



# PRIMER FOR MEMBERS

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

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## PURPOSE OF THE PRIMER

This primer is intended to provide members of the Implementation Committee, especially new members, with a comprehensive understanding of the non-compliance procedure for the Montreal Protocol and the way in which the Committee has been operating since its establishment. In that regard, it is important to note that the non-compliance procedure adopted by the parties consists of only 16 paragraphs and that, like any entity, the Implementation Committee has developed a mode of efficient operation over time that, while firmly based on the non-compliance procedure, relies to a considerable extent on custom and precedent. For this reason, the primer refers to the requirements of the non-compliance procedure and, where necessary, explains the practice of the Committee, noting that such practice has evolved over time and will continue to do so.

It is hoped that the primer will provide a basis for future advances in the timely and effective resolution of non-compliance cases while at the same time ensuring the consistent and transparent treatment of the issues by the Implementation Committee.

# 1. BACKGROUND TO THE NON-COMPLIANCE PROCEDURE AND THE IMPLEMENTATION COMMITTEE

## 1.1 Non-compliance procedure

The non-compliance procedure for the Montreal Protocol is defined in [Article 8](#) of the Protocol which states that: "*The parties, at their first meeting, shall consider and approve procedures and institutional mechanisms for determining non-compliance with the provisions of this Protocol and for treatment of parties found to be in non-compliance.*"

The [non-compliance procedure](#) was adopted on a permanent basis in 1992 by the Fourth Meeting of the Parties ([decision IV/5](#)) and revised in 1998 by the Tenth Meeting of the Parties ([decision X/10](#)).

The procedure is distinguished by its promotion of a cooperative and consultative approach, rather than an adversarial and confrontational approach, in addressing non-compliance. Through the application of the procedure, the Implementation Committee has consistently sought to actively engage non-compliant parties in identifying and adopting measures to facilitate their prompt return to compliance. In examining potential non-compliance cases, the Secretariat aims to prevent actual non-compliance by issuing advance warnings, showing flexibility in recognizing and addressing the circumstances of each party through other means tailored to cases, thus applying a preventive approach.

The various elements of the procedure are described throughout the rest of this primer.

## 1.2 Implementation Committee

Paragraph 5 of the non-compliance procedure established the Implementation Committee and prescribed its composition, terms of office and officers. The non-compliance procedure, along with related decisions of the Meetings of the Parties, outlines the roles of the Committee, which are described in the following sections.

### 1.2.1 *Selection of Committee members, terms of office and election and responsibilities of officers*

#### *Selection of the Committee*

The Committee comprises 10 parties, elected by each Meeting of the Parties based on equitable geographical distribution. In practice, this has meant that each of the five United Nations regional groups (African States, Asia-Pacific States, Eastern European States, Latin American and Caribbean States, and Western European and Other States) nominates one party from the region to the Committee each year to serve for two years and either re-nominates or replaces the member of the Committee from its region whose two-year term will expire at the end of that year. Each Meeting of the Parties then adopts a decision to confirm the positions of members who are to serve for one more year and elects members to serve for a two-year period.

Within two months of its election to the Committee, each party must submit to the Ozone Secretariat the name of the individual that will represent it on the Committee. Parties should endeavour to ensure that their representatives are not replaced throughout the entire term of their membership. Such continuity of representation builds experience and expertise in the Committee, improving the efficiency and effectiveness of its operation for the benefit of those parties subject to the non-compliance procedure.

### *Terms of office*

Members are elected for terms of two years, commencing on 1 January of the year following their election. Outgoing members may be re-elected for one immediate consecutive term, after which one year must elapse before they are again eligible for election.

### *Election and responsibilities of officers*

The Committee elects a President and a Vice-President before the end of each Meeting of the Parties to ensure the continuity of these two offices. The Vice-President, in accordance with the non-compliance procedure, also serves as the Rapporteur.

Both officers hold office for one year at a time. Customarily, one officer is selected by the members that are parties operating under paragraph 1 of [Article 5](#) of the Protocol (Article 5 parties), and the other is selected by the members that are parties not operating under Article 5 (non-Article 5 parties). The offices of President and Vice-President have traditionally alternated annually between Article 5 and non-Article 5 party members.

Each Meeting of the Parties notes the election of the officers of the Committee in the same decision through which members of the Committee are elected.

### *Role of the President*

The President is responsible for chairing the meetings of the Committee and, together with the Vice-President, who in addition serves as the Rapporteur of the Committee, for reviewing and clearing the meeting reports. The President also gives a presentation to each Meeting of the Parties that summarizes the work of the Committee during the year, including any recommendations forwarded by the Committee to the Meeting of the Parties for the latter's consideration. The President is usually invited by the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol to attend meetings of the Executive Committee as an observer.

### *Role of the Vice-President*

The Vice-President is responsible, in the absence of the President, for chairing Committee meetings and presenting a summary of the report of the Committee's final meeting of the year to the relevant Meeting of the Parties. As the Rapporteur, the Vice-President assists the President in the review and clearance of the reports of Committee meetings. As with the President, the Vice-President is invited to meetings of the Executive Committee as an observer.

### 1.2.2 Roles and responsibilities of the Implementation Committee

There are various entities involved in the operation of the non-compliance procedure and the Implementation Committee: the Committee members; the Ozone Secretariat; the Secretariat of the Multilateral Fund for the Implementation of the Montreal Protocol and the Executive Committee of the Fund; the implementing and bilateral agencies of the Multilateral Fund and the Global Environment Facility (which provides assistance to countries with economies in transition, including assistance for institutional strengthening (see [decision XV/51](#))); and the parties whose compliance is being examined by the Committee. Their roles and responsibilities as they relate to the procedure and the Committee are outlined below.

#### *Implementation Committee: Issues most often considered*

The non-compliance procedure established the Implementation Committee to assist the Meeting of the Parties in reviewing the status of parties' compliance with the provisions of the Protocol. Specific provisions of the Protocol<sup>1</sup> that are most commonly subject to review by the Committee are summarized below:

- (a) Data reporting: reporting of annual, base year and baseline data ([Articles 5 and 7](#) of the Protocol), and reporting on research, development, public awareness and exchange of information activities ([Article 9](#));
- (b) Phase-out of the production and consumption of controlled substances (chlorofluorocarbons (CFCs), halons, carbon tetrachloride, methyl chloroform, hydrochlorofluorocarbons (HCFCs), hydrobromofluorocarbons (HBFCs), bromochloromethane and methyl bromide, and phase-down of hydrofluorocarbons (HFCs) in accordance with the schedules set out in the Protocol ([Articles 2A–2J](#) and [5](#));
- (c) Trade in controlled substances with non-parties to the Protocol ([Article 4](#));
- (d) Establishment of systems for licensing the import and export of new, used, recycled and reclaimed controlled substances ([Article 4B](#)).

#### *Functions of the Implementation Committee*

In implementing the non-compliance procedure with regard to these provisions of the Protocol and decisions of the Meetings of the Parties, the members of the Committee must take one or more of the following actions prescribed in paragraph 7 of the non-compliance procedure:

- (a) Receive, consider and report on any submission concerning possible non-compliance;
- (b) Receive, consider and report to each Meeting of the Parties on any information or observations by the Secretariat on data reports and on any information on compliance with the Protocol;
- (c) Request, where necessary, any further information on matters under its consideration. This may include requesting a party to send a representative to a meeting of the Committee to improve its understanding of the party's situation;

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<sup>1</sup> A summary of the control measures under the Montreal Protocol is available on the Ozone Secretariat website at <https://ozone.unep.org/treaties/montreal-protocol/summary-control-measures-under-montreal-protocol>.

