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IMPLEMENTATION COMMITTEE UNDER THE
NON-COMPLIANCE PROCEDURE FOR
THE MONTREAL PROTOCOL
Eleventh meeting
Geneva, 31 August 1995

REPORT OF THE IMPLEMENTATION COMMITTEE UNDER THE NON-
COMPLIANCE PROCEDURE FOR THE MONTREAL PROTOCOL
ON THE WORK OF ITS ELEVENTH MEETING

I. INTRODUCTION

1. The eleventh meeting of the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol was held at Geneva International Conference Centre on 31 August 1995.

II. ORGANIZATIONAL MATTERS

A. Opening of the meeting

2. The meeting was opened at 3.10 p.m. on Thursday, 31 August 1995, by Mr. Hugo Schally (Austria), President of the Committee.

B. Attendance

3. The meeting was attended by Committee members from Austria, Bulgaria, Burkina Faso, Jordan, Netherlands, Peru, the Russian Federation and the United Republic of Tanzania. In accordance with the decision taken by the Committee at its tenth meeting, the meeting was also attended by representatives of Belarus, Poland and Ukraine, as well as by the representatives of Armenia, Georgia and Kyrgyzstan, non-Parties to the Protocol who had been invited to attend. The meeting was also attended by the Chair and Co-Chair of the Ad Hoc Working of the Technology and Economic

Assessment Panel on CEIT Issues. A representative of the secretariat of the Global Environment Facility also participated. The full list of participants is annexed to the present report.

C. Adoption of the agenda and organization of work

4. The President recalled that, as decided by the Committee at its tenth meeting (UNEP/OzL.Pro/ImpCom/10/4, para. 47 (a)), the purpose of the meeting was to consult with the representatives of the other countries concerned by the statement of the Russian Federation regarding non-fulfilment of obligations under the Montreal Protocol, namely, Belarus, Bulgaria, Poland and Ukraine, as well as with the representatives of the non-Parties to the Montreal Protocol from countries with economies in transition attending the twelfth meeting of the Open-ended Working Group.

III. SUBSTANTIVE MATTERS

A. Consultations with the other countries concerned by the statement of the Russian Federation regarding non-fulfilment of obligations under the Montreal Protocol: Belarus, Bulgaria, Poland and Ukraine

Poland

5. The Secretariat informed the Committee that Poland was in full compliance with its reporting obligations under the Montreal Protocol.

6. At the invitation of the President, the representative of Poland outlined the situation with regard to his country's compliance with the Montreal Protocol. He said that Poland had associated itself with the statement of the Russian Federation because of the possibility that it could have difficulties in complying with the Protocol in 1996. At the same time, it had submitted an essential-use nomination for 100 tonnes of CFC-12 to be used to service existing refrigeration equipment. It had also submitted data pursuant to Article 4, paragraph 8, of the Protocol to show that it was in compliance with the London and Copenhagen Amendments, even though it was not yet a Party to those instruments. To be in compliance in 1996, Poland required only a small quantity of CFC-12 for servicing refrigeration equipment and would endeavour to satisfy that need through the purchase of recovered or recycled substances from abroad. If it succeeded in doing so, it would have no difficulties in complying with the Protocol. Poland would report back to the Committee on the subject in 1996.

7. The President suggested that, since there seemed to be a good chance that Poland would be able to comply with the Protocol, there was no need for the Committee to consider its case further at the current meeting.

8. The Committee decided:

- (a) To note the statement of the representative of Poland;

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(b) To recommend that the Seventh Meeting of the Parties accept the assurance given by the representative of Poland that his country was likely to be in compliance with the Protocol in 1996, even though there were still some doubts concerning the availability of substitutes;

(c) To remind Poland that, should it have doubts about the feasibility of compliance, it should submit the information to the Secretariat as soon as possible so that the necessary action could be initiated.

Bulgaria

9. The Secretariat said that Bulgaria had reported all the data required of it under the Montreal Protocol.

10. At the invitation of the President, the representative of Bulgaria informed the Committee of his country's situation with regard to compliance with the Protocol. He said that Bulgaria had reported data for 1994, and he provided the Committee with detailed estimates of its consumption requirements up to 2001, broken down by substance and sector. The country did not produce ODS, and it did not import such substances from non-Parties to the Protocol. It had also taken measures to prohibit the export of ODS to non-Parties, and would develop an ODS-licensing system to control and monitor imports and use in the country. Bulgaria needed 850 tonnes of ODS for 1995 and around 500 tonnes from 1996 up to 1998. For new refrigeration equipment, Bulgaria would require 45 tonnes of controlled substances in 1996 and 40 tonnes in 1997, with the corresponding amounts for the foams sector being 280 and 250 tonnes, respectively. With regard to pharmaceutical uses of aerosols, Bulgaria would require about 50 tonnes of CFC-12 in 1995 and 1996 and about 45 tonnes in 1997. However, the health and environment ministries had agreed that, should substitutes for CFC-12 become available, they would be used.

