

**IMPLEMENTATION COMMITTEE
UNDER THE NON-COMPLIANCE PROCEDURE
OF THE
MONTREAL PROTOCOL ON SUBSTANCES THAT
DEplete THE OZONE LAYER**

PRIMER FOR MEMBERS

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1. INTRODUCTION

1.1. Purpose of the primer

This primer is intended to provide members of the Implementation Committee, particularly new members, with a comprehensive understanding of the non-compliance procedure of the Montreal Protocol and the manner in which the Committee has operated over more than 15 years. 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 institution, the Implementation Committee has developed over the course of its existence a mode of efficient operation that, while firmly based on the non-compliance procedure, relies to a considerable extent on custom and precedent. For this reason, the primer includes both a recitation of the requirements of the non-compliance procedure and an explanation of the customary practices of the Implementation Committee. In this way, it is hoped that the primer will provide a basis for future advancements in the timely and effective resolution of instances of non-compliance while at the same time ensuring the consistent and transparent treatment of the issues considered by the Committee.

The Primer commences with the text of the non-compliance procedure, followed by a discussion of the basis on which the non-compliance procedure was established and the composition, roles, responsibilities and key operational guidelines of the Committee. It also summarizes the key stages in the operation of the non-compliance procedure and outlines the mechanics of the Committee's twice-yearly meetings, including a typical agenda, meeting documents and actions expected from the Committee with regard to common compliance issues.

Section 6 of the primer contains details of the various Montreal Protocol obligations that are currently the subject of review by the Committee and Internet website addresses for the Ozone Secretariat, the secretariats of the Multilateral Fund for the Implementation of the Montreal Protocol (the Multilateral Fund), the Global Environment Facility and the implementing agencies of the Multilateral Fund. Section 6 also contains a glossary of relevant acronyms and commonly-used terms as well as the text of standardized recommendations addressing routine procedural matters of non-compliance with the Montreal Protocol.

1.2. Administration and updating of the primer

The primer will be updated by the Ozone Secretariat as needed to provide new members elected to the Committee with the most up-to-date information available. The primer will be available on the Ozone Secretariat's website at <http://ozone.unep.org/Publications/index>.

2. NON-COMPLIANCE PROCEDURE OF THE MONTREAL PROTOCOL

The following procedure has been formulated pursuant to Article 8 of the Montreal Protocol. It shall apply without prejudice to the operation of the procedure for the settlement of disputes laid down in Article 11 of the Vienna Convention.

1. If one or more Parties have reservations regarding another Party's implementation of its obligations under the Protocol, those concerns may be addressed in writing to the Secretariat. Such a submission shall be supported by corroborating information.
2. The Secretariat shall, within two weeks of its receiving a submission, send a copy of that submission to the Party whose implementation of a particular provision of the Protocol is at issue. Any reply and information in support thereof are to be submitted to the Secretariat and to the Parties involved within three months of the date of the dispatch or such longer period as the circumstances of any particular case may require. If the Secretariat has not received a reply from the Party three months after sending it the original submission, the Secretariat shall send a reminder to the Party that it has yet to provide its reply. The Secretariat shall, as soon as the reply and information from the Party are available, but not later than six months after receiving the submission, transmit the submission, the reply and the information, if any, provided by the Parties to the Implementation Committee referred to in paragraph 5, which shall consider the matter as soon as practicable.
3. Where the Secretariat, during the course of preparing its report, becomes aware of possible non-compliance by any Party with its obligations under the Protocol, it may request the Party concerned to furnish necessary information about the matter. If there is no response from the Party concerned within three months or such longer period as the circumstances of the matter may require or the matter is not resolved through administrative action or through diplomatic contacts, the Secretariat shall include the matter in its report to the Meeting of the Parties pursuant to Article 12 (c) of the Protocol and inform the Implementation Committee, which shall consider the matter as soon as practicable.
4. Where a Party concludes that, despite having made its best, bona fide efforts, it is unable to comply fully with its obligations under the Protocol, it may address to the Secretariat a submission in writing, explaining, in particular, the specific circumstances that it considers to be the cause of its non-compliance. The Secretariat shall transmit such submission to the Implementation Committee which shall consider it as soon as practicable.
5. An Implementation Committee is hereby established. It shall consist of 10 Parties elected by the Meeting of the Parties for two years, based on equitable geographical distribution. Each Party so elected to the Committee shall be requested to notify the Secretariat, within two months of its election, of who is to represent it and shall endeavour to ensure that such representation remains throughout the entire term of office. Outgoing Parties may be re-elected for one immediate consecutive term. A Party that has completed a second consecutive two-year term as a Committee member shall be eligible for election again only after an absence of one year from the Committee. The Committee shall elect its own President and Vice-President. Each shall serve for one year at a time. The Vice-President shall, in addition, serve as the rapporteur of the Committee.
6. The Implementation Committee shall, unless it decides otherwise, meet twice a year. The Secretariat shall arrange for and service its meetings.
7. The functions of the Implementation Committee shall be:
 - (a) To receive, consider and report on any submission in accordance with paragraphs 1, 2 and 4;
 - (b) To receive, consider and report on any information or observations forwarded by the Secretariat in connection with the preparation of the reports referred to in Article 12 (c) of the Protocol and on any other information received and forwarded by the Secretariat concerning compliance with the provisions of the Protocol;
 - (c) To request, where it considers necessary, through the Secretariat, further information on matters under its consideration;

- (d) To identify the facts and possible causes relating to individual cases of non-compliance referred to the Committee, as best it can, and make appropriate recommendations to the Meeting of the Parties;
 - (e) To undertake, upon the invitation of the Party concerned, information-gathering in the territory of that Party for fulfilling the functions of the Committee;
 - (f) To maintain, in particular for the purposes of drawing up its recommendations, an exchange of information with the Executive Committee of the Multilateral Fund related to the provision of financial and technical co-operation, including the transfer of technologies to Parties operating under Article 5, paragraph 1, of the Protocol.
- 8. The Implementation Committee shall consider the submissions, information and observations referred to in paragraph 7 with a view to securing an amicable solution of the matter on the basis of respect for the provisions of the Protocol.
 - 9. The Implementation Committee shall report to the Meeting of the Parties, including any recommendations it considers appropriate. The report shall be made available to the Parties not later than six weeks before their meeting. After receiving a report by the Committee the Parties may, taking into consideration the circumstances of the matter, decide upon and call for steps to bring about full compliance with the Protocol, including measures to assist the Parties' compliance with the Protocol, and to further the Protocol's objectives.
 - 10. Where a Party that is not a member of the Implementation Committee is identified in a submission under paragraph 1, or itself makes such a submission, it shall be entitled to participate in the consideration by the Committee of that submission.
 - 11. No Party, whether or not a member of the Implementation Committee, involved in a matter under consideration by the Implementation Committee, shall take part in the elaboration and adoption of recommendations on that matter to be included in the report of the Committee.
 - 12. The Parties involved in a matter referred to in paragraphs 1, 3 or 4 shall inform, through the Secretariat, the Meeting of the Parties of the results of proceedings taken under Article 11 of the Convention regarding possible non-compliance, about implementation of those results and about implementation of any decision of the Parties pursuant to paragraph 9.
 - 13. The Meeting of the Parties may, pending completion of proceedings initiated under Article 11 of the Convention, issue an interim call and/or recommendations.
 - 14. The Meeting of the Parties may request the Implementation Committee to make recommendations to assist the Meeting's consideration of matters of possible non-compliance.
 - 15. The members of the Implementation Committee and any Party involved in its deliberations shall protect the confidentiality of information they receive in confidence.
 - 16. The report, which shall not contain any information received in confidence, shall be made available to any person upon request. All information exchanged by or with the Committee that is related to any recommendation by the Committee to the Meeting of the Parties shall be made available by the Secretariat to any Party upon its request; that Party shall ensure the confidentiality of the information it has received in confidence.