- (d) Undertake a country mission for information gathering, upon invitation from the party concerned;
- (e) Exchange information with the Executive Committee of the Multilateral Fund for the purposes of developing recommendations;
- (f) Identify the facts and possible causes related to cases of non-compliance and make recommendations to Meetings of the Parties on measures to return parties whose compliance is at issue to full compliance.

Through specific decisions of the Meetings of the Parties, the remit of the Committee also includes:

- (a) Requests from parties to change their data for baseline years, that is, the years used to set the reference levels used to determine a party's compliance with the Protocol's phase-out or phase-down schedules (decisions [XIII/15](#) and [XV/19](#));
- (b) Close monitoring and review of implementation of decisions of the Meetings of the Parties containing measures to return a party to compliance, which monitoring and review continues until the report of the Committee records that the party concerned has returned to compliance and all time-specific benchmarks contained in the decision of the Meeting of the Parties related to that party have been met (*see section 3.2 for further details*).

### *Ozone Secretariat*

The Ozone Secretariat is the Secretariat for the Vienna Convention for the Protection of the Ozone Layer and its Montreal Protocol on Substances that Deplete the Ozone Layer.<sup>2</sup> Its role includes supporting the Implementation Committee and providing information and advice to the Committee. The Secretariat compliance team, which includes a Senior Legal Officer, Data Reporting Officer and Compliance Monitoring Officer, among other Secretariat staff, ensures that adequate support is provided to the Committee.

In terms of the non-compliance procedure and the conduct of Implementation Committee meetings, the Ozone Secretariat performs the following duties:

- (a) Receives communications from parties regarding the compliance of other parties, forwards such communications to the parties whose compliance is in question to facilitate a response, and transmits all related information to the Committee;
- (b) Receives information from parties about their own compliance and transmits this to the Committee;
- (c) Presents a report to the Committee detailing the data submitted by parties, highlighting any instances of potential non-compliance with the Protocol requirements on data-reporting ([Article 7](#)), trade bans with non-parties ([Article 4](#)), establishment of licensing systems for the import and export of controlled substances ([Article 4B](#)), any reporting on activities relating to research, development, public awareness and

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<sup>2</sup> As set out in [Article 7](#) of the Vienna Convention, [Article 12](#) of the Montreal Protocol and rules 27 and 28 of the [rules of procedure](#) for the meetings of the parties to the Montreal Protocol.

- exchange of information activities ([Article 9](#)), and any other information received or prepared by the Secretariat on compliance with the Protocol;
- (d) Presents a report to the Committee on the status of adherence to the plans of actions to return to compliance and compliance with the control measures for parties under recommendations of the Committee or decisions of the Meetings of Parties;
  - (e) Provides secretariat functions to the Committee, including communication with parties for additional information on matters under consideration by the Committee, preparation of any other meeting documentation as required by the Committee, provision of necessary logistical arrangements for the meetings, provision of in-session support and technical advice as required, and finalization of the reports of the Committee meetings under the guidance of the President of the Committee, who is assisted by the Rapporteur.

To facilitate the exchange of information between the Implementation Committee and the Executive Committee of the Multilateral Fund,<sup>3</sup> the Ozone Secretariat is invited to the meetings of the Executive Committee. Where relevant, the Ozone Secretariat obtains information related to the status of assistance provided by the Multilateral Fund to an Article 5 party that is under consideration by the Committee.

#### *Multilateral Fund secretariat and the Executive Committee*

The Multilateral Fund for the Implementation of the Montreal Protocol is the financial mechanism of the Protocol, helping Article 5 parties to comply with the Protocol. A representative of the Multilateral Fund secretariat along with the Chair and Vice-Chair of the Executive Committee of the Multilateral Fund are invited to attend the meetings of the Implementation Committee as observers.<sup>4</sup> The Multilateral Fund secretariat assists the Implementation Committee in fulfilling its responsibilities in the following way:

- (a) Presents information on relevant Executive Committee decisions and the prospects of Article 5 parties for achieving compliance with the Protocol. The Fund secretariat representatives also provide information, as requested by the Implementation Committee members, on Fund assistance approved or planned for Article 5 parties under consideration by the Implementation Committee, including that provided through the implementing and bilateral agencies;
- (b) Makes relevant documents of the Executive Committee available to the Implementation Committee, including a document on the current status of assistance approved or planned for relevant Article 5 parties, thus enabling the Implementation Committee to take this information into consideration in its deliberations;
- (c) Provides information and advice to the Ozone Secretariat on the status of planned or approved financial and technical assistance from the Multilateral Fund to Article 5 parties under review by the Implementation Committee.

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<sup>3</sup> In accordance with paragraph 7 (f) of the non-compliance procedure.

<sup>4</sup> See paragraph 51 of the Report of the Implementation Committee under the Non-compliance Procedure for the Montreal Protocol on the Work of its Twenty-sixth Meeting, [UNEP/OzL.Pro/ImpCom/26/5](#).



### *Implementing agencies and bilateral agencies*

Financial and technical assistance provided under the auspices of the Multilateral Fund is channelled through the four implementing agencies: the United Nations Development Programme (UNDP), the United Nations Environment Programme (UNEP), the United Nations Industrial Development Organization (UNIDO) and the World Bank, as well as bilaterally through various agencies of Governments that contribute to the Fund (bilateral agencies). Non-Article 5 parties that are classified as countries with economies in transition can have recourse to the same assistance through the Global Environment Facility, which channels the funds through the same implementing agencies.

The Multilateral Fund, its Executive Committee and implementing agencies, and the Global Environment Facility, are invited to the meetings of the Implementation Committee as observers and may attend these meetings to assist the Implementation Committee in fulfilling its functions.<sup>5</sup> The representatives of the bilateral agencies may be invited to provide additional information on cases being considered by the Committee.

Upon request by either the Secretariat or the Implementation Committee, the implementing and bilateral agencies provide information both before and during the meetings of the Committee on the status of the technical and financial assistance which they are providing to those Article 5 parties and non-Article 5 countries with economies in transition that are under review by the Committee. The information can be included in pre-session meeting documents distributed to the members of the Committee in advance of their meetings.

The implementing and bilateral agencies often assist Article 5 parties and non-Article 5 parties with economies in transition under the Committee's consideration to prepare information requested by the Committee. They also assist such parties to implement measures agreed upon under by the Meetings of the Parties, on the Committee's recommendation, to return the party to compliance.

### *Parties subject to the non-compliance procedure*

A party whose compliance with the Protocol is in question and whose possible non-compliance or continuing non-compliance is brought to the attention of the Committee is usually requested to undertake one or more of the following actions:

- (a) Submit a written explanation or information regarding its possible non-compliance;
- (b) Send a representative to a Committee meeting to discuss its situation, especially in complex cases or when the development of a plan of action to return to compliance requires discussion;
- (c) Submit a plan of action containing time-specific benchmarks and measures to ensure its prompt return to compliance;
- (d) Following a decision by a Meeting of the Parties that notes a commitment to a plan of action submitted by a party that is in non-compliance, work with the relevant agencies

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<sup>5</sup> As set out in paragraphs 7 (c) and 7 (f) of the non-compliance procedure.

to implement the plan of action and submit regular updates on the implementation of the plan of action.