11. The representative of Bulgaria stressed that the figures being provided to the Committee, which had been compiled in response to a questionnaire from the TEAP Working Group on CEIT Issues, represented the most pessimistic scenario, and, with the possibility of assistance from GEF, the actual amounts could be considerably lower. Indeed, in May 1995, the GEF Council had agreed in principle to such assistance, amounting to about \$10 million, and a meeting would be held at the ministerial level in September 1995 to see if the grant could be obtained and the practical arrangements worked out. It was therefore possible that a GEF-assisted two-year project to phase out the consumption of ODS in Bulgaria could be launched in early 1996. Finally, the representative of Bulgaria said that Bulgaria would transmit an official letter to the Ozone Secretariat and the Implementation Committee to confirm his statement at the current meeting.

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12. The Co-Chair of the TEAP Ad Hoc Working Group on CEIT Issues remarked that the quantities requested and the delays estimated for the servicing of refrigeration equipment seemed very high to him. He drew a comparison with the situation in Poland and asked why the same could not be achieved in Bulgaria. In response, the representative of Bulgaria said that with financial assistance from the Global Environment Facility, the quantities and the delays could be expected to be much smaller.

13. The Committee decided:

(a) To note that Bulgaria was in compliance with the Montreal Protocol for 1995;

(b) To note further that there was a possibility of non-compliance by Bulgaria in 1996 and that the Committee might have to revert to the question that year;

(c) To recommend to the Seventh Meeting of the Parties that, in view of the action proposed by the Government of Bulgaria, no action would be required of the Parties in respect of Bulgaria's compliance with the Protocol until their Eighth Meeting;

(d) To recommend that, since the estimated levels of consumption provided by the representative of Bulgaria represented a worst-case scenario and the actual figures could be significantly lower than as a result of the proposed assistance from the Global Environment Facility, any revision of the estimates, whether upwards or downwards, should be communicated to the Secretariat for consideration by the Committee.

Belarus

14. The Secretariat informed the Committee that Belarus had reported all the data required of it by the Protocol, with the exception of its baseline data for methyl bromide.

15. At the invitation of the President, the representative of Belarus explained his country's position with regard to compliance with the Montreal Protocol. He said that Belarus was currently in compliance but foresaw difficulties starting at the beginning of 1996 as a result of the economic problems that were facing countries with economies in transition. It had therefore requested a five-year grace-period with effect from 1 January 1996.

16. In response to a question from the President, the representative of Belarus said that his country would try to submit by 1 October 1995 the required information on its plans for achieving compliance with the Protocol.

17. In response to a request for clarification from the representative of Belarus, the President said that the presentation of information regarding the schedule for achieving compliance should be clear and in a form that allowed a technical assessment to be made. The Secretariat then offered to

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cooperate closely with the interested parties to bring about a clear and comprehensive report that would match those criteria.

18. The Committee decided:

(a) To note that, with the exception of its baseline data for methyl bromide, Belarus had reported all the data required of it under the Protocol;

(b) That Belarus should supply further information, including a schedule for achieving compliance with the control measures under the Protocol. In that connection, it was recalled that Belarus should also submit a list of its recycling facilities, if any, in accordance with the decision adopted by the Sixth Meeting of the Parties;

(c) That consideration could be given to the application or non-application of trade restrictions in respect of Belarus and the possible forms that such restrictions might take;

(d) That it would consider the information to be provided by Belarus at a meeting immediately prior to the Seventh Meeting of the Parties with a view to making recommendations to the Parties;

(e) That it would welcome any assistance that could be provided to Belarus for data collection and that close coordination and contacts between Belarus and the Ad Hoc Working Group of the Technology and Economic Assessment Panel on CEIT Issues should be encouraged;

(f) That, in accordance with paragraph 7 (c) of the non-compliance procedure, the Secretariat should address a communication to the appropriate authority in Belarus summarizing the decisions of the Implementation Committee;

(g) That the case of Belarus would be reviewed by the Implementation Committee at its meeting immediately preceding the Seventh Meeting of the Parties.