2.1. Indicative list of measures that might be taken by the Meeting of the Parties in respect of non-compliance with the Protocol

- A. Appropriate assistance, including assistance for the collection and reporting of data, technical assistance, technology transfer and financial assistance, information transfer and training.
- B. Issuance of cautions.
- C. Suspension, in accordance with the applicable rules of international law concerning the suspension of the operation of a treaty, of specific rights and privileges under the Protocol, whether or not subject to time limits, including those concerned with industrial rationalization, production, consumption, trade, transfer of technology, financial mechanism and institutional arrangements.

3. BACKGROUND TO THE NON-COMPLIANCE PROCEDURE AND THE IMPLEMENTATION COMMITTEE

3.1. Authority for the non-compliance procedure and the Implementation Committee

3.1.1. Non-compliance procedure

The non-compliance procedure of the Montreal Protocol was adopted on an interim basis by the Second Meeting of the Parties (decision II/5) to give effect to Article 8 of the Protocol.

Article 8 of the Montreal Protocol: *“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.”*

Box 1

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, to addressing non-compliance. Through application of the procedure, the Implementation Committee has consistently sought actively to engage non-compliant Parties in the identification and adoption of measures to secure their return to compliance as soon as possible.

The various elements of the procedure are described throughout the rest of this primer. The full text of the procedure can be found in section 2.

3.1.2. 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, determines the roles and responsibilities of the Committee, which is described in the following sections.

3.2. Selection of Committee members, terms of office and election and responsibilities of officers

3.2.1. Selection of the Committee

Pursuant to paragraph 5 of the non-compliance procedure, the Committee comprises 10 Parties, selected by the Meeting of the Parties on the basis of equitable geographical distribution. In practice this has meant that each of the five United Nations regional groups (Western Europe and others; Africa; Asia and the Pacific; Latin America and the Caribbean; and Eastern Europe) selects two Parties to the Committee and that one of those two Parties is replaced each year. The names of the selected Parties are recorded in a decision of the Meeting of the Parties.

In accordance with paragraph 5 of the non-compliance procedure, within two months of its selection, each Party selected as a member of the Committee must submit to the Ozone Secretariat the name of the individual that will represent it on the Committee. Paragraph 5 notes that each Party should endeavour to ensure that its representation remains consistent throughout the entire term of its membership. This latter provision was included in the procedure in 1998 in response to the Parties' agreement that 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.

3.2.2. Terms of office

Members are selected for terms of two years, commencing 1 January of each year. Outgoing members may be re-selected for one immediate consecutive term, after which a year must elapse before they are again eligible for selection (paragraph 5 of the non-compliance procedure and decision XII/13).

The contact details of current Committee members are listed on the Committee's secure website.

3.2.3. Election and responsibilities of officers

The Committee selects a President and a Vice-President. The latter, in accordance with the non-compliance procedure, also serves as Rapporteur. Both officers hold office for one year at a time (paragraph 5 of the non-compliance procedure). Customarily, one officer is selected by the members that are Parties operating under 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.

The President and Vice-President of the Committee must be selected by the members of the Committee before the end of the Meeting of the Parties each year to ensure continuity of these two offices. The Meeting of the Parties endorses the Committee's selection of these officers through a decision, typically the same decision in which it endorses the selection of the Committee members (decision XII/13).

The President is responsible for chairing the meetings of the Committee, reviewing and clearing the meeting reports and giving an oral presentation to the Meeting of the Parties that summarizes the key points contained in the report of the final Committee meeting of the year, including any recommendations forwarded by the Committee to the Meeting of the Parties for its consideration. The President is also invited by the Executive Committee of the Protocol's financial mechanism, the Multilateral Fund for the Implementation of the Montreal Protocol, to represent the Committee as an observer at meetings of the Executive Committee.

The Vice-President serves as the Rapporteur, assists the President in the review and clearance of the reports of Committee meetings and is invited to represent the Implementation Committee at meetings of the Executive Committee as an observer. 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 Meeting of the Parties.

3.3. Roles and responsibilities of the Implementation Committee and its key actors

There are five key categories of persons involved in the operation of the non-compliance procedure and the Implementation Committee: the Committee members; the Ozone Secretariat; the Multilateral Fund Secretariat; the international and bilateral implementing agencies of the Multilateral Fund and the Global Environment Facility; 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 and further expanded upon in sections 4 and 5.

3.3.1. Implementation Committee members

The non-compliance procedure established the Implementation Committee to assist the Meeting of the Parties in reviewing the status of Parties' compliance with all provisions of the Protocol. Specific provisions of the Protocol that are most commonly subject to review by the Committee are listed in section 6.1 below and can be summarized as follows.

- (i) Data reporting: reporting of annual, base-year and baseline data (Articles 5 and 7 of the Protocol);
- (ii) 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) in accordance with the schedules set out in the Protocol (Articles 2A–2I and 5);
- (iii) Trade in controlled substances with non-Parties to the Protocol (Article 4);
 - (iv) Establishment of systems for licensing the import and export of new, used, recycled and reclaimed controlled substances (Article 4B);
 - (v) Biennial reporting on research, development, public awareness and exchange of information activities (Article 9).

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

- (i) Requests from Parties to change their data for baseline years, i.e., the years used to determine a Party's compliance with the Protocol's controlled substances phase-out schedules (decisions XIII/19 and XV/19);
- (ii) Review of implementation of decisions of the Meeting of the Parties containing measures to return a Party to compliance, which 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 related to that Party have passed (see section 4.6 for further details).

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 undertake one or more of the following actions prescribed in paragraph 7 of the procedure:

- (i) Receive, consider and report on any submission concerning possible non-compliance;
- (ii) Receive, consider and report on any information or observations by the Secretariat on data reports and on any information on compliance with the Protocol;
- (iii) Request, where necessary, through the Secretariat, 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;
- (iv) Undertake information gathering in a Party's territory, upon invitation from the Party concerned;
- (v) Exchange information with the Executive Committee for the purposes of developing recommendations;
- (vi) Identify the facts and possible causes related to cases of non-compliance and make recommendations to the Meeting of the Parties on measures to return Parties whose compliance is at issue to full compliance.

The manner in which the Committee discharges its role and responsibilities is described in section 5.

3.3.2. Ozone Secretariat

The Ozone Secretariat is the secretariat for the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer.¹ Among its other roles, it acts as the primary support and advisory agency of the Implementation Committee. The Ozone Secretariat's Database Manager, Monitoring and Compliance Officer and Senior Legal Officer are the main contacts in the Secretariat with regard to the preparation of meeting materials and operation of the Implementation Committee.