When a party attends a Committee meeting, it is usually to clarify the Committee members' understanding of the party's situation. It is essential that the party's representative be fully aware of all aspects of the party's Protocol implementation efforts. Such parties do not sit in on all the deliberations of the Committee. Instead, they are invited into the room when the Committee is ready to discuss their matter and must leave the room immediately after their discussion with the Committee concludes.

### *1.2.3 Key directives for the implementation of the non-compliance procedure*

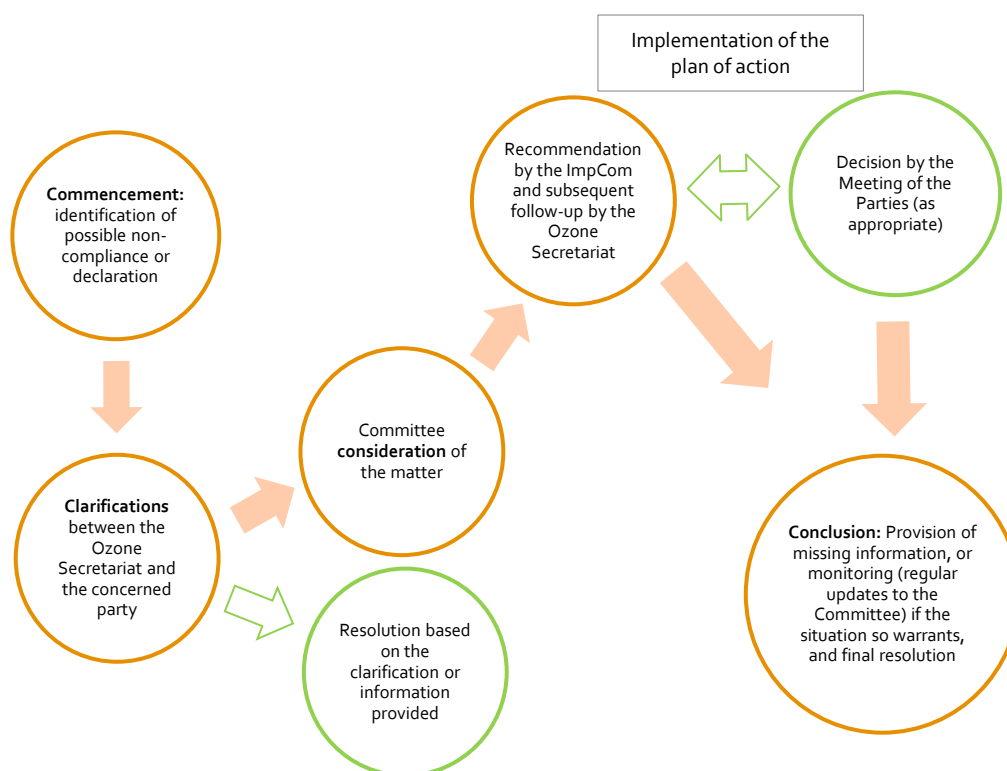
The non-compliance procedure provides key directives to be observed by the Committee and other persons involved in its operation, namely:

- (a) Paragraph 8: The Committee operates at all times with a view to securing an amicable solution to the matter under consideration, on the basis of respect for the provisions of the Protocol.
- (b) Paragraph 10: A party that is not a member of the Committee but has notified the Secretariat that it is in non-compliance or is the subject of a written submission from another party expressing reservations as to its compliance, is entitled to participate in the discussion of that matter by the Committee.
- (c) Paragraph 11: No party involved in a matter under consideration by the Committee, whether it is an invited party or a member of the Committee, may take part in the elaboration and adoption of recommendations on that matter.
- (d) Paragraph 15: Implementation Committee members and any party involved in its deliberations are to protect the confidentiality of information received in confidence.

## 2. OPERATION OF THE NON-COMPLIANCE PROCEDURE

The operation of the non-compliance procedure typically follows several stages, as illustrated in the graphic below:

*Stages in the operation of the non-compliance procedure*



*Note: Green circles denote stages that do not call for the direct participation of the Implementation Committee.*

### 2.1 Commencement: identification and declaration (trigger) stage

The non-compliance procedure is initiated under any one of the following circumstances:

- (a) A party notifies the Ozone Secretariat in writing that it is unable to comply with the Protocol despite its best bona fide efforts and details the specific circumstances causing its non-compliance;
- (b) A party expresses reservations about another party's fulfilment of its obligations under the Protocol, and makes a written submission to the Ozone Secretariat, supported by corroborating information;
- (c) The Ozone Secretariat identifies a case of possible non-compliance by a party during its analysis of data and information reported by parties or while preparing its reports to the Committee.

Historically, the first set of circumstances has occurred when several non-Article 5 countries with economies in transition declared themselves non-compliant or when a new set of control measures had come into effect.<sup>6</sup> The second has not yet occurred.

The non-compliance procedure is most commonly triggered by the third scenario. The most frequent types of non-compliance arise from a party's apparent failure to comply with the Protocol's requirements to report under Article 7 or to phase out or phase down the consumption and production of particular controlled substances. Such cases of possible non-compliance are detected by the Ozone Secretariat during the review of the annual consumption and production data for controlled substances submitted by the parties. The Secretariat may identify a party that has not reported required information or data, or a party whose consumption or production of a particular controlled substance exceeds the annual limit set by the Protocol.

## 2.2 Clarification stage

If concerns about a party's compliance is submitted in writing to the Ozone Secretariat by one or more parties, as described in the first or second scenario above, the Secretariat:

- (a) Sends a copy of the submission to the party whose compliance is in question within two weeks of receiving it. That party must reply and provide the necessary information to the Secretariat and the involved parties within three months of the date of the dispatch of the submission, or longer if the circumstances require it.
- (b) Sends a reminder to the party if no reply is received from the party within this three-month period.
- (c) Transmits the submission, any reply and additional information provided by the parties to the Implementation Committee as soon as the reply and information from the party is available but not later than six months after the submission was received.

If the Ozone Secretariat identifies a case of possible non-compliance during the course of preparing its report on data, the Secretariat:

- (a) Notifies the party whose compliance is in question in writing about the possible non-compliance with its obligations under the Protocol and requests the party to submit the missing information or a written explanation, as applicable;
- (b) If there is no response from the party within three months or longer if needed, or if the matter is not resolved through administrative action or diplomatic contacts, reports to the Committee at its next meeting and to the next Meeting of the Parties pursuant to [Article 12 \(c\)](#) of the Protocol.

The Secretariat typically prepares a pre-session document and then presents orally at the meeting:

- (a) The nature of the case, that is, whether it is a non-reporting issue (data, licensing, accounting for exemptions, and so on), possible non-compliance with control measures, or trade with non-parties;

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<sup>6</sup> See decisions [VII/17](#), [VII/18](#) and [VII/19](#).

