

Distr.
GENERAL

UNEP/OzL.Pro/ImpCom/8/3
4 July 1994

ORIGINAL: ENGLISH

IMPLEMENTATION COMMITTEE UNDER THE
NON-COMPLIANCE PROCEDURE FOR THE
MONTREAL PROTOCOL
Eighth meeting
Nairobi, 4 July 1994

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

I. INTRODUCTION

1. The eighth meeting of the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol was held at the headquarters of the United Nations Environment Programme (UNEP), Nairobi, on 4 July 1994.

II. ORGANIZATIONAL MATTERS

2. The Coordinator of the Secretariat for the Vienna Convention and the Montreal Protocol, Mr. K.M. Sarma, opened the meeting and welcomed all the participants.

3. The Committee elected Mr. Hugo Schally of Austria as President and Ms. Jane Kavuma of Uganda as Vice-President and Rapporteur.

4. The meeting had before it for its consideration the report of the Secretariat on the reporting of data by the Parties to the Montreal Protocol (UNEP/OzL.Pro/ImpCom/8/2).

5. The meeting was attended by Committee members from Argentina, Austria, Bulgaria, Burkina Faso, Jordan, Netherlands, Republic of Korea, Russian Federation and Uganda. Representatives from implementing agencies and the Fund Secretariat were also present. The list of participants is annexed to the present report.

6. The Committee adopted the following amended version of the provisional agenda contained in document UNEP/OzL/Pro/ImpCom/8/1:

1. Opening of the meeting.
2. Organizational matters:
 - (a) Election of the President and Vice-President;
 - (b) Adoption of the agenda.

3. Substantive matters:
 - (a) Presentation of reports by the Multilateral Fund and implementing agencies on the extent to which their activities have assisted Article 5 countries to collect data on controlled substances and on the progress made in institutional strengthening;
 - (b) Consideration of the report of the Secretariat on data and information reported by Parties.
4. Other matters.
5. Adoption of the report.
6. Closure of the meeting.

III. SUBSTANTIVE MATTERS

- A. Presentation of reports by the Multilateral Fund and the implementing agencies on the extent to which their activities have assisted Article 5 countries to collect data on controlled substances and on progress made in institutional strengthening

7. In inviting the Secretariat of the Multilateral Fund and the implementing agencies to present their reports on the extent to which their activities had assisted Parties operating under Article 5 to collect data on controlled substances and on the progress made in institutional strengthening, the President suggested that those reports should focus, in particular, on those Parties that had been or were being supported but still appeared to have difficulty with reporting data.

8. The representative of the Secretariat of the Multilateral Fund reported that funds from the Multilateral Fund had been provided to the implementing agencies to undertake activities which would enhance the data collection and data reporting capacities of Parties operating under Article 5. Those activities included country programme preparation, training and workshops.

9. He said that the guidelines by the Multilateral Fund for preparation of country programmes provided a data collection format based on the reporting format of the Protocol. The format made it possible to identify and reach all possible sources of consumption. Analysis of the data obtained gave the consumption by substance, by sector and by year. Current consumption as well as baseline data were collected during the country programme preparation. The procedures for country programme preparation were designed to impart a data collection capability to the country concerned.

10. Data collection and data reporting capability was further supported and enhanced through institutional strengthening which provided data processing and dissemination facilities such as computers and modems, fax machines, photocopiers etc., allowances or salaries for specifically dedicated staff of national ozone focal points and operational costs. A total amount of US\$ 6.87 million had so far been disbursed to the implementing agencies for institutional strengthening in 37 Parties operating under Article 5.

/...

11. Other activities supported by the Multilateral Fund to enhance data reporting capabilities included regional workshops that had been organized by UNEP with financial support of US\$ 948,000 from the Fund. Furthermore the Executive Committee had approved US\$ 564,000 to UNEP to start a three-year programme of regional and subregional networks which should address more closely priority regional and subregional problems including data collection and data reporting, where necessary.

12. Thus far, 33 country programmes had been approved, which had enabled 11 of the 22 Parties temporarily operating under Article 5, paragraph 1, of the Protocol to present their full data and to be removed from the list of Parties temporarily categorized as operating under Article 5. The following Parties however, still had either their baseline data, past or current, pending, although their country programmes had been completed and approved by the Executive Committee. They included Algeria, Burkina Faso, Costa Rica, Côte d'Ivoire, Cuba, Ecuador, Egypt, Fiji, Ghana, Guatemala, Islamic Republic of Iran, Indonesia, Malaysia, Maldives, Mauritius, Mexico, Panama, Philippines, Senegal, Syrian Arab Republic and Zambia.

