, Belarus, the European Community, Greece, Iceland, Italy, Liechtenstein, Malta, Portugal, Switzerland, Ukraine and United Arab Emirates; and Parties operating under Article 5: Argentina, Bangladesh, Brazil, Burkina Faso, Cameroon, Ecuador, Fiji, Gambia, Guatemala, Libya, Malaysia, Maldives, Nigeria, Panama, Sri Lanka, Syria, Trinidad and Tobago, Uganda and Zambia.

10. The Committee noted that Greece, Italy, and Portugal, which were member states of the European Community had not reported their data as required. It recommended that the Secretariat should urge the European community member states which had not responded so far to provide their production data individually as required by the Protocol, in accordance with the decision of the Second Meeting of the Parties.

11. The Committee discussed the case of the former Soviet Union which had reported a single set of data for the years 1986, 1989 and 1990, including data for other Parties to the Protocol, namely, Ukraine and Belarus. The committee was of the opinion that, in the existing situation, the Secretariat should once again ask the Parties involved to report their 1986, 1989 and 1990 data individually.

12. The Committee discussed the case of Liechtenstein, which formed part of Customs Union with Switzerland and whose data were included in the Swiss data. It decided that Switzerland and Liechtenstein be urged to submit the data by splitting their figures between the two countries.

13. The committee discussed a definition of a regional economic integration organization for the purpose of the Montreal Protocol, and was of the opinion that, if a group of Parties wished to declare themselves as such, they should submit a proposal to that effect to the Meeting of the Parties for its consideration.

14. Some members of the committee noted the increase in consumption of the controlled substances by some Parties operating under Article 5 of the Protocol, which took them very close to the consumption level of 0.3 kg per capita. The Committee agreed to make reference to this fact in its report to the Fourth Meeting of the Parties.

15. The Committee took note of the fact that according to the data reported by the Parties, there were no cases of non-compliance with the control measures of the Protocol. It noted, however, that many Parties failed to report complete data on time, and decided that increased efforts should be made to identify the reasons for that situation.

16. The Implementation Committee noted that the turnover of personnel in the customs service, their lack of training and experience, and the lack of qualified specialists to train them, seem to be the principal reasons why the Parties operating under Article 5, paragraph 1 were having difficulties with regard to the data-reporting duties.

17. The Secretariat explained the previous discussions on the issue and the solutions suggested to solve the problems of reporting by the Parties operating under Article 5, paragraph 1. They included legislation or regulations to compel reporting from importers and exporters, a Customs Code System for the controlled substances, and a periodic special survey of user, industries to identify consumption. The Secretariat also underlined the importance of the country studies being carried out by the three implementing agencies of the

Multilateral Ozone Fund - UNDP, UNEP, and the World Bank which, it was hoped, would help those countries to comply with the provisions on data reporting. The Issue of Customs code numbers was continuing to be discussed with the Customs Cooperation Council. The Secretariat took up the issue of prescribing individual code numbers for each of the controlled and transitional substances as a part of the Harmonized Commodity System of the Customs Cooperation Council. The Customs Cooperation Council might not be able to do so under its existing system. The procedure of amending the Harmonized Commodity System was a lengthy, one and it would not be possible to bring it into force earlier than in 1996, when most of the controlled substances would have already been phased out. It was, however, possible for every country to introduce extended codes voluntarily. There were already several such code systems in existence (i.e. in Japan and New Zealand). The Implementation Committee was of the opinion that the Secretariat should select the most suitable system and recommends it to the Parties.

18. The Committee discussed the country studies carried out in a number of countries and the results they had produced. It was pointed out that the early country studies carried out in some countries provided only an overview of the situation at the time of the study with regard to the controlled substances, while the country studies being initiated would provide programmes for administrative changes in order to facilitate future reporting. It was pointed out that those programmes needed continuous financial assistance on an ongoing basis to enable the Parties to carry out activities allowing them to comply with the Protocol. The representative of Chile gave an account of the country programme in his country which, he thought, had been very effective so far, but stressed the importance of the continuous availability of funds in the future, in order to continue the programme.

19. The Committee stressed the importance of being fully informed about the country studies, which had been conducted, and of their results. In addition, the Committee expressed the need to be informed about country studies being planned, their schedules and scopes. It was agreed that the Committee should undertake informal exchanges of Information with the multilateral Ozone Fund, where appropriate. The Committee took note of the fact that the country studies under the Multilateral Ozone-Fund were carried out at the request of a Party. The Committee asked the Secretariat to prepare a report providing a summary of the activities carried out by implementing agencies under the Multilateral Ozone Fund. The committee took note of the fact that the terms of reference for the country studies included the requirement of providing the complete data and required under the Protocol, and, on involving local experts in data-gathering to ensure proper reporting in the future. The Committee believed that the reporting status of the countries operating under Article 5 would quickly improve with the completion of country studies.

20. The representative of the Czech and Slovak Federal Republic, present at the meeting an observer, informed the Committee of the problems faced by the countries with economies in transition. He pointed out that, until recently it had been impossible to gather the complete consumption data from some sectors of the economy (military uses, nuclear power generation) due to the confidentiality of this data. He noted the financial problems in carrying out country programmes. His country's contribution to the Multilateral ozone Fund was 7 per cent of the fund allocated in his country 's budget for the whole sector of environment protection which in itself was very small. He expressed his concern that his country's contribution to the Multilateral Ozone Fund would deplete the resources necessary for complying with the Protocol. The Committee took note of that statement and was of the opinion that, although it should not deal directly with financial matters, it could shortly be faced with similar problems in other Eastern European countries.

21. The Committee discussed the problem of countries providing now corrected data retrospectively, as in the case of Jordan. Some members suggested that specific procedures could be worked out for Parties to correct the data supplied by them.

22. The Committee expressed the view that the agenda of the next meeting of the Open-ended Working Group should include, on a formal or informal basis, a presentation by the President of the Implementation Committee on the status of reporting.

23. The Committee took note of the reporting status under Article 4 and Article 9 of the Protocol. The United States out that it had already initiated criminal prosecutions under domestic legislation implementing Article 4.

24. The Committee too made a number of suggestions concerning the present form of the report by the Secretariat. It recommended that:

The report should be prepared as a complete document rather than an update of the previous report;

A comprehensive introductory note and summary should be placed at the beginning of the report:

Most of the tables containing figures should be presented as an appendix; and

The summary of the reporting under Article 4 should be more detailed.

C. Other Matters

25. There were no other matters.

0. Adoption of the Report

26. It was agreed that a draft report could be sent to the members shortly for their approval.

E. Closure of the Meeting

27. After the customary exchange of courtesies, the President declared the meeting closed at 3.p.m. on Saturday, 11 April 1992.