- (b) Any response from the party to the Secretariat's request for information or an explanation regarding the possible non-compliance;
- (c) Any additional information that, as determined by the Secretariat, might assist the Committee in considering the party's situation, including:
  - (i) Whether the matter relates to a recent ratification of the Protocol or an amendment to it;
  - (ii) The nature and status of any assistance that the party is receiving from the Multilateral Fund or the Global Environment Facility to comply with the obligation in question;
  - (iii) Which implementing or bilateral agencies are assisting the party with such compliance;
  - (iv) The nature and status of any regulatory measures that the party has reported as planned, under development or established;
  - (v) Any previous decisions or recommendations on related compliance matters to which the party has been subject;
  - (vi) Recent trends in the party's consumption and production of controlled substances;
  - (vii) Any extraneous circumstances that may affect the party's capacity to comply with the obligation, such as civil unrest or natural disaster.

### 2.3 Committee consideration stage

Over the course of one or more meetings, the Committee may take the following actions, as needed:

- (a) Request any necessary additional information from the representatives of the Multilateral Fund secretariat or the Global Environment Facility and implementing and bilateral agencies present at the meeting;
- (b) Consult any invited representatives from parties currently under consideration;
- (c) Discuss any information provided, whether by the Ozone Secretariat or by members or observers, including the draft recommendations prepared by the Secretariat with regard to a compliance matter before the Committee.

### 2.4 Recommendation and reporting stage

#### 2.4.1 Recommendation

At each meeting, the Committee adopts recommendations after reviewing and, if necessary, revising the draft recommendations prepared by the Secretariat. The members of the Committee

may also propose new draft recommendations for consideration and adoption, as required. To date, all recommendations of the Committee have been adopted by consensus.<sup>7</sup>

If a Committee member represents a party under non-compliance consideration, that member must abstain from participating in the drafting and adoption of recommendations concerning that party.<sup>8</sup>

The representatives of the Multilateral Fund secretariat or the Global Environment Facility and the implementing or bilateral agencies, and any other observers, do not directly participate in the preparation and adoption of recommendations. The Committee usually requests their presence during these processes, however, to answer any questions relevant to the finalization of recommendation text.

Each recommendation adopted by the Committee identifies one or more parties, usually by name, and falls into one of three categories:

- (a) Requests for information from a party under possible non-compliance. This may be in the form of a draft decision to be forwarded for consideration and adoption by the Meetings of the Parties;
- (b) Proposals for the endorsement by the Meeting of the Parties of a party's commitment to a plan of action for returning to compliance, contained in a draft decision;
- (c) Acknowledgments of a party's progress in implementing its plan of action for returning to compliance with the Protocol.

When requesting information or data from parties under consideration, the Committee customarily sets a deadline for the submission. The deadline allows the party adequate time to prepare and submit the requested information, the Secretariat to process the information and potentially seek further clarification, and the Committee to duly consider the information prior to its next meeting.

There are also recommendations that do not name specific parties but are relevant to more than a few parties.<sup>9</sup> These issues can relate to:

- (a) Reporting data on controlled substances for a given year;
- (b) Implementing the obligation to establish and notify the Secretariat of the establishment – an import and export licensing system for new controlled substances (such as hydrofluorocarbons added by the Kigali Amendment);
- (c) Requesting the Secretariat to prepare a paper on a compliance issue for consideration at a future meeting of the Committee.

Within the above-mentioned categories, the Committee tailors the text of each recommendation to reflect the individual circumstances of the concerned parties. That said, in the interests of

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<sup>7</sup> In the absence of a voting rule in the non-compliance procedure, rule 26, paragraph 6 (b) of the rules of procedure for Meetings of the Parties to the Montreal Protocol would apply. Accordingly, in the absence of consensus, recommendations should be adopted by a simple majority of the members present and voting.

<sup>8</sup> In accordance with paragraph 11 of the non-compliance procedure.

<sup>9</sup> Recommendations of the Committee may refer to all parties. See, for instance, [Recommendations 68/1 and 68/2](#), and [Recommendation 67/2](#).

treating all parties equally, the Committee often uses the same – or very similar – language to address less complex compliance issues that are considered by the Committee on a regular basis.<sup>10</sup>

Depending on the nature of the compliance issue concerned, it may happen that a particular party may be the subject of a number of recommendations adopted by the Committee across one or more meetings.<sup>11</sup>

#### *2.4.2 Recommendations incorporating draft decisions*

As noted in the previous section, the Implementation Committee reports to each Meeting of the Parties, including making any recommendations it deems appropriate. These recommendations may include draft decisions forwarded to the Meeting of the Parties for potential adoption. Such decisions are intended to prompt one or more of the following actions:

- (a) Submission by a party of an explanation for a possible non-compliance with the control measures of the Protocol;
- (b) Submission by a party of a plan of action for returning the party to compliance with the control measures of the Protocol;
- (c) Endorsement of a party's plan of action for returning to compliance and implementation of the plan by the party;
- (d) Submission by a party of an explanation for a failure to meet a commitment contained in a plan of action endorsed by a Meeting of the Parties;
- (e) Submission by a party of data in accordance with its data-reporting obligations under the Protocol;
- (f) Establishment of a system for licensing the import and export of ozone-depleting substances and informing the Secretariat of the same.

#### *2.4.3 Reporting*

Traditionally, the Committee entrusts the Secretariat, together with the President and Vice-President, with the finalization of the report, which contains a summary of the meeting's discussions and the text of the recommendations adopted by the Committee. The Secretariat publishes the report on its website, making it available to all parties. After the report has been finalized, the Secretariat communicates the text of the adopted recommendations by letter to the parties concerned, with a copy, where relevant, to the Multilateral Fund Secretariat or the Global Environment Facility and any implementing and bilateral agencies assisting the party in returning to compliance with the Protocol, as appropriate.

The President of the Committee presents an oral report to each Meeting of the Parties on the work of the Committee during the year, including recommendations adopted by the Committee, which

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<sup>10</sup> A compilation of the recommendations adopted by the Committee and resulting decisions by the Meeting of Parties related to non-compliance to date is maintained on the Secretariat website at <https://ozone.unep.org/list-of-implementation-committee-recommendations>.

<sup>11</sup> See, for instance, Recommendations [69/1](#) and [69/3](#), referring to San Marino on data reporting obligations under [Article 7](#) and the establishment of a licensing system under [Article 4B](#) of the Montreal Protocol, respectively.

may include draft decisions for consideration by the Meeting of the Parties.<sup>12</sup> A conference room paper<sup>13</sup> containing these draft decisions is usually circulated at Meetings of the Parties. No separate report is prepared for the Meeting of the Parties; instead, the reports of the meetings of the Committee held during that year are presented at the Meeting of the Parties.

While the non-compliance procedure mandates that the report of the Committee be made available to the parties not later than six weeks before their meeting, typically, only the report of the first Committee meeting of the year meets this deadline. The report of the second Committee meeting of the year, held immediately before the annual Meeting of the Parties,<sup>14</sup> is posted on the meeting portal of the Secretariat after the Meeting of the Parties. As a consequence, the President of the Committee only gives an oral presentation of that report at each Meeting of the Parties.

## 2.5 Meeting of the Parties: decision stage

Each Meeting of the Parties considers the report of the Committee as presented by the President and considers any draft decisions forwarded by the Committee, presented in a conference room paper. It is customary for a Meeting of the Parties to take note of the report of the Committee and adopt the draft decisions contained in the conference room paper. To date, virtually all draft decisions proposed by the Committee have been adopted by the Meetings of the Parties.<sup>15</sup>

The Secretariat notifies the parties concerned about specific decisions of a Meeting of the Parties through a written communication, copying, where relevant, the secretariat of the Multilateral Fund, the Global Environment Facility and any implementing or bilateral agencies assisting the party in returning to compliance with the Protocol.