13. A number of Parties whose data were still pending also had funds disbursed to implementing agencies for preparation of their country programmes and it was to be expected that following the ODS survey or completion of their country programmes their data would be promptly reported. Those countries included: Antigua and Barbuda, Bahrain, Bangladesh, Barbados, Botswana, Central African Republic, Guinea, Kenya, Lebanon, Nigeria, Pakistan, Samoa, Swaziland, St. Kitts and Nevis, Tanzania, Togo, Trinidad and Tobago and Venezuela.

14. The representative of the United Nations Development Programme (UNDP) stated that UNDP was assisting 13 Parties in country programme formulation (10 completed), had 15 ongoing institutional strengthening projects and 3 ongoing national surveys of small scale industry ODS usage. With respect to the Parties operating under Article 5, paragraph 1, of the Protocol specified in document UNEP/OzL.Pro/Imp.Com/8/2 whose data reports were overdue, he stated that:

(a) Costa Rica, Cuba, Indonesia, Iran and the Philippines were Parties where country programmes had been finalized and approved with UNDP assistance;

(b) Bangladesh, Trinidad and Tobago and Venezuela were Parties where the country programmes were being finalized with UNDP assistance;

(c) Costa Rica, Cuba, Ghana, Indonesia, Iran, Nigeria and Venezuela were Parties whose institutional strengthening projects were being implemented with UNDP assistance.

15. UNDP would contact the countries listed above to facilitate their timely submission of data to the Ozone Secretariat.

16. The representative of the UNEP Industry and Environment Programme Activity Centre (IE/PAC) highlighted the Parties where UNEP IE/PAC was the implementing agency for the country programmes, but which still had not reported data. He clarified that in some cases the country programmes were yet to start, in others activities were still ongoing, while on balance the country programmes were complete. The Parties where country programmes were complete but they have not reported data are: Senegal, Algeria, Mauritius, Burkina Faso and Syrian Arab Republic (1986 base-line). He also pointed out, on a positive note, that 1991 data had been reported by Burkina Faso, Cameroon, Maldives and Uganda. Data for 1992 had yet to be

/...

reported by Burkina Faso, Fiji, Guatemala, Mauritius, Panama, Syrian Arab Republic and Zambia.

17. Based on the experience and feedback from Parties operating under Article 5, he reported that there were major difficulties with the existing systems of data collection i.e.: Harmonized Customs Code, industry or trade association sources and special permit systems. Depending on the degree of control the Government desired to exercise, the design of such a data collection system could vary. As the collection of adequate and reliable data was of central importance for the success of any ODS phase-out programme, the resources needed by Parties operating under Article 5 for the implementation of a well designed permit system, for computerizing data on ODS imports and for training of customs officers should be acknowledged and accommodated as eligible incremental costs. The most cost-effective solution might be to regionalize the direct support needed, by arranging regional workshops combined with the development of suitable tools. While earlier workshops (1991-1992) had addressed such issues as data collection and reporting, it had been to the extent of creating awareness about Article 7 obligations. Networks (regional and subregional) had received the feedback from national ozone units that there were major difficulties in data-collection systems in developing and developed countries. Based on experience so far, IE/PAC intended to arrange a series of regional workshops on data collection (provided that funding was approved by the Executive Committee for the Multilateral Fund). Target groups would be government officers in charge of ODS issues, key officers from customs authorities and key officers from authorities issuing licences and/or collecting statistics (if different from authorities in charge of ODS). Such workshops could be arranged back-to-back with network workshops. IE/PAC was also investigating, subject to the availability of funds, the possibilities of developing a manual, containing the basic information needed to establish and monitor such a permit/licence-based import system, together with model forms and a diskette containing a customized database facilitating the collection of data, both for the reporting required by the Montreal Protocol and data needed for monitoring to be done in the country.

18. The representative of the United Nations Industrial Development Organization (UNIDO) said the Organization mainly concentrated action on formulating and implementing investment projects to convert plants from ODS-based to non-ODS-based production, in particular in the refrigeration and foam sectors, which did not involve UNIDO so much in data-reporting on a national basis. However, he believed that the project preparation process in some way helped countries in assessing reliable figures, at least on a sectoral level. That process included a thorough review of the real ODS consumption on a plant level. In the refrigeration and foam sectors, countries which had not yet reported on 1986 baseline data, or on 1992 consumption, like Algeria, Argentina, Brazil, Cameroon, China, Egypt, Islamic Republic of Iran, Jordan and Syrian Arab Republic had now, thanks to project preparation, useful guidelines on the choice of technology, a better understanding by plant managers of various issues related to the Montreal Protocol, and useful documentation on reporting ODS-consumption at a plant level. UNIDO had recently been involved in formulating a strategy for phase-out in the refrigeration and air-conditioning industries in Nigeria and Egypt, in the refrigeration sector in Pakistan, and also the development of a strategy for the phase-out of ODS in low ODS-consuming countries. He believed that those projects would greatly help those countries in assessing and better reporting the ODS consumption. Additionally, UNIDO would undertake a detailed inventory/assessment of methyl bromide production and consumption in Asia. Furthermore, UNIDO would assist Egypt, Romania and Syrian Arab Republic in strengthening their national coordination units. That would facilitate regular reports to the Implementation Committee. Finally, as part of an agreement between the