The contact details of the Secretariat and the relevant officers noted above are listed on the Committee's secure website.

¹ As set out in Article 7 of the Vienna Convention, Article 12 of the Montreal Protocol and rule 28 of the rules of procedure for the meetings of the governing bodies of these treaties and as decided by the Parties to the treaties from time to time.

As regards the non-compliance procedure and the operation of Implementation Committee meetings, the Ozone Secretariat performs the following duties:

- (i) It receives communications from Parties regarding the compliance of other Parties, forwards any such communications to the Parties whose compliance is in question, thus facilitating those Parties' right of response, and transmits all information on the matter, including any response, from the originating Party to the Committee;
- (ii) It receives information from Parties regarding their own compliance and transmits it to the Committee;
- (iii) It requests any Party whose data report indicates possible non-compliance to submit information on the matter. In cases where the matter is not resolved through administrative action or diplomatic contacts, it transmits to the Committee the details of the matter, any response received from the Party, a draft recommendation on the matter, and any other relevant information;
- (iv) It presents a report to the Committee on data submitted by Parties, highlighting any instances of non-compliance with the Protocol's data-reporting obligations and its requirement to ban trade in controlled substances with non-Parties to the Protocol, and any other information received or prepared by the Secretariat on compliance with the Protocol;
- (v) It presents a report to the Committee identifying those Parties that have reported the establishment of systems for licensing the import and export of controlled substances;
- (vi) It presents a report to the Committee on the Parties' biennial reporting on research, development, public awareness and exchange-of-information activities in accordance with Article 9 of the Protocol;
- (vii) It provides a means of communication between the Committee and Parties for the purpose of obtaining additional information on matters under the Committee's consideration;
- (viii) It prepares any other meeting documentation as requested by the Committee.

In addition, the Secretariat makes the necessary logistical arrangements for the meetings of the Committee, provides in-session support, including technical advice as required, and finalizes the reports of the Committee's meetings. To facilitate the exchange of information between the Implementation Committee and the Executive Committee of the Multilateral Fund required by paragraph 7 (f) of the non-compliance procedure, the Ozone Secretariat attends the meetings of the Executive Committee through mutual arrangement with the Secretariat of the Multilateral Fund. Also pursuant to paragraph 7 (f) of the procedure, and where relevant, the Ozone Secretariat obtains information related to the status of assistance provided by the Multilateral Fund to each Party operating under paragraph 1 of Article 5 that is under consideration by the Committee.

Paragraph 7 (f) of the non-compliance procedure: *"To maintain, in particular for the purposes of drawing up its recommendations, an exchange of information with the Executive Committee of the Multilateral Fund related to the provision of financial and technical cooperation, including the transfer of technologies to Parties operating under Article 5, paragraph 1, of the Protocol."*

Box 2

3.3.3. Multilateral Fund Secretariat and the Executive Committee

The Multilateral Fund for the Implementation of the Montreal Protocol serves as the Protocol's financial mechanism for enabling Article 5 Parties to comply with the Protocol. The Multilateral Fund Secretariat and the Chair and Vice-Chair of the Executive Committee of the Multilateral Fund customarily attend the meetings of the Implementation Committee as invited observers. The Multilateral Fund Secretariat assists the Implementation Committee in the discharge of its responsibility set out in paragraph 7 (f) of the non-compliance procedure (see box 2, above) as follows:

- (i) Representatives of the Multilateral Fund Secretariat attend the meetings of the Implementation Committee to present information to the Implementation Committee on relevant Executive Committee decisions and the future prospects of Article 5 Parties for achieving compliance with the Protocol. The Fund Secretariat's representatives also provide information, as requested by the Implementation Committee members, on Fund assistance approved or planned for Article 5 Parties that are to be considered by the Committee;

- (ii) The Fund Secretariat also makes the documents of the Executive Committee available on its website, including a document on the current status of Fund assistance approved or planned for Article 5 Parties that are to be considered by the Implementation Committee, thus enabling the Ozone Secretariat to incorporate this information into its own meeting documents;
- (iii) The Fund Secretariat provides 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 the Committee's consideration, on an ad hoc basis.

Contact details of the Multilateral Fund Secretariat are listed on the Committee's secure website.

3.3.4. International and bilateral implementing agencies

Financial and technical assistance provided under the auspices of the Multilateral Fund is provided through the Fund's four international 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 donate to the Fund (bilateral implementing agencies). UNDP, UNEP, UNIDO and the World Bank also assist non-Article 5 Parties that are classified as countries with economies in transition to comply with the Protocol under the auspices of the Global Environment Facility.

The four international implementing agencies attend the meetings of the Implementation Committee as observers and assist the Implementation Committee to discharge its responsibilities set out in paragraphs 7 (c) and 7 (f) of the non-compliance procedure (see boxes 2 and 3).

Paragraph 7 (c) of the non-compliance procedure: *"To request, where it considers necessary, through the Secretariat, further information on matters under its consideration."*

Box 3

At the request of the Ozone Secretariat, the implementing 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 Article 5 Parties and non-Article 5 countries with economies in transition that are under consideration by the Committee. The implementing agencies provide information during meetings through their representatives, while information made available before meetings is presented in meeting documents that are distributed to the members of the Committee in advance of Committee meetings.

The implementing agencies, as well as the bilateral agencies of donor Governments to the Fund, often assist Parties under the Committee's consideration to prepare documentation requested by the Committee. They also often assist such Parties to implement measures adopted by the Meeting of the Parties, on the Committee's recommendation, to return the Party to compliance.

The contacts details of the implementing agencies of the Multilateral Fund and the Global Environment Facility are listed on the Committee's secure website.

3.3.5. Parties subject to the non-compliance procedure

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

- (i) To submit to the Committee via the Secretariat written information regarding its possible non-compliance;
- (ii) To send a representative to a Committee meeting to discuss its situation, usually in cases where the compliance matter is complex or requires the development of a plan of action to return the Party to compliance;
- (iii) To submit to the Committee via the Secretariat a plan of action containing measures to ensure its prompt return to compliance;

Conduct of implementation Committee meetings

- (iv) Following the adoption of a decision by the Meeting of the Parties, which may include adoption of a plan of action, to fulfil the requirements of the decision, including submission of regular reports on the implementation of the plan of action to the Committee via the Secretariat.

When a Party attends a Committee meeting, a special session is set aside during the meeting for consultations with the Party's representative. As this session focuses on filling gaps in the Committee members' understanding of the Party's situation, it is critical that the Party's representative be fully aware of all aspects of the Party's Protocol implementation efforts.

Further information on the interaction between invited Parties and the Committee is contained in section 5.4.7.

3.4. Key directives for the implementation of the non-compliance procedure

Paragraphs 8, 10, 11 and 15 of the non-compliance procedure contain key directives to be observed by the Committee and other persons involved in its operation.

Paragraph 8 requires *the Committee to operate at all times with a view to securing an amicable solution to matters under its consideration on the basis of respect for the provisions of the Protocol.*

Paragraph 10 provides that 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 discussion of that matter by the Committee.*

Paragraph 11 provides that 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.*

Paragraph 15 requires *Implementation Committee members and any Party involved in its deliberations to protect the confidentiality of information received in confidence.*

Box 4

4. OPERATION OF THE NON-COMPLIANCE PROCEDURE

The operation of the non-compliance procedure can be divided into six stages. The stages customarily occur in the order illustrated in chart 1.