Those parties whose plans of action for returning to compliance with the Protocol control measures include activities or measures in addition to limits on production and consumption are required to submit annual progress reports to the Secretariat on these commitments, for the consideration of the Committee.

## 2.6 Monitoring and final resolution stage

The Secretariat maintains a list of its recommendations and compliance-related decisions that require further action by parties. Ahead of each Committee meeting, the Secretariat prepares a pre-session document that lists recommendations and decisions of the Meetings of the Parties scheduled for review. At the meeting, the Secretariat presents the status of the implementation of actions contained in these recommendations and decisions.

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<sup>12</sup> In accordance with paragraph 9 of the non-compliance procedure.

<sup>13</sup> A conference room paper (or CRP) is an in-session document that serves the purpose of explaining in detail the position of a party or negotiating bloc on an issue, putting forward new negotiating text or reporting to the plenary on the results of the deliberations of a group.

<sup>14</sup> Since 1992 on a permanent basis.

<sup>15</sup> For instance, the draft decision forwarded to the Twentieth Meeting of Parties through [recommendation 41/3](#) related to non-compliance in 2007 with respect to consumption of the controlled substances in Annex A, group I, (CFCs) by Bangladesh was not adopted by the Meeting of Parties, as reflected in paragraphs 135–137 of that [meeting report](#).



During the meeting, the Committee follows steps of consideration, recommendation and reporting. It reviews the progress made by each party in fulfilling the required actions set out in recommendations and decisions and makes any further recommendations, if needed, including draft decisions for consideration and possible adoption by the next Meeting of the Parties, as appropriate, with a view of resolving each compliance issue.

The application of the non-compliance procedure is deemed concluded for a particular party when the Committee records in the report of its meeting that the party has met its obligations and its commitments to return to compliance. This conclusion is reached when the party has successfully implemented all the required actions contained in recommendation or decision relating to it.

### 3. CONDUCT OF IMPLEMENTATION COMMITTEE MEETINGS

#### 3.1 Meeting logistics and preparation

##### *Schedule of meetings and typical duration*

The Implementation Committee meets twice annually,<sup>16</sup> unless it decides otherwise. The first meeting of the year is typically held back-to-back with the annual meeting of the Open-ended Working Group of the Parties to the Protocol (either immediately before or after), at the same location. The second meeting is held at the same location as and usually immediately preceding the annual Meeting of the Parties. Meetings of the Committee are usually one day long, with extra sessions arranged when necessary.

##### *Translation and interpretation arrangements*

Pre-session documents, except information notes, are translated into the United Nations official languages used by Committee members, adhering to rule 54 of the rules of procedure for meetings of the parties to the Montreal Protocol.<sup>17</sup> To provide the Committee with the most up-to-date information about each party under consideration and to ensure that draft recommendations proposed by the Secretariat reflect any changes on each party's situation, revisions and addenda to meeting documents are issued right up to the start of the meeting. Consequently, in some cases these updates may be available only in the English language owing to the lack of time for their translation into other meeting languages.

The Secretariat also arranges for simultaneous interpretation in the United Nations official languages relevant to the Committee members. In addition, efforts are made to provide additional interpretation services to accommodate the requirements of any representatives of invited parties whose language is not covered by the standard United Nations simultaneous interpretation services.

##### *Typical agenda and meeting documents*

The provisional agenda of each Committee meeting is prepared by the Ozone Secretariat. The agenda along with a letter of invitation is sent by e-mail to all members and observers at least two months prior to the meeting. It is also posted on the Committee's secure website.

The Secretariat prepares a number of pre-session documents, making them available ahead of the meeting to enable the Committee members to undertake their thorough review. The consideration of each substantive agenda item is typically facilitated by information that the Secretariat summarizes in working documents. The Committee uses the working documents to review data, determines instances of possible non-compliance, considers recommendations and agrees to recommend measures for consideration by the concerned party or by a Meeting for the Parties for returning parties to compliance.

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<sup>16</sup> In accordance with paragraph 6 of the non-compliance procedure.

<sup>17</sup> The [rules of procedures for meetings of the parties to the Montreal Protocol](#) apply mutatis mutandis to the meetings of the Implementation Committee, unless otherwise decided by the meeting. See paragraph 6 of rule 26 of these rules.

Other pre-session documents may include a number of information documents such as those detailing submissions from parties whose situation is under consideration or proposals submitted by Committee members prior to Committee meetings. The Secretariat of the Multilateral Fund report on the status of, and prospects for, Article 5 countries in achieving compliance with the control measures of the Montreal Protocol is also to be provided in an information document.<sup>18</sup>

These documents have the following identifiers: UNEP/OzL.Pro/ImpCom/XX<sup>19</sup>/R<sup>20</sup>.x for the main meeting documents and UNEP/OzL.Pro/ImpCom/XX/INF/R.x for information documents.

To enable the Committee to perform this task in an effective and timely manner, the Secretariat endeavours to have the meeting documents available on a secure meeting portal six weeks prior to the Committee meeting. At this stage, if any members consider adding any new agenda items for the Committee's consideration at the upcoming meeting, they may inform and request the Secretariat to do so. Time permitting, if additional information relevant to the Committee's remit becomes available, the Secretariat will issue revisions and addenda to the pre-session documents to incorporate the new information. Members can also circulate conference room papers in English during the Committee's meeting.

The meeting report in English and translated once finalized as well as all adopted recommendations of the meeting are posted on the general [meeting portal](#) of the Secretariat, available to the public.

A non-exhaustive list of typical items on the agenda of a Committee meeting, with associated standard meeting documents, is presented in the table below. Items 1–5 and 7–10 are standard items that are covered in each Committee meeting. Item 6 is not a regular matter considered by the Committee. Depending on the needs and emerging issues, additional items may be incorporated into the provisional agenda of the Committee meetings.

### Typical agenda and meeting documents

Item number	Agenda item	Related meeting document
1.	Opening of the meeting	
2.	Adoption of the agenda and organization of work	Provisional agenda
3.	Report of the Secretariat on data and information submitted under <a href="#">Articles 7</a> and <a href="#">9</a> of the Montreal Protocol	Information provided by parties in accordance with <a href="#">Articles 7</a> and <a href="#">9</a> of the Montreal Protocol on Substances that Deplete the Ozone Layer

<sup>18</sup> The Multilateral Fund secretariat strives to provide the translation of this document into other languages of the United Nations that are relevant for Committee members.

<sup>19</sup> The number of the Implementation Committee meeting, e.g., UNEP/OzL.Pro/ImpCom/69/R.1 implies the document pertains to the 69<sup>th</sup> meeting of the Committee.

<sup>20</sup> "R" stands for "Restricted": the document's distribution is restricted to the Committee members and observers attending the meeting. Reports of the meetings of the Committee are made publicly available on the Secretariat website. Documents that are prepared not only for the Committee, e.g., those that are presented to the Open-ended Working Group or a Meeting of the Parties, are not labelled as restricted documents.