/...

two, UNIDO would join UNEP in country programming exercises in Antigua and Barbuda, Bahamas, Barbados, Botswana, Guinea, Niger, Pakistan, Peru, Seychelles, Togo, Uganda, United Republic of Tanzania and Zimbabwe. UNIDO would therefore prepare a project preparation format to facilitate data-gathering to meet the requirements for investment project formulation.

19. The representative of the World Bank reported on progress made by its client Parties on data-reporting activities. He stated that although some progress could be claimed, he would reiterate the following points which were highlighted in the Bank's 1993 presentation to the Implementation Committee: the importance of institutional strengthening; the need for considering data-reporting as an incremental cost eligible for funding by the Multilateral Fund; and that data-reporting would improve on the basis of an adequate incentive system.

20. He said that the Bank was active in only 22 countries, and therefore had limited access to the large number of countries which had yet to report data. Only three of the Bank's clients had yet to report data for 1986 and country programmes were underway in all three countries (two by UNDP and one by the Bank).

21. In its 1993 report to the Implementation Committee, the Bank had highlighted the case of Turkey which, had taken all the institutional measures to deal with data-reporting. Turkey was now one of only five countries which have reported data for 1993, further highlighting the importance of capacity development for sustainable support of ODS phase-out, including data collection and reporting.

22. Following the presentation of the reports by the Secretariat of the Multilateral Fund and the implementing agencies, the representative of the Ozone Secretariat asked whether it was part of the mandate of the implementing agencies to verify the data they had received and to put in place a data-reporting system in the country. That was an area on which the Secretariat of the Multilateral Fund could insist. He also believed it would be useful if the data contained in the country programmes was prepared in the format used for data-reporting under Article 7 of the Protocol.

23. In response, the representative of the Secretariat of the Multilateral Fund said that one of the terms of reference for institutional strengthening was that the country concerned should report data regularly in accordance with Article 7 of the Montreal Protocol. The main aim was to put in place the know-how for data collection so that progress in the phase-out programme could be monitored. The implementing agencies were introducing the necessary techniques in the countries concerned.

24. The representative of Uganda suggested that institutional strengthening should include capacity-building since some developing countries lacked the capacity to manage data.

25. The President expressed concern that Parties operating under Article 5 that had received assistance were still not reporting data.

26. The representative of the Secretariat of the Multilateral Fund drew attention to the problem of a loss of continuity in the relevant national services as a result of personnel changes. He said that the data-collection capabilities should not be spread over a number of institutions. There was a need to have a nucleus of offices to manage data. Once that nucleus was defined, continuity in reporting should not be lost.

27. The representative of the Industry and Environment Programme Activity Centre (IE/PAC) stressed the need for a sharing of the experience of those countries that did report reliable data. It was essential to ensure the maintenance of a system that would remain intact despite changes of

personnel. Such an objective could be facilitated through the organization of regional data-collection and reporting workshops and through the preparation of guidelines for countries.

28. In response to a suggestion by the representative of the Ozone Secretariat that it might be useful to link fulfilment of reporting requirements under the Protocol to disbursement of funding for projects, the representative of the United Nations Development Programme suggested that such a linkage should only be made, if at all, for those countries that had completed their country programmes and in which institutional strengthening projects had been fully operational for at least one year.

29. The representative of the Secretariat of the Multilateral Fund did not believe that such a linkage was possible. He also asked why, since the country programmes were official documents, they could not be considered for data-reporting.

30. The representative of the World Bank said that it was for the Parties to decide whether there should be a linkage between fulfilment of reporting obligations under the Protocol and disbursement of funds, within the framework of an incentive structure. He stressed, however, that the ultimate aim of disbursement of funds under the Financial Mechanism was to phase out ozone-depleting substances and therefore cautioned against the establishment of additional conditionalities that risked delaying such phase-out. The implementing agencies could play a role in encouraging their clients to report, but the issue of a linkage between that and disbursement of funds remained the prerogative of Governments.

31. The representative of the Secretariat of the Multilateral Fund said that future reporting might be encouraged by the decision of the Executive Committee that every country with an approved country programme should report annually on progress in phasing out ozone-depleting substances.

32. The President suggested that it might be useful if the chairs or vice-chairs of the Executive Committee and the Implementation Committee were invited to attend each other's meetings on a reciprocal basis.