Ukraine

19. The Secretariat reported that Ukraine had submitted all the data required of it under the Protocol.

20. At the invitation of the President, the representative of Ukraine explained his country's position with regard to compliance with the Montreal Protocol. He said that a project to be submitted for funding by GEF had recently been completed with the assistance of a consultant and was currently undergoing final revisions. Ukraine produced only one controlled substance, carbon tetrachloride, but had some 40 enterprises that used such substance for production. In general, the problems confronting Ukraine, the Russian Federation and Belarus were the same; it was only the scale that differed. His country foresaw non-compliance with the Protocol as of 1 January 1996, but was not in a position to predict how long that would

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last as the situation was constantly changing. Ukraine would be able to submit more detailed information as soon as the above-mentioned project document was finalized and harmonized with the draft national programme for Ukraine. He said that his country could provide sufficient information to enable a decision on the issue to be taken by the Seventh Meeting of the Parties.

21. The President stressed that, for the Committee to be able to make recommendations to the Meeting of the Parties, it needed comprehensive information. He also recalled that such information, together with an appropriate decision from the Meeting of the Parties, was a pre-condition for assistance from GEF. The representative of GEF confirmed that the GEF Council had decided that the provision of financial support to ozone-related projects within GEF was determined by several pre-conditions. The country in question had to be a Party to the London Amendment to the Montreal Protocol. In addition, it had to be considered to be in compliance with its obligations under the Montreal Protocol or to have given a clear indication of what measures it intended to take in order to bring about compliance at the earliest possible time.

22. The Committee decided:

(a) To note that Ukraine had fulfilled its data-reporting obligations under the Protocol;

(b) That Ukraine should supply further information, including a schedule for achieving compliance with the control measures under the Protocol. In that connection, it was recalled that Ukraine should also submit a list of its recycling facilities, if any, in accordance with the decision adopted by the Sixth Meeting of the Parties;

(c) That consideration could be given to the application or non-application of trade restrictions in respect of Ukraine and the possible forms that such restrictions might take;

(d) That it would consider the information to be provided by Ukraine at a meeting immediately prior to the Seventh Meeting of the Parties with a view to making recommendations to the Parties;

(e) That it would welcome any assistance that could be provided to Ukraine for data collection and that close coordination and contacts between Ukraine and the Ad Hoc Working Group of the Technology and Economic Assessment Panel on CEIT Issues should be encouraged;

(f) That, in accordance with paragraph 7 (c) of the non-compliance procedure, the Secretariat should address a communication to the appropriate authority in Ukraine summarizing the decisions of the Implementation Committee;

(g) That the case of Ukraine would be reviewed by the Implementation Committee at its meeting immediately preceding the Seventh Meeting of the Parties.

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B. Meeting with the representatives of Armenia,
Georgia and Kyrgyzstan

23. The Committee informed the representatives of the three non-Parties present at the meeting - Armenia, Georgia and Kyrgyzstan - of the specific problems facing non-Parties. Not only could such countries not obtain controlled substances from Parties legally, they were also not entitled to assistance from the Global Environment Facility for ODS phase-out activities. The Committee informed the three non-Parties of the advantages of accelerating their ratification process. In the meantime, they were advised that, in accordance with Article 4, paragraph 8, of the Protocol, they could have access to the market for controlled substances if they submitted data to the Secretariat to show that they had fulfilled all the obligations that they would have assumed if they were already Parties. If they submitted such a report, the Meeting of the Parties could adopt a decision enabling them to purchase controlled substances legally. The Committee advised the non-Parties to contact the Secretariat to seek advice on how best to approach the matter.

C. Other matters emerging from the meeting

24. The Committee decided to recommend:

(a) That every effort should be made to ensure that the representatives of those Parties who had associated themselves with the statement by the Russian Federation were present at the forthcoming meetings under the Protocol in Vienna;

(b) That efforts should also be made to ensure the rapid translation of documentation into Russian for the benefit of those countries of the Commonwealth of Independent States that wished to receive documentation in that language.

25. The Committee also took note of a statement by the Co-Chair of Ad Hoc Working Group on CEIT Issues concerning the limited resources available to it in its efforts to cooperate with all the countries concerned. In that respect, the Secretariat said that it would try to provide assistance to the Working Group should it have any problems with communications.