Item number	Agenda item	Related meeting document
4.	Information provided by the Secretariat of the Multilateral Fund for the Implementation of the Montreal Protocol on relevant decisions of the Executive Committee of the Fund and on activities carried out by its implementing or bilateral agencies to facilitate compliance by parties	Report by the Secretariat of the Multilateral Fund on the status and prospects of Article 5 countries in achieving compliance with the control measures of the Montreal Protocol (information note)
5.	Follow-up on previous decisions of the parties and recommendations of the Implementation Committee on non-compliance-related issues	Information on cases related to compliance with obligations under the Montreal Protocol (primary document)
	(a) Data-reporting obligations (b) Existing plans of action (c) Other decisions and recommendations on compliance	Compliance issues to be considered by the Implementation Committee (information note) Information submitted by parties for the consideration of the Implementation Committee: submission by a party (information note)
6.	Review of any information on requests for changes in baseline data	Information on cases related to compliance with obligations under the Montreal Protocol: submission by a party (primary documents) Information submitted by parties for the consideration of the Implementation Committee at its X <sup>21</sup> meeting: submission by a party (information note)
7.	Establishment of licensing systems under <a href="#">Article 4B</a> , paragraph 2 bis, of the Montreal Protocol	Status of licensing systems
8.	Other matters	
9.	Adoption of the recommendations and the report of the meeting	
10.	Closure of the meeting	

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<sup>21</sup> Where "X" stands for the ordinal number of the Committee meeting (e.g., seventy-first meeting).

### *Pre-session preparation by the members*

The invitation letter to each meeting contains login details for accessing the secure online portal of the meeting where pre-session documents are posted, starting with an English version as advance and translated versions being added as they become available. The Committee members are encouraged to regularly check the portal and prepare for the meeting by carefully reviewing the documents.

To assist members further, there are other online resources available:

- (a) an [online database](#) containing all previous recommendations of the Implementation Committee and compliance related decisions of the Meeting of the Parties;
- (b) the [country profile](#) for each party that includes annually reported data in an aggregated way.

In addition, it is advisable for Committee members to familiarize themselves with the reports of the recent meetings to understand the previous discussions and recommendations. (Since a member is elected to represent a group of parties on the Implementation Committee, it may communicate with other party representatives from the region to gather input, share insights, and coordinate positions on agenda items.)

## 3.2 Typical organization and conduct of work

In the absence of a quorum rule in the non-compliance procedure, paragraph 5 of rule 26 of the rules of procedure for Meetings of the Parties to the Montreal Protocol applies. Since the Implementation Committee has a fixed number of members, that is, it is not an open-ended committee, a majority of the members of the Committee constitutes a quorum.

### *3.2.1 Agenda item 2: Adoption of the agenda and organization of work*

Following opening formalities under the item on the opening of the meeting, including a statement by the Executive Secretary, the first order of business of each meeting of the Committee is the adoption of the agenda. The President of the Committee as the chair of the meeting performs the following:

- (a) Informs the Committee of the pre-session documents that members have before them;
- (b) Briefly reviews the provisional agenda, summarizing each agenda item and noting any changes or additional new information not contained in the pre-session documents;
- (c) Invites the Committee to raise any other matters for consideration by the Committee under the agenda item "Other matters";
- (d) Invites the Committee to adopt the agenda of the meeting.

Under the organization of work, the President discusses any administrative matters relating to the meeting, including the working hours of the meeting, logistical arrangements and any invited parties that have sent their representatives to discuss compliance issues.

The President also reminds the Committee of the following customary practices for conducting its work:

- (a) After discussing a particular party or sub-item of the agenda, the Committee will review and agree on a draft recommendation which will be considered by the Committee at its executive session: "Adoption of the recommendations and the report of the meeting".
- (b) Representatives of the Multilateral Fund Secretariat, the Global Environment Facility, the implementing agencies (UNEP, UNDP, UNIDO and the World Bank) and any bilateral agencies, who participate in the meeting as observers, are not required to leave the room during executive sessions of the Committee.
- (c) These observers will treat the deliberations of the Committee in executive session as confidential and may participate in such deliberations only to respond to questions from members.
- (d) During the executive session, the Committee entrusts the President and Vice-President with finalizing the text of the meeting report, with the support of the Ozone Secretariat.

### **Expected Committee actions**

Members of the Committee:

- (a) Comment on the agenda or suggest any new items for consideration as necessary;
- (b) Adopt the agenda after consideration of any comments;
- (c) Comment on the information provided on the organization of work as necessary;
- (d) Agree to the organization of work.

### *3.2.2 Agenda item 3: Report of the Secretariat on data and information submitted under [Articles 7 and 9](#) of the Montreal Protocol and consideration of non-compliance issues arising out of the report*

The Secretariat presents a report on information provided by parties in accordance with [Articles 7 and 9](#) of the Montreal Protocol, including:

- (a) Reporting of activities on research, development, public awareness and exchange of information ([Article 9](#));
- (b) Status of compliance with annual and hydrofluorocarbon baseline data reporting requirements ([Article 7](#), paragraphs 2, 3, 3 bis and 3 ter);
- (c) Cases of possible non-compliance with the control measures for controlled substances for the year preceding the previous one;
- (d) Status of compliance with the control measures for the previous year by parties;
- (e) Monitoring of progress for the previous year by parties previously in non-compliance;
- (f) Accounting for exemptions granted for critical uses of methyl bromide (decisions [Ex.II/4](#) (para. 9 (f)) and [XVI/6](#));
- (g) Reporting of exports and their destination countries (decisions [XVII/16](#) and [XXX/12](#)), and reporting of imports and their source countries (decisions [XXIV/12](#) and [XXX/12](#));

- (h) Consolidated record of cases of excess calculated production and consumption attributable to stockpiling (decisions [XVIII/17](#) and [XXII/20](#));
- (i) Reporting of process agent uses (decisions [X/14](#), [XXI/3](#), [XXXI/6](#) and [XXXII/5](#));
- (j) Reporting production of phased-out controlled substances;
- (k) Reporting of feedstock use of controlled substances;
- (l) Reporting of quarantine and pre-shipment (QPS) use of methyl bromide;
- (m) Reporting of the destruction of controlled substances;
- (n) Reporting of zero in [Article 7](#) data reporting form (decisions [XXIV/14](#), [XXIX/18](#) and [XXX/14](#));
- (o) Any requests for change of baseline data (decisions [XIII/15](#) and [XV/19](#)).

During the presentation, the Secretariat highlights any revised or additional information, received since the document was finalized, including relevant amendments in the draft recommendations.

The provisional agenda of the meeting does not list all the parties to be considered under this item owing to the continuous receipt of new data reports by the Secretariat. Each data set from parties has the potential to reveal possible non-compliance with the control measures of the Protocol. In addition, the Secretariat may receive incomplete data, including reports containing blank cells that might signify the absence of such controlled substances or represent non-reporting by a party. In accordance with [decision XXIV/14](#), the Secretariat is required to request clarification from any party that submits a reporting form with blank cells.

The pre-session working document for this agenda item contains information on those parties that, as at a given date, had submitted data that revealed possible non-compliance with the Protocol control measures or indicated possible non-compliance with those control measures. It does not include those deviations that are allowed, exempted or otherwise approved by the Meetings of the Parties. The document also lists those parties that, as at a given date, had not fulfilled their baseline data or annual data-reporting obligations.

If a non-compliance issue arising out of the data report pertains to a party scheduled for consideration under another agenda item, the additional non-compliance issue arising out of the data report may also be considered under the other agenda item, as the circumstances warrant. This approach is intended to ensure that, to the greatest extent possible, the Committee develops a recommendation for a given party with comprehensive understanding of all compliance issues relating to that party.