B. Consideration of the report of the Secretariat on data and information reported by Parties

33. The representative of the Ozone Secretariat updated the information contained in the data report (UNEP/OzL.Pro/ImpCom/8/2). He said that Italy should be deleted from the list of Parties not operating under Article 5 that had not reported their 1986 baseline data (para. 4 of the report). The 1989 baseline data for Austria was overdue by only one year, not the more than two years indicated in paragraph 4 of the report. Italy and the Republic of Korea should also be deleted from the respective lists in paragraph 10 of the report, while Belarus and Italy should be deleted from the list of countries in paragraph 11. The Republic of Korea should not be listed in paragraph 12 as a Party classified as not operating under Article 5. In paragraph 13, Italy should be added to the list of Parties not operating under Article 5 that had reported data, and, in paragraph 16, Italy, Germany and Netherlands should be added to the list of Parties that had reported data for 1993.

34. In response to the updated information presented by the representative of the Ozone Secretariat, the President said that he had been assured that the 1989 baseline data and 1992 data for Austria had already been provided to the Ozone Secretariat. He said that the reference to Austria in the report by the Secretariat on data should therefore be deleted.

/...

35. Introducing the data report, the representative of the Ozone Secretariat said that only one half of all Parties had reported their 1992 data. The picture was therefore still incomplete. The reported data did, however, show an encouraging reduction of production and consumption of

ozone-depleting substances for Parties not operating under Article 5. Only two Parties operating under Article 5 had reported production data, of which one, Argentina, had registered a decrease, while the other, China, had reported an increase. There had been an overall increase in consumption in Parties operating under Article 5, although the number of Parties reporting reductions and those reporting increases were about equal. Large increases in consumption had been reported by China, Thailand and Malaysia. With regard to those developing countries classified as not operating under Article 5, he said that the Republic of Korea had been classified as operating under Article 5, Cyprus and Singapore had submitted data, while the data for Kuwait and the United Arab Emirates were still based on estimates.

36. In response to a query from the representative of the Secretariat of the Multilateral Fund, the representative of the Ozone Secretariat said that the negative consumption figures in the report were arrived at in those cases where, in the year in question, the quantity of existing stocks of ozone-depleting substances used as feedstock exceeded the quantity produced in that year.

37. The representative of the Russian Federation reiterated that the Parties to the Protocol that had been part of the former Soviet Union had asked the Meeting of the Parties to consider the 1990 data submitted by the former Soviet Union as the baseline data since, in previous years, there had been no statistical bodies to collect such data. His country, therefore, did not have accurate data for 1986 or 1989. There had been no objection to that proposal and his country considered that the problem had been overcome. The Russian Federation had not submitted 1992 or 1993 data, but such data would be made available by September 1994 in the new data-reporting formats. He was surprised that the report did not indicate that the Russian Federation had submitted any data for 1991 since it had indeed done so. The Russian Federation was also taking measures to improve data collection.

38. In response, the representative of the Ozone Secretariat said that the data submitted by the Soviet Union also included data for Ukraine and Belarus. It was therefore necessary to have the data for the Russian Federation alone. In addition, he reiterated that the baseline data could be based on the best available estimates.

39. In response to a question concerning reclassification of countries operating under Article 5, the President said that the Committee would take up the issue under agenda item 4 (Other matters).

40. With regard to the question of the data provided in the country programme for Slovenia, the representative of the Secretariat of the Multilateral Fund clarified that, as far as classification was concerned, the Secretariat depended on the information provided by the Ozone Secretariat. The Fund Secretariat's role was to review the data in the country programme and to recommend the possible action to be taken by the Executive Committee. In the case of Slovenia, the data on consumption in the country programme had been arrived at by subtracting exports of ozone-depleting substances in products containing such substances from the imports of such substances. After recalculating consumption on the basis of the formula in the Montreal Protocol, the Secretariat had decided that the country programme was not eligible for consideration by the Executive

/...

Committee. Such determination did not, however, constitute a pronouncement on whether the country itself was operating under Article 5 of the Protocol.

41. The representative of the Ozone Secretariat said that the Secretariat relied on official data. In the case of Slovenia, the prescribed formats had been sent to the Government and the Secretariat was endeavouring to obtain clarification. He asked the implementing agencies and the Secretariat of the Multilateral Fund whether they could persuade Slovenia to submit their data according to the official formats supplied.

42. The representative of the World Bank said that Slovenia was in a position to phase out ozone-depleting substances within two or three years and would not require a large amount of resources from the Multilateral Fund. The President expressed concern about the legal implications of using data from sources other than reports from Governments under Article 7 of the Protocol.