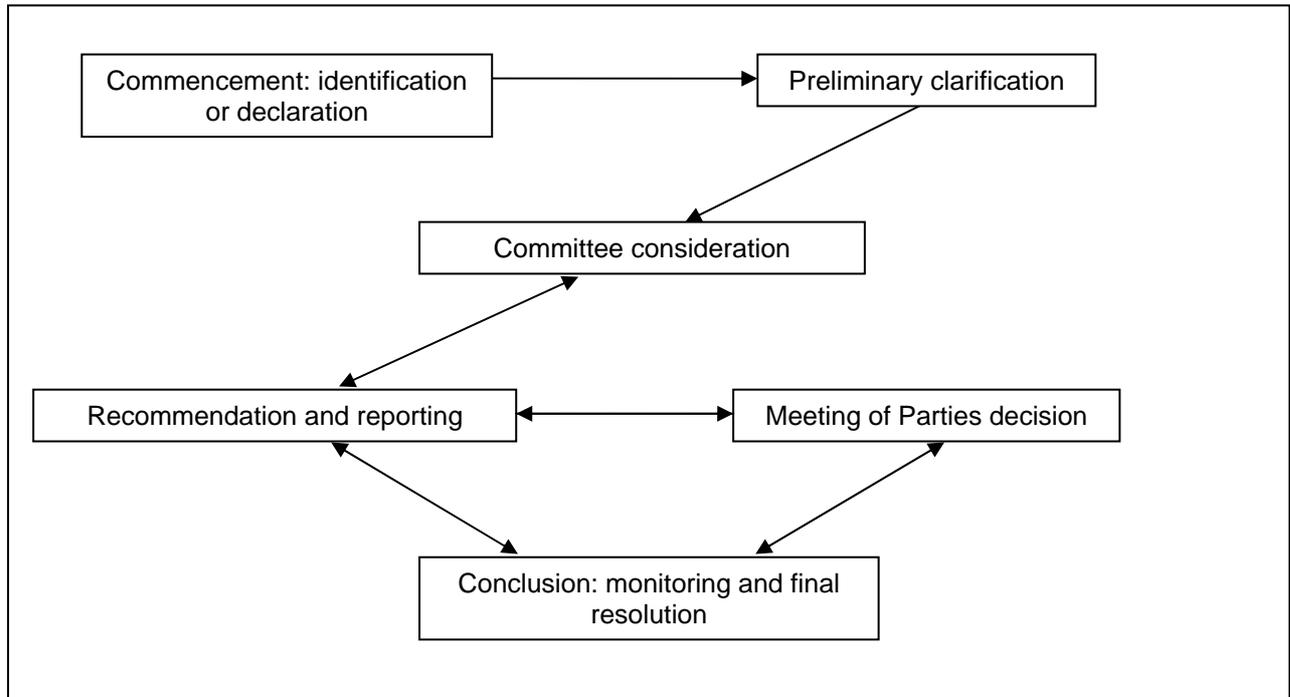


Chart 1: Six stages in the operation of the non-compliance procedure

Each of the six stages is elaborated below.

4.1. Commencement: identification and declaration (trigger) stage

The non-compliance procedure commences in any one of the three following sets of circumstances:

- (i) 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 that it considers to be the cause of its non-compliance;
- (ii) A Party is the subject of a written submission to the Ozone Secretariat that details another Party's reservations regarding the former Party's implementation of its obligations under the Protocol;
- (iii) A Party is identified by the Ozone Secretariat, in the course of the preparation of its data report to the Committee, as a possible case of non-compliance.

The second set of circumstances has not arisen to date. The first set of circumstances arose a number of times in the 1990s when a number of non-Article 5 countries with economies in transition declared themselves to be in non-compliance.

The non-compliance procedure is most often triggered by the third set of circumstances. The type of non-compliance concerned is most often a Party's apparent failure to comply with the Protocol's provisions to phase out the consumption and production of a particular controlled substance. Such cases of possible non-compliance are detected by the Ozone Secretariat when it reviews the annual consumption and production data for controlled substances reported by the Parties in accordance with Article 7 of the Protocol and determines that a Party has reported consumption or production of a particular controlled substance in excess of the annual limit prescribed by the Protocol for that substance.

4.2. Preliminary clarification stage

Once the trigger stage has passed, the Ozone Secretariat:

- (i) Notifies the Party whose compliance is in question, in writing, of the apparent deviation from its obligations under the Protocol and invites the Party to submit a written explanation;
- (ii) Reports to the Committee at its next meeting, in writing and orally, on:
 - (a) The apparent deviation;
 - (b) Any response from the Party to the Secretariat's invitation to explain the apparent deviation; and
 - (c) Any information that the Secretariat determines to be of possible assistance to the Committee in its consideration of the Party's situation.

Information reported by the Secretariat to the Committee pursuant to subparagraph (ii) (c) above may include information on:

- Whether the matter concerns an obligation assumed following a recent ratification of the Protocol or an amendment to the Protocol;
- The nature and status of any assistance that the Party is receiving from the Multilateral Fund or Global Environment Facility in complying with the obligation that is the subject of the apparent deviation;
- The identity of any international or bilateral agencies that are assisting the Party in complying with the obligation in question;
- The nature and status of any regulatory measures that the Party has reported as planned, under development or established;
- Any previous decisions or recommendations on related compliance matters to which the Party has been subject;
- Recent trends in the Party's consumption and production of controlled substances;
- Any extraneous circumstances that may constrain the Party's capacity to comply with the obligation under consideration (for example civil unrest or natural disaster).

4.3. Committee consideration stage

Over the course of one or more meetings, the Committee:

- (i) Requests any necessary additional information from the representatives of the Multilateral Fund Secretariat and implementing agencies present at the meeting;
- (ii) Consults any invited representatives from Parties under consideration;
- (iii) Discusses the information provided by the Ozone Secretariat, including the draft recommendations suggested by the Secretariat with regard to each compliance matter before the Committee.

In some cases the Committee need not engage in these three activities. While some cases require intensive deliberation and additional fact-finding, others are more straightforward and can be concluded through a process of "blanket approval". In such cases, the draft recommendations prepared by the Secretariat for the consideration of the Committee are based on text approved by the Committee at previous meetings to deal with similar cases and can therefore be approved without extended deliberation or fact-finding. For more on the blanket approval process see box 5 below.

As explained in section 4.4 below, the Committee customarily sets a deadline for the submission to the Ozone Secretariat of information and data by Parties under consideration. The deadline is intended to ensure the Committee has adequate time prior to its meeting to consider the information it requires to make a recommendation to assist a Party's return to compliance. The Committee has, however, also agreed that the Secretariat should facilitate the consideration of information submitted by Parties subject to the

non-compliance procedure after the deadline specified by the Committee or after the conclusion of the Committee meeting held immediately prior to the annual Meeting of the Parties by, where possible reconvening the Committee or presenting to the Meeting of the Parties through the report of the President any new information, indicating errors of fact in draft decisions recommended by the Committee for adoption by the Meeting of the Parties, which could not be considered by the Committee at a reconvened meeting. As noted in section 4.4.2 below on reporting, the conclusions of the reconvened meeting of the Committee are reported to the Meeting of the Parties through the verbal report of the President, in order that they might be recorded in the report of the Meeting.