26. The President drew attention to a statement by Armenia, Belarus, Bulgaria, Georgia, Kyrgyzstan, the Russian Federation and Ukraine, which had been circulated informally in the Open-ended Working Group and said that the draft decision attached to that statement was inappropriate in the case of the three non-Parties. In the case of the four other countries, the Implementation Committee had just made a recommendation in respect of Bulgaria, and its position - and that of the Meeting of the Parties - concerning Belarus, the Russian Federation and Ukraine should be determined on the basis on the further information that had been requested of them. There was no legal basis for the general exemption proposed in the draft decision.

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27. One member of the Committee said that it was reasonable to make such a statement to show the reality of the situation in the countries with economies in transition. He requested that it should be included in the documentation for the current meeting of the Implementation Committee (see annex II to the present report).

VI. ADOPTION OF THE REPORT

28. In accordance with past practice, the Committee entrusted the President and Rapporteur with the finalization and approval of its report.

VII. CLOSURE OF THE MEETING

29. After the customary exchange of courtesies, the meeting was closed at 6 p.m. on 31 August 1995.

Annex I

LIST OF PARTICIPANTS

A. Members of the Implementation Committee

AUSTRIA

Mr. Schally Hugo-Maria
Office of the Legal Adviser
Ministry for Foreign Affairs
Ballhauspl.1
A-1014 Vienna
Austria
Tel: (+43 1) 531 15 33 00
Fax: (+43 1) 531 85 212

BULGARIA

Mr. Vanguel Tzvetkov
Ministry of the Environment
Gladstone Str.67 W.
Sofia
Bulgaria
Tel: (+359 2) 87 61 51
Fax: (+359 2) 81 05 09
Telex: 22145 MOSBG

BURKINA FASO

Mr. Boubié Jérémy Bazye
Coordonateur
Bureau de l'Ozone
Ministère de l'Environnement et du Tourisme
03 BP 7044
Ouagadougou 03
Burkina Faso
Tel: (+226) 30 63 97
Fax: (+226) 31 81 34
Telex: 5555 SEGE GOUV

/...

JORDAN

Mr. Ghazi Faleh Odat
Assistant Director
Department of Environment
Head of Ozone Unit
P.O. Box 1799
Amman
Jordan
Tel: (+962 6) 69 56 26
Fax: (+962 6) 69 56 27

NETHERLANDS

Mr. Jan-Karel B. H. Kwisthout
Ministry of Environment
P.O. 30945
2500 GX The Hague
Netherlands
Tel: (+31 70) 339 43 77
Fax: (+31 70) 339 12 93

PERU

Mr. Antonio Garcia Revilla
Permanent Mission of Peru
to the United Nations
Rue de Lausanne 63
1202 Geneva
Switzerland
Tel: (+41 22) 731 11 30
Fax: (+41 22) 731 11 68

RUSSIAN FEDERATION

Mr. Evgueni F. Outkine
Ministry of the Protection of Environment
and Natural Resources
4/6, B. Gruzinskaya St.
Moscow, 123812
Russia
Tel: (+7 95) 254 48 47
Fax: (+7 95) 254 82 83
Telex: 411692 BOREI RU

UNITED REPUBLIC OF TANZANIA

Mr. Sanjo M. Mgeta
Ministry of Tourism and Natural Resources
and Environment
P.O. Box 72243
Dar es Salaam
Tanzania
Tel: (+255 51) 250 84 / 35501
Fax: (+255 51) 250 84 / 23230

B. Parties to the Protocol participating at
the invitation of the Committee

BELARUS

Mr. Alexander Ogryzov
Deputy-Minister
Ministry of Natural Resources and
Protection of Environment
Kollektornja St. 10
220048, Minsk
Belarus
Tel: (+17) 20 61 90
Fax: (+17) 20 55 83

UKRAINE

Mr. Vasyl Vasylchenko
Ministry for Environmental Protection
and Nuclear Safety
5 Kchreshchatyk St.
Kyiv 252001
Tel: (+380 44) 229 80 50
Fax: (+380 44) 229 80 50

C. Non-Parties to the Protocol attending at
the invitation of the Committee

ARMENIA

Mr. Aram Gabrielian
Chief, Department of Atmosphere Protection
Ministry of Nature and Environment Protection
35, Moskovian St. 375002
Yerevan
Armenia
Tel: (+600 3742) 53 07 41
Fax: (+600 3742) 53 49 02 / 15 16 69

GEORGIA

Mr. Tengiz Ladgidze
Ministry of Environmental Protection
Kostava str. 68a
Tbilisi, 380015
Republic of Georgia
Tel: (+88 32) 36 73 34
Fax: (+88 32) 98 34 25
E-mail: irisi@gmep.kheta.ge