43. Regarding the concerns expressed that consumption data in country programmes were much higher than those initially indicated, the representative of UNDP said that that discrepancy was due to the use of solvents, foams and aerosols in small-scale sectors, where the data was not known when the country programme was prepared, and the level of confidentiality regarding the use of ozone-depleting substances, particularly halons, in the defence industry. As more accurate data become available, as a result of projects specifically geared towards the small-scale sectors and the reduction of confidentiality in the defence industries, the total figures for consumption of ozone-depleting substances tended to rise.

44. In conclusion, the President said that, while there had been some encouraging progress, it was rather disappointing to see that no data had yet been received from some of the Parties that had met with the Committee at the time of the Fifth Meeting of the Parties, In November 1993

45. On the proposal of the President, the Committee agreed that a meeting of the Committee with the Parties that had not submitted data might be beneficial and that the meeting should be held, back-to-back with the Sixth Meeting of the Parties to the Protocol. In selecting the countries to meet with the Committee, countries should be differentiated according to the status of their country programmes and other assistance projects. The reminders sent to those Parties should also be differentiated according to the same criteria. The Committee expressed its hope, however, that most of the Parties concerned would have overcome their difficulties and report their data before the Sixth Meeting of the Parties. The Committee also agreed that it should be made clear to the Open-Ended Working Group that it saw data collection as an ongoing exercise and that it recognized the value of instituting a process to ensure that data continued to be collected and transmitted to the Ozone Secretariat.

46. The Committee further agreed that the question of linkages between data reporting and disbursements of funds should be discussed at its next meeting, after consultations with the Parties concerned. That issue should also be brought to the attention of the Open-ended Working Group. The Committee also agreed to suggest that a representative of the Implementation Committee should be invited to participate in meetings of the Executive Committee, while a representative of the Executive Committee was being invited, on a reciprocal basis, to participate in meetings of the Implementation Committee.

/...

IV. OTHER MATTERS

A. Classification and reclassification of certain developing countries as operating under paragraph 1 of Article 5 of the Protocol

47. Under agenda item 4, the Committee took up the question of classification and reclassification of certain developing countries as operating under paragraph 1 of Article 5. The President referred to the following questions outlined in paragraph 21 of the note by the Secretariat prepared for the tenth meeting of the Open-ended Working Group (UNEP/OzL/Pro/WG.1/10/2):

"(a) Should the Secretariat continue to classify developing countries temporarily as operating or not operating under Article 5 where the Parties provide no data or submit incomplete or estimated data?

"(b) Should the Executive Committee continue to consider projects (other than country programme preparation) from Parties temporarily classified as operating under Article 5, paragraph 1?

"(c) Should Parties be allowed to correct their data? Can a reclassification be made on the basis of corrected data?

"(d) What are the principles for consideration of a request by a reclassified Party for a waiver of its contributions for current or previous years, considering that it cannot be made good by collecting from other Parties?"

48. The President then submitted a number of possible solutions for the consideration of the Committee. Concerning point (a), which he considered most relevant, the President said that, from a legal point of view, the answer should be yes. However, he pointed out, continuous non-reporting could lead to a situation of non-compliance. The representative of the Netherlands said he preferred the answer to be no to that point. A number of representatives felt the answer should be yes. The representative of Republic of Korea believed that it was useful to have the temporary classification given by the Secretariat, which was very encouraging for countries concerned. The representative of Argentina said that a time-cap might be appropriate to address situations where Parties constantly failed to meet their obligation to report. The representative of the Secretariat of the Multilateral Fund agreed with that point and said that the length of time for which a country could be temporarily classified caused problems. Data, he pointed out, was the legal basis with which the Executive Committee used to provide assistance to Parties operating under Article 5. Therefore, there might be a need to determine how long a country could fail to report. The representative of IE/PAC also concurred with that view.

49. With regard to point (b) in paragraph 47 above, the President said that, from a legal point of view, the answer should also be yes. That was because, if the Party in question was operating under Article 5, paragraph 1, at the moment of the approval by the Executive Committee, that

/...

should be the determining factor. If the Party ceased to operate under Article 5, paragraph 1, those projects approved when the country was still operating under Article 5, paragraph 1, should still be implemented. There was general agreement in the Committee that the answer to the question should be yes. The representative of Republic of Korea added that, if a Party had had a country programme prepared for it and still had not reported, that Party should be somehow distinguished from those Parties which had received no assistance at all. The representative of the Secretariat of the Multilateral Fund said that under present conditions the Executive Committee would have to continue to consider projects in such cases. The representative of IE/PAC agreed with that view. The representative of UNDP said the case of Slovenia was a good example in that particular context. No advance funds had been received from the Executive Committee, but projects had been prepared to the tune of US\$ 1.5 million. The already expended project preparation funds might have to come out of support costs. The representative of UNIDO pointed to the problem of what to do after project preparation had been completed, especially as regards investment projects, since any reclassification could bring problems in implementing the project. He said definitive answer on that point would be of great assistance. The representatives of the Secretariat of the Multilateral Fund and the implementing agencies all agreed that the proposal by the President might be a solution to the problem.