- Reconvening the Committee and reporting the conclusions of the reconvened meeting to the Meeting of the Parties through the verbal report of the President, in order that they might be recorded in the report of the Meeting;
- Presenting to the Meeting of the Parties through the report of the President any new information, indicating errors of fact in draft decisions recommended by the Committee for adoption by the Meeting of the Parties, which could not be considered by the Committee at a reconvened meeting.

“Blanket approval”: *The Committee consideration stage of the non-compliance procedure will not occur should a particular Party’s situation receive “blanket approval” from the Committee.*

When the Secretariat circulates meeting documents to the Committee it asks the members to review the draft recommendations on each Party listed in the documents and inform the Secretariat of those draft recommendations that the members wish to review in the Committee consideration stage, on the understanding that any draft recommendation not so identified will be considered to have “blanket approval” and will thereby immediately advance to the “Recommendation and reporting stage” described in section 4.4 below.

It should be noted that a draft recommendation given “blanket approval” by the Committee would still be proposed by the Secretariat for individual review in the Committee consideration stage should the Secretariat receive additional relevant information on a Party after dispatch of the meeting documents.

Box 5

4.4. Recommendation and reporting stage

4.4.1. Recommendation

At each meeting, the Committee has always – and can therefore be expected to continue to do so in the future – drafted and adopted recommendations covering all the Parties presented by the Secretariat for consideration, as well as those Parties subject to draft recommendations identified for blanket approval. In accordance with paragraph 11 of the non-compliance procedure, should any member of the Committee represent a Party involved in a matter under consideration, that member must not take part in the drafting and adoption of recommendations pertaining to their Party. Subject to such recusals, the recommendations of the Committee have to date all been adopted by consensus.

The representatives of the Multilateral Fund Secretariat and the implementing agencies are categorized as observers and do not participate directly in the preparation or adoption of the recommendations. The Committee, however, usually requests them to be present during the drafting and adoption of recommendations to answer any questions relevant to the finalization of recommendation text.

Each recommendation adopted by the Committee can refer to one or more Parties, sometimes by name. Recommendations that do not name specific Parties usually concern compliance issues relevant to more than one Party, such as the reporting of ozone-depleting substances data for a given year, implementation of the Montreal Amendment obligation to establish and notify the Secretariat of the establishment of an ozone-depleting substance import and export licensing system, or requests to the Secretariat to prepare a paper on a compliance issue for consideration at a future meeting of the Committee.

The recommendations that name specific Parties usually fall into one of three categories:

- (i) Requests for information from a Party with a compliance matter under consideration, sometimes contained in a draft decision forwarded for consideration and possible adoption by the Meeting of the Parties;
- (ii) Proposals for the endorsement by the Meeting of the Parties of a Party's plan of action for returning to compliance contained in a draft decision;
- (iii) Acknowledgments of a Party's progress in implementing its plan of action for returning to compliance with the Protocol.

Depending on the nature of the compliance issue concerned, a particular Party may be the subject of a number of different recommendations adopted by the Committee over the course of one or more meetings.

Within the above-mentioned categories the Committee tailors the text of the recommendations to reflect the individual circumstances of the Parties concerned. That said, in the spirit of equal treatment for all Parties, the Committee often uses the same – or very similar – language to address less complex compliance matters that are considered by the Committee on a regular basis. The Committee has adopted a set of standardized recommendations to provide a basis for developing appropriate recommendations for such matters, which are known as “routine procedural matters of non-compliance”. In this way, the Committee seeks to manage its increasing workload more efficiently and effectively and to ensure the equitable treatment of Parties in comparable circumstances.

A compilation of the recommendations adopted by the Committee to date is maintained on the Secretariat's website at http://ozone.unep.org/Meeting_Documents/impcom/. The standardized recommendations addressing routine procedural matters of non-compliance with the Montreal Protocol are contained in section 6.2.

With regard to the first category of recommendations, it is customary for the Committee to incorporate a deadline for the submission of the requested information, to enhance the ability of the Committee to obtain in a timely manner the information required to develop recommendations to facilitate a Party's prompt return to compliance. The deadline is usually a date ten weeks prior to the next meeting of the Committee, but has been adjusted by the Committee in an effort to provide the Party in question with sufficient time to prepare and submit the requested information, while still providing the Secretariat with time to process the information and seek further clarification, and the Committee with time for due consideration of the information.

4.4.1.1. Recommendations incorporating draft decisions

As noted in the above section, recommendations of the Committee can contain draft decisions to be forwarded to the Meeting of the Parties for possible adoption. Draft decisions are included in recommendations at the discretion of the Committee.

Feedback from Parties subject to the non-compliance procedure of the Protocol has indicated that, as decisions of the Parties are perceived to have a higher public profile than recommendations of the Committee, Parties are often likely to respond more promptly to decisions rather than recommendations on compliance. Consequently, the Committee customarily includes draft decisions in recommendations that are intended to prompt one or more of the following actions:

- (i) Submission by a Party of an explanation for a deviation from the control measures of the Protocol (the standardized recommendation text containing such draft decisions can be found in section 6.2, types 1 and 5);
- (ii) Submission by a Party of a plan of action for returning the Party to compliance with the control measures of the Protocol (the standardized recommendation text containing such draft decisions can be found in section 6.2, types 1, 3, 5, 8);
- (iii) Endorsement by the Meeting of the Parties of a Party's plan of action for returning to compliance and implementation of the plan by the Party (the standardized recommendation text containing such draft decisions can be found in section 6.2, types 6 and 7);

- (iv) 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 (the standardized recommendation text containing such draft decisions can be found in section 6.2, type 10);
- (v) Submission by a Party of data in accordance with its data-reporting obligations under the Protocol (the standardized recommendation text containing such draft decisions can be found in section 6.2, type 15);
- (vi) Establishment of a system for licensing the import and export of ozone-depleting substances and submission of a report to the Secretariat regarding the same (the standardized recommendation text containing such draft decisions can be found in section 5.4.8)

4.4.2. Reporting

Paragraph 9 of the non-compliance procedure provides that the Committee shall report to the meeting of the Parties, including any recommendations it considers appropriate. 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 Committee has also adopted the practice of circulating a conference room paper at meetings of the Parties. That paper contains the draft decisions recommended for adoption by the Committee at its meeting held immediately before the meeting of the Parties, as well as a tabular summary of the draft decisions that identify the Party, its related compliance issue and remarks that highlight any special circumstances specific to the Party. In addition, it has become customary for the President of the Committee to give a verbal presentation to the Meeting of the Parties on the work of the Committee during the year.