### **Expected Committee actions**

The members of the Committee may:

- (a) Ask questions and seek clarification on the parties' situation from the Ozone Secretariat, Fund secretariat, Global Environment Facility and implementing or bilateral agencies;
- (b) Discuss the situation and agree on appropriate recommendations, building on any draft recommendations prepared by the Ozone Secretariat.

### *3.2.3 Agenda item 4: Information provided by the Multilateral Fund secretariat on relevant decisions of the Executive Committee and on activities carried out by implementing and bilateral agencies to facilitate compliance by parties*

Under this agenda item, the representatives of the Multilateral Fund secretariat present an information document summarizing data and information from the country programme reports submitted by Article 5 parties to the Fund Secretariat on an annual basis and analysing parties' prospects of compliance with the control measures of the Montreal Protocol. The document also compares the consumption and production data reported by Article 5 parties in their country programme reports<sup>22</sup> with the data reported by the same parties under [Article 7](#) of the Montreal Protocol, identifying potential inconsistencies between the two data sets. In addition, the Fund secretariat informs the Committee of the decisions related to compliance matters that have been taken by the Executive Committee since the previous meeting of the Implementation Committee.

#### **Expected Committee actions**

The members of the Committee may:

- (a) Ask questions and seek clarification from the Fund secretariat with regard to its presentation. Substantive discussion of compliance issues arising from the report and pertaining to the agenda item related to follow-up on previous decisions of the parties and recommendations of the Committee on non-compliance issues (see next subsection) are deferred to discussion of that issue;
- (b) Note with appreciation the report of the Fund secretariat.

### *3.2.4 Agenda item 5: Follow-up on previous decisions of the parties and recommendations of the Implementation Committee on non-compliance-related issues*

Under this agenda item, members review cases of parties who are subject to decisions of the Meetings of the Parties or recommendations of the Committee concerning non-compliance. These parties are listed in the provisional agenda. The discussions are organized under sub-items such as data-reporting obligations under the Protocol; existing plans of action to return to compliance; non-compliance with the Montreal Protocol control measures and plans of action; and any other decisions and recommendations on compliance.

Each sub-item discussion is based on the specific information provided in the pre-session document and draft recommendation for each party. The draft sets forth actions that the Committee might wish to recommend in respect of the party. The Secretariat highlights any revised or additional information received and amendments proposed in the draft recommendation, as necessary.

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<sup>22</sup> Each country that implements projects funded by the Multilateral Fund of the Montreal Protocol is required to provide a Country Programme (CP) data report every year, in accordance with the relevant decisions of its Executive Committee.



### *Data reporting obligations*

The Ozone Secretariat presents information relating to parties listed under this agenda item to the Committee, drawn from the pre-session documents prepared by the Secretariat and information and documents provided by those parties.

For each party, the meeting document covers the following information:

- (a) The nature of non-compliance with data reporting requirements, including the party's recent ratification of the treaty or its amendment that makes the party subject to the data-reporting obligation;
- (b) Relevant decision of the Meetings of the Parties or recommendation of the Implementation Committee, that requested action from the party or commitments made by the party;
- (c) The party's responses to that decision or recommendation and any subsequent requests for clarification from the Secretariat, including failure to submit the requested data;
- (d) If the data has been submitted, assessment of compliance with control measures or adherence to commitments contained in decisions.

### **Expected Committee actions**

The members of the Committee may:

- (a) Ask questions and seek clarification on the parties' situation from the Ozone Secretariat and observers;
- (b) Discuss the situation and agree on appropriate recommendations, building on any draft recommendations prepared by the Secretariat.

### *Existing plans of action*

Under this agenda sub-item, the Committee reviews the situation of parties subject to decisions of the Meetings of the Parties containing plans of action to return to compliance with the Protocol control measures and commitments that have not yet been fully implemented.

The plans of action to return to compliance typically contain time-specific benchmarks (that is, annual reduction targets for consumption and production of controlled substances) until the party returns to compliance with the prescribed control measures of the Protocol. They sometimes can also contain commitments to implement other regulatory and policy measures (such as bans on import of equipment containing those controlled substances), capacity-building of stakeholders or technical assistance to industries.

The list of parties under review may include those that have returned to compliance with the Protocol control measures, thereby fulfilling their legal obligations as prescribed by the Protocol, but who have not yet implemented other commitments contained in their plans of action to return to compliance. The Committee continues monitoring the progress of such parties until all commitments are fully implemented.

In cases when the reduction targets are achieved and a party has returned to compliance with the control measures of the Protocol faster than committed, the Committee continues to monitor the party's compliance through to the year stated in the commitment, to ensure sustained adherence to the approved plan of action and compliance with the Protocol obligations.

There are also cases of non-compliance with the Protocol control measures related to non-adherence to commitments contained in an existing plan of action for returning the party to compliance.

The Ozone Secretariat presents the Committee with information drawn from the pre-session meeting document as well as from documents submitted by parties highlighting any revised or additional information received since the document's publication. The meeting document prepared by the Secretariat also contains draft recommendations for each party, setting forth actions that the Committee might consider recommending in respect of the party. In its presentation, the Secretariat notes any proposed amendments to the draft recommendations in the light of any new information or data received from the concerned party.

A party listed under this sub-item that submits to the Secretariat an explanation for its failure to implement one or more of its commitments may be invited to the meeting to clarify its situation and respond to any questions the Committee may have. Such party representative attends only the part of the session pertaining to their case. The President would usually propose to the Committee that it identify in advance any gaps in its understanding of the party's situation and defer agreement on a recommendation pertaining to the party until after the party's representative has been consulted.

### **Expected Committee actions**

The members of the Committee may:

- (a) Ask questions and seek clarification on the parties' situation from the Secretariat and observers;
- (b) Seek any information from invited party representatives necessary for the Committee to understand the parties' situation and develop an appropriate recommendation;
- (c) Discuss the situation and agree on appropriate recommendations, building on any draft recommendations prepared by the Secretariat.

### *Other decisions and recommendations on non-compliance*

Under this sub-item of the agenda, members of the Committee consider the situation of parties that are subject to the compliance-related decisions of the Meeting of the Parties and recommendations of the Implementation Committee. Such situations may include the following:

- (a) A party that has submitted an explanation for its possible non-compliance that confirms that the deviation did not constitute non-compliance with the Protocol;
- (b) A party that has submitted an explanation for its possible non-compliance from the Protocol consumption or production control measures that confirms its non-compliance with those measures but has not submitted a plan of action;

- (c) A party that has submitted an explanation for its non-compliance and a plan of action to return it to compliance that contains annual reduction targets and may include supporting regulatory and policy measures.

The Ozone Secretariat presents the Committee with information relating to these parties, drawn from the meeting document prepared by the Secretariat as well as from documents submitted by those parties.