50. Concerning point (c) in paragraph 47 above, the President said the answer should be yes in the case of an arithmetical error, but no if the corrections were due to emerging new evidence. No Party should be able to bring in new numbers, but computational errors should always be allowed to be corrected. The representatives of Uganda, Argentina, and Republic of Korea said that Parties should only be allowed to correct data. Some Parties, it was said, were never really sure of the position, lacked the necessary statistics, and might discover that information given was in fact incorrect. The representative of Republic of Korea added that Parties should, however, only be allowed to correct their data with justification, and that the provision of evidence of that justification was very important. The representative of the Secretariat of the Multilateral Fund said the question was a tricky one. Country programmes were the only verifiable documents that could be used to check data and, as they were prepared under the supervision of the implementing agencies and were submitted by Governments, they were authentic documents. Country programmes took account of sectoral distributions of controlled substances and provided more accurate data, with provision for updating, which could be a basis for corrected information to be submitted.

51. Still with regard to point (c), the representative of UNDP said that Egypt and China provided good examples of why Parties had to be able to correct their data. If that were not possible, massive increases in apparent consumption would be seen in the figures, due to the nature of the reporting procedure. The representative of the Secretariat said that Parties' ability to change their data was not being called into question, the issue rather referred to those Parties that disputed data so that they were then enabled to operate under Article 5, paragraph 1. There had been a sense that specific Parties manipulated data to that end. The representative of the Secretariat of the Multilateral Fund said that guidelines could be given, whereby a country would be classified as temporarily operating under Article 5, paragraph 1, pending a data survey or preparation of country programme. The terms of reference of the Multilateral Fund stated that each Party operating under Article 5 should prepare a country programme. To hasten the implementation process, the Executive Committee had been flexible and had approved projects before country programmes had been prepared. The Executive Committee and the implementing agencies had agreed that the entire funds approved for

/...

projects should be disbursed to the implementing agency following approval. Therefore, it was assumed that implementation began when funds were approved. Once a Party came under Article 5 and funds had been disbursed, the projects should run their course. Slovenia was a case in point. The funds to prepare projects in that country could be reclaimed by UNDP. However, he concluded, clear guidelines were needed.

52. As concerned point (d) in paragraph 47 above, the President said there was no legal answer. On principle, budgeting needed to be based on premises about contributions. The representative of Republic of Korea said that in that context the background of Article 10 of the Protocol was important. His own Government was willing to meet any obligations for 1992. Following reclassification, and because the 1993 figures for consumption of Annex A substances had been below 0.3 kg., he considered that his country had no further obligation to contribute to the Multilateral Fund.

53. In summing up the debate the President said that it was interesting to note the two aspects of the matter: on the one hand, there was a need to take into account the special problems and circumstances of Parties; on the other hand, there was the need that the financial mechanism could rely on a firm budget, without facing a situation that was constantly changing. That was important to the implementing agencies. The answer to question (a) thus should be yes. For a change, a decision by the Meeting of the Parties would be needed to determine that a Party was not in compliance and would therefore lose its financial privileges. It might be difficult to impose a deadline, but it could be possible to submit that idea for the consideration of the Open-ended Working Group and the Meeting of the Parties. It could be agreed, he continued, that the Secretariat presently had to classify Parties one way or another. That was a policy matter for the Parties, and the Committee could bring the matter to its attention. With regard to point (b), what was important for the implementing agencies was the moment of approval which made disbursement possible. The representative of UNDP pointed out, that under the terms of his agency's legal agreements, it was understood that a Party should be operating under Article 5 for the whole period of project implementation and not only the date of approval. The representative of the World Bank added that, if a Party was seen to be eligible when funds were allocated, then the agency should disburse them. The President said that it was technically feasible for the implementing agencies to solve the problem by basing their decision on the status at the moment of approval. He suggested that the Open-Ended Working Group, the Executive Committee and the implementing agencies consider the issue. On point (c), he referred back to what had been said by the representative of UNIDO, saying it was not one question but two. He thus recommended that the question be separated into two: the first on correction as such, and the second on the correction being a basis for reclassification. The answer to the first question clearly had to be yes, while the answer to the second question was a policy matter to be addressed by the Open-ended Working Group and the meeting of the Parties. With regard to point (d), he felt it was too politically charged and representatives might wish to express their own views in the Open-Ended Working Group. Therefore, he recommended that, on behalf of the Implementation Committee, he make an oral presentation to the Working Group only on points (a), (b) and (c). The representative of the Republic of Korea requested that, under point (d), the Implementation Committee should differentiate between Parties which had submitted contributions on time and those which had not. The President replied that he would make a short factual statement on that subject on behalf of the Committee.