Paragraph 9 of the non-compliance procedures provides that the report of the Committee shall be made available to the Parties not later than six weeks before their meeting. To date, the report of the first Committee meeting of each year is circulated to the Parties by the Secretariat and posted on its website (http://ozone.unep.org/Meeting_Documents) six weeks prior to the annual Meeting of the Parties. This is not the case with the report of the second Committee meeting of each year because, since the adoption of the non-compliance procedure on a permanent basis in 1992, the second meeting of the Committee has always been held immediately prior the annual meeting of the Parties. As a consequence, the Committee has circulated the above mentioned conference room paper at meetings of the Parties, and the President of the Committee has given a verbal presentation to the Meeting of the Parties on the work of the Committee during the year. The report of the second meeting of the Committee is circulated to the Parties and posted on the website of the Secretariat after the Meeting of the Parties.

The Committee reaffirmed this approach at its thirty-eighth meeting, in June 2007, on the basis that it best served the interests of the Parties and the Protocol. The Committee expressed the view that scheduling the second meeting of the Committee immediately prior to the annual Meeting of the Parties maximized the time available to Parties to submit the information required by the Committee to review their compliance status. It also provided the Secretariat with the greatest opportunity to resolve through administrative and diplomatic contacts prior to the Committee meeting and in accordance with paragraph 3 of the non-compliance procedure any apparent inconsistencies between the requirements of the Protocol and Parties' data reports. It was noted that this approach had enabled the Committee to present to the annual meeting of the Parties a far more complete picture of all instances of potential or confirmed non-compliance with the Protocol. The approach also realized significant cost and logistical savings to the Parties. In order to make the report of the second meeting available six weeks prior to meetings of the Parties, the second meeting of the Implementation Committee would have to be held separately, requiring additional travel by members, invited Parties and representatives of the Fund secretariat and implementing agencies. A separate meeting would have imposed an additional cost of at least \$115,664 on the budget approved by the Parties for the Ozone Secretariat.

As explained in section 4.3 above, the Committee has agreed that the Secretariat may attempt to reconvene the Committee after the conclusion of its meeting held immediately prior to the annual Meeting of the Parties, in order to facilitate the consideration of information submitted by Parties subject to the non-compliance procedure. In such cases, the conclusions of the reconvened meeting are reported to the Meeting of the Parties through the verbal report of the President, in order that they might be recorded in the report of the Meeting.

After the report of the Committee is finalized, the Secretariat communicates the text of the adopted recommendations by letter to the Parties concerned, copying it where relevant to the Multilateral Fund Secretariat and to any implementing agencies assisting the Party in returning to compliance with the Protocol. In those instances where a recommendation contains a deadline for the submission of information or data, the letter also includes an explanation of the possible consequences of failure to meet the deadline. These consequences include the adoption by the Committee of a recommendation to defer the consideration of the Party's situation given the importance of ensuring that the Committee has adequate time to consider the submitted information and deliberate its implications, or a recommendation to propose the adoption by the Meeting of the Parties of a draft decision requesting the Party submit the information sought by the Committee and cautioning the Party that, in the event it fails to return to compliance, the Meeting of the Parties could consider measures including the suspension of the Party's rights and privileges under the Protocol.

4.5. Meeting of the Parties decision stage

Each year, the Meeting of the Parties considers the report of the Committee as presented by the President. It also considers any draft decisions approved by the Committee, which are forwarded by the Committee to the Meeting of the Parties in a conference-room paper. It is customary for the 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 Meeting of the Parties.

Depending on the nature of the compliance issue concerned, a particular Party may be the subject of a number of decisions adopted at different Meetings of the Parties without amendment.

A compilation of these decisions and all other compliance-related decisions adopted by the Meeting of the Parties is maintained on the Secretariat's website at http://ozone.unep.org/Meeting_Documents/impcom/.

Once adopted, the compliance decisions are circulated to all Parties in the report of the Meeting of the Parties at which they are adopted, which is also posted on the Ozone Secretariat's website (http://ozone.unep.org/Meeting_Documents/impcom/). The Secretariat also communicates the text of the adopted decisions by letter to the Parties concerned, copying it, where relevant, to the secretariat of the Multilateral Fund and to any implementing agencies assisting the Party in returning to compliance with the Protocol. Those Parties subject to decisions containing their plans of action for returning to compliance with the Protocol's control measures for the phase-out of controlled substances are requested to submit annual reports to the Secretariat on their implementation of the commitments contained in their plans of action for the consideration of the Committee.

4.6. Monitoring and final resolution stage

The Secretariat maintains a list of compliance-related decisions requiring further action by Parties and prepares a document for each Committee meeting listing the decisions scheduled for review.

The decisions are presented to the Committee at each meeting with a report on the status of those actions that were due to be completed prior to the meeting, including the annual reports submitted by those Parties subject to decisions containing plans of action for returning to compliance with the Protocol's control measures for the phase-out of controlled substances.

The Committee then repeats its consideration and recommendation and reporting stages described above in sections 4.3 and 4.4, reviewing progress made by each Party in performing the required actions set out in the decision pertaining to it and making any necessary recommendations, including the preparation of further draft decisions for consideration and possible adoption by the Meeting of the Parties with a view to resolving each compliance issue.

Some plans of action contained in decisions are designed not only to return a Party to compliance but also to accelerate its phase-out of a particular controlled substance. In such cases, once a Party has returned to compliance, the Committee will continue to monitor its implementation of its plan of action until all the

measures contained in the plan have been completed. Similarly, should a Party go beyond its plan, returning to compliance in advance of the commitments contained in the plan, the Committee will continue to monitor its implementation until the time-specific milestones in the plan have been passed.

The implementation of the non-compliance procedure is considered to have been concluded in respect of a particular Party when the Committee records in the report of a Committee meeting that the Party has returned to compliance and has implemented all the required actions contained in the decision relating to it.

5. CONDUCT OF IMPLEMENTATION COMMITTEE MEETINGS

5.1. Schedule and typical duration of meetings and translation and interpretation arrangements

5.1.1. Schedule of meetings and typical duration

Paragraph 6 of the non-compliance procedure provides that meetings of the Implementation Committee shall be held twice a year, unless the Committee decides otherwise. The first meeting of the year is usually held immediately preceding or immediately following the annual meeting of the Open-ended Working Group of the Parties to the Protocol, at the same location. The end-of-year meeting is usually held immediately preceding the annual Meeting of the Parties and at the same location.

The first meeting of the year is usually two days in duration, while the end-of-year meeting is usually held over three days. The Committee usually conducts its work over two sessions each day, from 10 a.m. to 1 p.m. and from 3 p.m. to 6 p.m., with night sessions arranged when necessary.

5.1.2. Translation and interpretation arrangements

While not required by any specific decisions of the Parties, efforts are made to provide the primary meeting documents, except information documents, in the United Nations official language preferred by each member. To ensure that the Committee has, in consolidated form, the latest possible information on the situation of each Party under consideration and the most recent draft recommendations of the Secretariat on those situations, revisions and addenda of meeting documents are issued until the commencement of the meeting. Consequently, in some cases only English language versions of some documents are available to the Committee.

While not required by any specific decision of the Parties, if a member requires interpretation efforts are also made to provide interpretation in his or her preferred United Nations official language. In addition, efforts are made to provide additional interpretation services to accommodate the requirements of any representatives of invited Parties.