KYRGYZSTAN

Mr. Omurbekov Esenbek Abdrachmanovich
State Committee of Environment Protection of the Kyrgyz Republic
720300 Bishkek
Isanov Street 131
Kyrgyzstan
Tel: (+7 331 2) 21 32 33
Fax: (+7 331 2) 26 23 21

D. Assessment Panels

**AD HOC WORKING GROUP ON CEIT ISSUES OF THE TECHNOLOGY AND ECONOMIC
ASSESSMENT PANEL**

Dr. Lambert Kuijpers
Technical University WS-404
P.O. Box 513
5600 MB Eindhoven
Netherlands
Tel: (+31 40) 47 24 87 / 50 37 97
Fax: (+31 40) 46 66 27

Mr. László Dobó
Ministry for Environment
H-1011 Budapest
Fő u. 44-50
Hungary
Tel: (+361) 201 2325
Fax: (+361) 201 3056

E. Intergovernmental organizations

SECRETARIAT OF THE GLOBAL ENVIRONMENT FACILITY

Mr. Frank Rittner
1818 H Street
Washington D.C. 20433
United States of America
Tel: (+1 202) 458 50 44
Fax: (+1 202) 522 32 40/32 45
E-mail: frittner@worldbank.Org

Annex II

STATEMENT

by countries with economies in transition that are
Parties to the Montreal Protocol -
Belarus, Bulgaria, Russian Federation, Ukraine -
or intend to become Parties to the Protocol -
Armenia, Georgia, Kyrgyzstan -
at the twelfth meeting of the Open-ended Working
Group of the Parties to the Montreal Protocol

(Geneva, 28 August - 1 September 1995)

We, the representatives of countries with economies in transition, while reaffirming our commitment to the obligations relating to the protection of the ozone layer, are in principle complying with the basic provisions of the Montreal Protocol. Total production and consumption of ozone-depleting substances in our countries is constantly decreasing and at present stands at 90 per cent of the base-year level. However, it should be pointed out that, to a large extent, this reduction is a result not of the introduction of ozone-safe technologies but of a fall in industrial output due to the economic crisis.

Representatives of our delegations have stated on a number of occasions, at the Fifth Meeting of the Parties and the tenth, eleventh and twelfth meetings of the Open-ended Working Group, that our countries are making every effort to meet the obligations that they had assumed under the Vienna Convention and the Montreal Protocol. However, the processes connected with political, geopolitical and social change, with the break from the previous economic system and the transition to a market economy, have demanded and continue to demand great moral, material and financial outlays.

The economic situation and present-day realities represent objective evidence that our States will not be in a position to comply fully with their obligations under international agreements, including the Montreal Protocol with the London and Copenhagen amendments and adjustments.

At the moment, most of our countries have prepared national strategies for converting industry to ozone-safe technologies and practical activities are under way to implement them.

In view of the foregoing, our countries propose that consideration should be given to granting them a five-year grace-period, from 1 January 1996, for compliance with the obligations under the Montreal Protocol and that the following draft decision should be forwarded for the consideration of the Seventh Meeting of the Parties to the Montreal Protocol, in Vienna, Austria, under item 3 (b) of the agenda of the twelfth meeting of the Open-ended Working Group:

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Considering:

- The difficult economic situation of the countries with economies in transition, both Parties to the Montreal Protocol -Belarus, Bulgaria, the Russian Federation and Ukraine - and non-Parties to the Protocol - Armenia, Georgia and Kyrgyzstan,
- That, in the light of the economic crisis in the countries with economies in transition, there is no possibility of full compliance with the Montreal Protocol as adjusted and amended at London and Copenhagen,

Taking into account:

- The statements of the representatives of Parties to the Montreal Protocol from countries with economies in transition at the Fifth Meeting of the Parties and the tenth, eleventh and twelfth meetings of the Open-ended Working Group of the Parties to the Montreal Protocol,
- The conclusions of the Ad Hoc Working Group on CEIT Issues of the Technology and Economic Assessment Panel in its report entitled "Assessment of the basic problems confronting countries with economies in transition in complying with the Montreal Protocol",
- To permit the above-mentioned countries to extend until 2000 the time-limit for implementing the obligations in respect of consumption of CFCs under the Montreal Protocol, as adjusted at Copenhagen, in order to satisfy basic domestic needs and particularly important uses, provided that the 1994 level of consumption is not exceeded.

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