The information can include:

- (a) The nature of the party's possible non-compliance from Protocol control measures, noting recent ratification of the amendments that subjects the party to the control measures;
- (b) Any party's response to the Secretariat's request for an explanation of possible non-compliance, including the date when the request was made;
- (c) Details of any assistance approved or planned from the Multilateral Fund or the Global Environment Facility related to the non-compliance;
- (d) The involvement of any implementing or bilateral agency providing institutional strengthening assistance to the party under the Multilateral Fund or the Global Environment Facility;
- (e) The status of the party's system for the licensing of imports and exports of controlled substances and any other regulatory measures;
- (f) Any other insight into the reasons for the party's non-compliance or failure to respond to the Secretariat's request to provide an explanation, including impacts of natural disasters or civil unrest;
- (g) If the party's response includes a draft plan of action intended to redress the non-compliance:
  - (i) Any time-specific benchmarks for the phase-out or phase-down of the controlled substance in question and the anticipated year for returning the party to compliance with the Protocol control measures for that controlled substance;
  - (ii) Any regulatory or policy measures to support the achievement of the time-specific benchmarks.

If appropriate, the Secretariat may invite a party representative under this item to the meeting to respond to any questions of the Committee. Such party representative attends only the part of the session pertaining to their case. The President would usually propose that the Committee identifies in advance any gaps in its understanding of the party's situation and defers agreement on a recommendation pertaining to the party until after consultation with the party's representative.

### **Expected Committee actions**

The members of the Committee may:

- (a) Ask questions and seek clarification on the parties' situation from the Secretariat and observers;
- (b) Seek any information from invited party representatives necessary for the Committee to understand the parties' situation and develop an appropriate recommendation;
- (c) Discuss the situation and agree on appropriate recommendations, building on any draft recommendations prepared by the Secretariat.

### *3.2.5 Agenda item 6: Review of any information on requests for changes in baseline data*

A party's compliance with the control measures under the Protocol is determined on an annual basis against baselines that are established after submission by each party of its baseline data. Under this agenda item, members consider requests submitted by parties to the Implementation Committee, through the Ozone Secretariat, to change the data for the year or years used to calculate their baseline for a particular controlled substance.

Paragraph 5 of [decision XIII/15](#) advises such parties to present their requests before the Implementation Committee which will in turn work with the Ozone Secretariat to confirm the justification for the changes and present them to the Meeting of the Parties for approval. [Decision XV/19](#) sets out the methodology adopted by the parties for reviewing requests to change baseline data.

For each party requesting a change in its baseline data, the meeting documents provide:

- (a) A summary of the party's submission, presented with reference to the methodology contained in [decision XV/19](#), namely:
  - (i) Identification of which of the baseline year's or years' data are considered incorrect and provision of the proposed new figure for that year or those years;
  - (ii) Explanation as to why the existing baseline data is incorrect, including information on the methodology used to collect and verify that data, along with supporting documentation where available;
  - (iii) Explanation as to why the requested changes should be considered correct, including information on the methodology used to collect and verify the accuracy of the proposed changes;
  - (iv) Documentation substantiating collection and verification procedures and their findings, which could include:
    - a. Copies of invoices, shipping and customs documentation from either the requesting party or its trading partners;
    - b. Copies of surveys and survey reports;
    - c. Information on the country's gross domestic product, ozone-depleting substance consumption and production trends and business activity in the ozone-depleting substance sectors concerned;

- (b) Information provided by the Multilateral Fund secretariat or the Global Environment Facility and the implementing or bilateral agencies in relation to both the original data collection exercises and any exercises that resulted in the baseline revision request;
- (c) Details of any assistance approved or planned for the party from the Multilateral Fund or the Global Environment Facility that relates to the controlled substance for which the data revision is sought;
- (d) Details of support provided by any implementing or bilateral agency to the party, including for institutional strengthening under the Multilateral Fund or the Global Environment Facility;
- (e) The status of the party's system for the licensing of imports and exports of controlled substances and any other regulatory measures;
- (f) Any other information that may assist the Committee to review the request: for example, information on the economic situation of the party in the year or years subject to the request and consumption and production data trends in the years proximate to the year or years subject to the request.

Typically, parties requesting baseline data changes have not, in the first instance, submitted information that addresses each of the information requirements contained in [decision XV/19](#). Consequently, the Secretariat's suggested recommendations often request the parties to provide information or clarification on the outstanding elements of [decision XV/19](#).

A party listed under this item will sometimes be invited by the Secretariat to send a representative to the meeting to respond to any questions which the Committee may wish to ask regarding the party's situation, particularly for the end-of-year meeting to avoid delays in possible adoption of a decision. Such party representative attends only the part of the session pertaining to their case. The President would usually propose to the Committee that it identify in advance any gaps in its understanding of the party's situation and defer agreement on a recommendation pertaining to the party until the party's representative has been consulted.

### **Expected Committee actions**

The members of the Committee may:

- (a) Ask questions and seek clarification on the parties' situation from the Secretariat and observers;
- (b) Seek any information from invited party representatives necessary for the Committee to understand the parties' situation and develop an appropriate recommendation;
- (c) Discuss the situation and agree on appropriate recommendations, on the basis of the methodology contained in [decision XV/19, and](#) building on any draft recommendations prepared by the Secretariat.

### *3.2.6 Agenda item 7: Establishment of licensing systems under paragraph 2 bis, Article 4B, of the Montreal Protocol*

Under this agenda item, members consider information prepared by the Secretariat pursuant to paragraph 4 of [Article 4B](#) on parties' licensing systems for export and import of controlled substances.

The Ozone Secretariat presents the pre-session document that contains information on the status of licensing systems for hydrofluorocarbons (paragraph 2 bis, [Article 4B](#), of the Montreal Protocol) containing a list of parties that have ratified the Montreal Protocol and its amendments. The Kigali Amendment for the phase-down of HFCs introduced the obligation that each party establish a system for licensing the import and export of new, used, recycled and reclaimed HFCs. The note specifies the deadlines for these parties to report on the establishment of their licensing systems of HFCs (paragraph 3, [Article 4B](#), of the Montreal Protocol) and the status of such reporting. The document also includes a list of those parties to the Montreal Protocol that have not yet ratified the Kigali Amendment, but which have nonetheless reported the establishment of licensing systems covering HFCs. The document also contains a draft recommendation prepared by the Secretariat.

In its presentation, the Secretariat highlights any revised or additional information received since the pre-session document's finalization, and any proposed revisions to the Secretariat's draft recommendation as deemed necessary. During the end-of-year meeting of the Committee held before a Meeting of the Parties, a draft recommendation is usually proposed for forwarding a draft decision for the consideration and possible adoption by the Meeting of the Parties.

#### **Expected Committee actions**

The members of the Committee may:

- (a) Ask questions and seek clarification on the situation of the parties listed in the meeting document from the Secretariat and observers;
- (b) Discuss the situation and agree on appropriate recommendations, building on any draft recommendations prepared by the Secretariat.

### *3.2.7 Agenda item 8: Other matters*

Under this agenda item, the President of the Committee invites members to raise and discuss any other issues, including those mentioned during the adoption of the agenda.

### *3.2.8 Agenda item 9: Adoption of the recommendations and the report of the meeting*

The President presents a compilation of draft recommendations and declares the Committee to be in executive session for the purpose of adopting the agreed recommendations. The Committee will be invited to consider again, finalize and adopt each draft recommendation individually.

The President also recalls the Committee's practice of entrusting the President and Vice-President with finalizing the text of the report of the meeting, in cooperation with the Secretariat.

#### **Expected Committee actions**

The members of the Committee may:

- (a) Consider and adopt each draft recommendation, including any agreed changes;
- (b) Agree to entrust the finalization of the report to the President and Vice-President with the support of the Secretariat.