5.2. Rules of procedure

The rules of procedures for meetings of the Parties, adopted by the First Meeting of the Parties and subsequently amended by the Second and Third Meetings of the Parties, applies to the meetings of the Implementation Committee (rule 26 (6) of the rules of procedure), except to the extent that they are inconsistent with the non-compliance procedure. The rules are set out in the Handbook for the International Treaties for the Protection of the Ozone Layer, available on the Ozone Secretariat website at: <http://www.ozone.unep.org/publications>.

5.3. Typical agenda and meeting documents

The provisional agenda of each Committee meeting is prepared by the Ozone Secretariat. It is sent to the members along with a letter of invitation by e-mail and post six weeks prior to the meeting. It is also posted on the Committee's secure website.

The meeting documents are prepared by the Ozone Secretariat. Each meeting may also have a number of information documents. Detailed submissions from Parties whose situation is under consideration will be contained in an information document. The report of 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 will also be provided in an information document. This report is prepared in the first instance for the Executive Committee of the Multilateral Fund and later becomes an information document of the Implementation Committee. Proposals submitted by Committee members prior to Committee meetings will

also become information documents. All meeting documents, including information documents, are sent to the members by e-mail and post upon completion. They are also posted on the Committee's secure website.

The Committee uses the meeting documents to review data, determine instances of possible non-compliance, consider recommendations and agree to recommend measures for returning Parties to compliance. To enable the Committee to perform this task in an effective manner, the Secretariat endeavours to schedule completion of the meeting documents such that it achieves a balance between providing early information and a package of information that is as complete and up to date as possible. This means that meeting documents can be dispatched between two and six weeks prior to the Committee meeting. Time permitting, if additional information relevant to the Committee's remit is received by the Secretariat after dispatch of the meeting documents, the Secretariat will issue revisions and addenda to the meeting documents to incorporate the new information.

Members are also welcome to circulate conference-room papers in English during the course of the meeting. A typical agenda, with related typical meeting documents, is presented in table 1 below. Note those items marked with an asterisk are only contained in agenda of the final meeting of each year.

Table 1: Typical agenda and meeting documents

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 under Article 7 of the Montreal Protocol	Information provided by Parties in accordance with Article 7 of the Montreal Protocol on Substances that Deplete the Ozone Layer
4. Information provided by the Fund Secretariat on relevant decisions of the Executive Committee and on activities carried out by implementing agencies (United Nations Development Programme, United Nations Environment Programme, United Nations Industrial Development Organization and World Bank) 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
5. Follow-up on previous decisions of the Parties and recommendations of the Implementation Committee on non-compliance-related issues (a) Data-reporting obligations (b) Existing plans of action (c) Other decisions on compliance (d) Other recommendations on compliance	Information on cases of deviation from the Protocol's consumption and production reduction schedules and data-reporting requirements Documents submitted by Parties to the Committee List of Party-specific compliance issues to be considered by the Implementation Committee
6. Consideration of other non-compliance issues arising out of the data report	Information provided by Parties in accordance with Article 7 of the Montreal Protocol on Substances that Deplete the Ozone Layer Information on cases of deviation from the Protocol's consumption and production reduction schedules and data-reporting requirements Documents submitted by Parties to the Committee
7. Review of any information on requests for changes in baseline data	Information on cases of deviation from the Protocol's consumption and production reduction schedules and data-reporting requirements Documents submitted by Parties to the Committee

Agenda item	Related meeting document
8. Information on compliance by Parties present at the invitation of the Implementation Committee	Information on cases of deviation from the Protocol's consumption and production reduction schedules and data-reporting requirements Documents submitted by Parties to the Committee
9. Consideration of the report of the Secretariat on Parties that have established licensing systems (Article 4B, paragraph 4, of the Montreal Protocol)	Note by the Secretariat: Licensing systems (Article 4B, paragraph 4, of the Montreal Protocol)
10. Implementation of paragraph 1 of decision XVII/12 with respect to the reporting of CFC production by non-Article 5 Parties to meet the basic domestic needs of Article 5 Parties*	Information provided by Parties in accordance with Article 7 of the Montreal Protocol on Substances that Deplete the Ozone Layer
11. Information on those Parties that had not reported the destinations of all exports (including re-exports) for all controlled substances (including mixtures) in accordance with paragraph 4 of decision XVII/16*	Information provided by Parties in accordance with Article 7 of the Montreal Protocol on Substances that Deplete the Ozone Layer
12. Other matters	
13. Adoption of the report of the meeting	Consolidation of draft recommendations for adoption
14. Closure of the meeting	

5.4. Typical organization and conduct of work

Using the typical agenda contained in table 1 above, this section presents an item-by-item explanation of the substantive matters on the agenda, specifically covering the manner in which the Committee conducts its twice-yearly meetings to discharge its responsibilities as set out in section 3.3.1 above. For each agenda item a summary is provided of the issue discussed under the item and the corresponding action customarily taken by the Committee.

5.4.1. Organization of work

Following any opening formalities, the first agenda item of each meeting of the Committee is the organization of the work of the meeting. To that end, the Secretariat:

- (i) Names those Parties on the meeting agenda that the Committee members had previously identified as warranting individual consideration and recalls that the draft recommendations for the other Parties on the agenda would therefore be adopted by the Committee at its end-of-meeting executive session on the basis that they had not been identified for individual consideration. As mentioned in section 4.3 above, when the Secretariat circulates meeting documents to the Committee it asks the members to review the draft recommendations on each Party listed in the documents and to inform the Secretariat of those draft recommendations that the member wishes to review individually in the Committee consideration stage, on the understanding that any draft recommendation not so identified will be considered to have blanket approval and will therefore immediately be forwarded for adoption;
- (ii) Suggests, on the basis of new information received by the Secretariat following the dispatch of the meeting documentation, any additions to the list of those Parties that should be individually considered;
- (iii) Lists the complete set of meeting documents.

The President outlines for the Committee's consideration and comment administrative matters such as the working hours that the Secretariat has scheduled in consultation with the interpreters for each day of the meeting, the list of invited Parties that have sent representatives to consult the Committee on their particular compliance issues and a timetable for the completion of the agenda over the course of the meeting.

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

- (i) After concluding its discussion on a particular Party or sub-item of the agenda, the Committee will move temporarily into executive session to agree on a draft recommendation for adoption by the Committee at its executive session at the end of meeting;
- (ii) The representatives of the Multilateral Fund secretariat and the implementing agencies (UNEP, UNDP, UNIDO and the World Bank) are not required to leave the room during the executive sessions of the Committee;
- (iii) The representatives of the Multilateral Fund secretariat and the implementing agencies will treat the deliberations of the Committee in executive session as confidential and recall that they will not participate in such deliberations except to the extent that they are responding to questions from the members;
- (iv) While the Committee adopts the text of the recommendations as a whole, it entrusts the President and Vice-President with finalizing the text of the Committee report, in cooperation with the Ozone Secretariat.

Expected Committee actions

- As necessary, to comment on the information provided;
- To adopt the proposed working hours and timetable for completion of the agenda.

5.4.2. Report of the Secretariat on data under Article 7 of the Montreal Protocol

Under this agenda item, the Ozone Secretariat presents a report on information provided by Parties in accordance with Article 7 of the Montreal Protocol.