B. Status of Parties with economies in transition

/...

54. Turning to the question of the status of countries with economies in transition, the President referred to the report of the Fifth Meeting of the Parties to the Montreal Protocol (UNEP/OzL.Pro.5/12) and read out for the Committee the proposed draft decision originally submitted by the Russian Federation, as contained in paragraph 66 of that report:

"Considering the declaration of the heads of delegation of some Eastern European countries on the consideration by the Fifth Meeting of the Parties to the Montreal Protocol of the question of establishing for countries with economies in transition a special status in implementing the Montreal Protocol, to request the Open-ended Working Group of the Parties and the Implementation Committee to prepare a report on the question for the Sixth Meeting of the Parties to the Montreal Protocol".

55. The President then asked the representative of the Russian Federation to explain what specific request or proposal he had for the Committee.

56. The representative of the Russian Federation said that some countries with economies in transition, including his own, found themselves in a very difficult situation with respect to the obligations entered into under the Montreal Protocol. As the Executive Secretary of his country's Inter-Agency Committee for the Protection of the Ozone Layer, he was aware of the need for national scientists to discuss the problems of the ozone layer and for international consultants and specialists to consider the possibility of how the Russian Federation could implement its obligations. It had been concluded that it was important for the country to comply with respect to ODS listed in Annex A of the Protocol. Under GEF, the preparation of a feasibility study in the sphere of industry had come to the same conclusion. The implementation of obligations and the removal of old technologies would take two years to reach the required level. Therefore, only from the beginning of the next year could projects to phase out ODS really be implemented in the Russian Federation. That also applied to other States Parties with economies in transition, especially to the four other former republics of the former Soviet USSR - Belarus, Tajikistan, Ukraine and Uzbekistan - which faced a very difficult task in complying with the Montreal Protocol. In the Russian Federation, at least, new technologies were being developed that could be used in existing equipment. The most serious problem was a shortage of finance for project implementation and ODS phase-out. His country did receive some assistance, but it was mainly of a consultative nature. That was why a report had been prepared for transmission by the Government of the Russian Federation, requesting Parties to grant the country special status with regard to the implementation of the Montreal Protocol up to 1998. The country also faced an extremely difficult situation with regard to the consumption of halons, as used in aviation, nuclear power, pumping stations, etc. For supply needs, the 1995 demand was for 450 tonnes of halons, which was not in compliance with the Protocol. No permission had been received to provide for halons for the current year, and a request for halons for the next year could not be submitted. Although some additional halons could be acquired, e.g. through recycling, the shortfall of 450 tonnes still remained. The Russian Federation, as a Party to the Montreal Protocol, was ready to prepare a report on the needs and difficulties of countries with economies in transition and to distribute it to countries, the Implementation Committee and to the Secretariat for consideration and preparation of a decision for consideration by the Meeting of the Parties.

57. The representative of the Secretariat then said that he had received a letter from the Ukraine concerning similar matters. He had requested them to give details for presentation to the next Meeting of the Parties. Some other countries with economies in transition, he said, had also been asking for flexibility in the application of the Protocol. The clarification of the question of eligibility criteria for GEF could provide a solution for a part of the problem. He suggested discussions with GEF requesting any guidance that it could give to the Committee. The representative of UNDP added that the question of the status of countries with economies in

transition was very important for the implementing agencies. For instance, while the Russian Federation had a donor status under the Multilateral Fund, it could be a recipient for ozone layer protection funds under GEF. The implementing agencies needed guidance regarding those two different roles of the Russian Federation and other countries with economies in transition, under the Protocol.

58. In conclusion, the President said that the matter went beyond the mandate of the Implementation Committee, and touched upon the operation of the Protocol in general. He said he took note of the statement made by the representative of the Russian Federation and requested that it be drafted formally. With the concurrence of the Committee, he would make an oral presentation to the Open-ended Working Group at its forthcoming meeting. He suggested that the Implementation Committee consider the matter again before the next session of the Parties. There was agreement that that was the course of action the Committee should take concerning the question at the present point in time.

V. ADOPTION OF THE REPORT

59. The Committee delegated the approval of the report to the President.

VI. CLOSURE OF THE MEETING

60. After the customary exchange of courtesies, the meeting was closed at 4.15 p.m. on 4 July 1994.

Annex

ARGENTINA

Mr. Adolfo Rosellini
Ministro
Unidad Medio Ambiente Relaciones Exteriores
Ministerio Relaciones Exteriores y Culto
Reconquista 1088
Buenos Aires
Argentina
Tel.: (+541) 311 4529
Fax: (+541) 311 4529

AUSTRIA

Dr. Hugo M. Schally
Counsellor
Osterreichische Standige
Austrian Permanent Mission
9-11, rue de Varembé
CH-1211 Geneva 20
Switzerland
Tel.: (+41 22) 733 72 50
Fax: (+41 22) 734 45 91

BULGARIA

Mr. Vanguel Tzvetkov
Chief of Department
Ministry of Environment
67 W. Gladstone Str.
Sofia 1000
Bulgaria
Tel.: (+359 2) 87 61 51
Fax: (+359 2) 81 05 09
Telex: 22145 MOS

BURKINA FASO

Mr. Bazye Boubie Jeremy
Co-ordinator of Country Studies
Ministry of Environment and Tourism
BP 7044
Ouagadougou 03
Burkina Faso
Tel.: (+226) 31 19 19
Fax: (+226) 30 67 67
Telex: 5555 SEGEGOCU

JORDAN

Mr. Izzat Abu-Humra
Environmental Engineer
Ministry of Municipal, Rural Affairs and the Environment
Department of Environment
Air Protection Section
P.O. Box 1799
Amman
Jordan
Tel.: (+962 6) 69 56 26
Fax: (+962 6) 69 56 27

NETHERLANDS

Mr. Dick Cornelis de Bruijn
Directorate for International Environmental Affairs/670
Global Environmental Affairs Division
Rijnstraat 8
P.O. Box 30945
2500 GX The Hague
Netherlands
Tel.: (+31 70) 339 4652
Fax: (+31 70) 339 1306

REPUBLIC OF KOREA

Mr. Jai Chul Choi
Deputy Director
Environment Cooperation Division
Ministry of Foreign Affairs
Seoul
Republic of Korea
Tel.: (+82 2) 925 07 89
Fax: (+82 2) 922 75 81

RUSSIAN FEDERATION

Mr. Evgueni F. Outkine
Chief of the Programme and Project Division
Ministry for Protection of Environment and Natural Resources
9/1, Kedrove Street
Moscow CSP-1, 117 974
Russian Federation
Tel.: (+95) 124 18 33
Fax: (+95) 254 82 83

UGANDA

Ms. Jane N. Kavuma
Ministry of Natural Resources
P.O. Box 9629
Kampala
Uganda
Tel.: (+256 41) 25 79 76
Fax: (+256 41) 23 68 19

UNITED NATIONS DEVELOPMENT PROGRAMME (UNDP)

Mr. Frank J. P. Pinto
Principal Technical Adviser and Chief
Montreal Protocol Unit
Room DC1-2152
New York, NY 10017
U.S.A.
Tel.: (+1 212) 906 50 42
Fax: (+1 212) 906 69 47
Telex: 6720800 DPNY UW

UNEP/INDUSTRY AND ENVIRONMENT PROGRAMME ACTIVITY CENTRE (IE/PAC)

Mr. Rajendra M. Shende
Coordinator
OzonAction Programme
Tour Mirabeau
39-43, Quai André Citroën
75739 Paris Cedex 15
France
Tel.: (+33 1) 44 37 14 50
Fax: (+33 1) 44 37 14 74
Telex: 204 997 F

Mr. Erik L. Larsson
Consultant
OzonAction Programme
Tour Mirabeau
39-43 Quai André Citroën
75739 Paris Cedex 15
France
Tel.: (+33 1) 44 37 14 50
Fax: (+33 1) 44 37 14 74
Telex: 204 997 F

UNITED NATIONS INDUSTRIAL AND DEVELOPMENT ORGANIZATION (UNIDO)

Mr. S. M. Si Ahmed
Coordinator
Montreal Protocol Operations
P.O. Box 300
A-1400 Vienna
Austria
Tel.: (+43 1) 211 31 37 82
Fax: (+43 1) 211 23 21 56

MULTILATERAL FUND SECRETARIAT

Mr. Omar E. El-Arini
Chief Officer
Multilateral Fund for the Implementation of the Montreal
Protocol
1800 McGill College Avenue
Montreal Trust Bldg 27th Floor

Montreal, Quebec
Canada H3A 3J6
Tel.: (+514) 282 11 22
Fax: (+514) 282 00 68

Mr. Richard Abrokwa-Ampadu
Multilateral Fund for the Implementation of the Montreal
Protocol
1800 McGill College Avenue
Montreal Trust Bldg 27th Floor
Montreal, Quebec
Canada H3A 3J6
Tel.: (+514) 282 11 22
Fax: (+514) 282 00 68

WORLD BANK

Mr. Bilal Rahill
1818 H. Street, N.W.
Washington, D.C. 20043
U.S.A.
Tel.: (+202) 473 72 89
Fax: (+202) 522 32 58