The report includes the following information:

- (i) Status of ratification of the Montreal Protocol and its amendments;
- (ii) Status of base-year, baseline and annual data reporting, including a list of Parties yet to report as required by the Protocol;
- (iii) Deviations from the Protocol's production and consumption phase-out control measures in previous years, including lists of Parties that have reported deviations, the data concerned and any explanation provided by the Parties for the deviations.

In presenting the report, the Database Manager highlights any revisions or additions to the information contained in the report that were prompted by information received by the Secretariat after the report's finalization.

Details of what constitutes base-year and baseline data and production and consumption control measures of the Protocol are contained in sections 6.1.1 and 6.1.2.

Expected Committee action

- As necessary, to ask questions and seek clarification from the Ozone Secretariat with regard to its presentation. Any substantive discussion of compliance issues arising from the report are, however, deferred until the agenda items described in sections 5.4.4 and 5.4.5 are taken up.

5.4.3. Information provided by the Fund secretariat on relevant decisions of the Executive Committee and on activities carried out by implementing agencies to facilitate compliance by Parties

Under this agenda item, the representatives of the Multilateral Fund secretariat present an information document containing a report on the status and prospects of Article 5 countries in achieving compliance with the control measures of the Montreal Protocol. The report contains:

- (i) An annual update on the apparent status of Article 5 Parties with respect to their compliance with the control measures of the Protocol, as suggested by the latest consumption and production data reported by those Parties;
- (ii) Information on approved or planned assistance for those Parties whose latest consumption exceeds the Protocol's current control measures, that appear to be at risk of non-compliance with future control measures, or are subject to decisions or recommendations on compliance;
- (iii) Data on the implementation of country programmes, including an analysis of consumption data on controlled substances by sector.

The representatives of the Fund secretariat also inform the Committee of the decisions related to compliance matters that have been taken by the Executive Committee since the last meeting of the Implementation Committee.

Expected Committee actions

- As necessary, to ask questions and seek clarification from the Fund secretariat with regard to its presentation. Any substantive discussion of compliance issues arising from the report are, however, deferred until the agenda items described in sections 5.4.4 and 5.4.5 have been taken up;
- To note with appreciation the report of the Fund Secretariat.

5.4.4. Follow-up on previous decisions of the Parties and recommendations of the Implementation Committee on non-compliance-related issues

5.4.4.1. Data-reporting obligations

Under this agenda item a list is provided of all Parties subject to decisions of the Meeting of the Parties or recommendations of the Committee concerning non-compliance with their data-reporting obligations under the Protocol.

Details of the Parties' data-reporting obligations under the Protocol are contained in section 6.1.1, while decisions and recommendations on data-reporting obligations that are to be reviewed by the Committee are contained in a document prepared for each meeting of the Committee.

The President reminds the Committee of any listed Parties that will not be individually considered and that the draft recommendations pertaining to those Parties will be forwarded for adoption at the Committee's end-of-meeting executive session in accordance with the "blanket approval" procedure (see section 4.3 above).

The Ozone Secretariat presents the Committee with information relating to those listed Parties that have been identified for individual consideration by the Committee. The information the Secretariat presents is drawn from the meeting document prepared by the Secretariat on cases of deviation from the Protocol's consumption and production reduction schedules and data-reporting requirements, as well as from documents submitted by Parties. The meeting document prepared by the Secretariat also contains draft recommendations on each Party setting forth actions that the Committee might wish to recommend in respect of the Party. In its presentation, the Secretariat highlights any revised or additional information that it has received since the document was finalized and amends the Secretariat's draft recommendations as necessary.

For each listed Party identified for individual action, the meeting document includes information on:

- (i) The nature of the data reporting non-compliance, including whether the Party has only recently ratified the treaty instrument that makes the Party subject to the data-reporting obligation;
- (ii) The relevant decision of the Meeting of the Parties or recommendation of the Implementation Committee, including the action or actions that the Meeting of the Parties or the Committee had requested the Party to undertake;
- (iii) The Party's response to the decision or recommendation and any subsequent requests for clarification from the Secretariat or the fact that the Party has not submitted the requested data.

Expected Committee actions

- As necessary, to ask questions and seek clarification on the Parties' situations from the Ozone Secretariat, Fund Secretariat and implementing agencies;
- In executive session, to discuss and agree on appropriate recommendations for each Party, to be forwarded for adoption by the Committee at the executive session at the end of the meeting, with reference to the suggested recommendations of the Ozone Secretariat and where appropriate to standardized recommendations types 15 and 16 for addressing routine procedural matters of non-compliance.

Standardized recommendations types 15 and 16: *The Committee adopts standardized recommendations to address routine procedural matters of non-compliance with a view to enabling the Committee to manage its increasing workload more efficiently and effectively and ensuring the equitable treatment of Parties in like circumstances.*

Standardized recommendation type 15 addresses the situation where a Party has not submitted its outstanding data in accordance with a recommendation of the Committee.

Standardized recommendation type 16 addresses the situation where a Party has submitted its outstanding data in accordance with a recommendation of the Committee or a decision of the Meeting of the Parties.

The text of these and all other type of standardized recommendations is contained in section 6.2.

Box 6

5.4.4.2. Existing plans of action

Under this agenda item a list is provided of all Parties subject to decisions of the Meeting of the Parties containing plans of action to return the Parties to compliance with the Protocol's control measures containing commitments that have not yet been reviewed and implemented. The list may include a Party that has returned to compliance with the Protocol's control measures, thereby fulfilling its legal obligations as prescribed by the Protocol, but has not yet completed implementation of all the commitments made to the Meeting of the Parties with regard to the phase-out of particular controlled substances that are the subject of their plan of action. Consequently, the Committee would continue to monitor the progress of such a Party until it has completed implementation of all such commitments.

Details of the Parties' production and consumption phase-out obligations under the control measures of the Protocol are contained in section 6.1.2.

The President reminds the Committee of any listed Parties that will not be individually considered and that the draft recommendations pertaining to those Parties will be adopted by the Committee at the Committee's end-of-meeting executive session in accordance with the "blanket approval" procedure (see section 4.3 above).

The Ozone Secretariat presents the Committee with information relating to those listed Parties that have been identified for individual consideration by the Committee. The information the Secretariat presents is drawn from the meeting document prepared by the Secretariat on the cases of deviation from the Protocol's consumption and production reduction schedules and data-reporting requirements, as well as from

documents submitted by Parties. The meeting document prepared by the Secretariat also contains draft recommendations on each Party setting forth actions that the Committee might wish to recommend in respect of the Party. In its presentation, the Secretariat highlights any revised or additional information that it has received since the document was finalized and amends the Secretariat's draft recommendations as necessary.

A Party listed under this item that submits to the Secretariat an explanation for its failure to implement one or more of its commitments will usually be invited by the Secretariat to send a representative to the meeting to respond to any questions the Committee may wish to ask regarding the Party's situation. Should the Party accept the invitation, the President will propose that, to make the best use of its time with the Party's representative, the Committee identify the gaps in its understanding of the Party's situation and defer agreement on a recommendation pertaining to the Party until after consultation with the Party's representative.

Expected Committee actions

- As necessary, to ask questions and seek clarification on the Parties' situations from the Ozone Secretariat, the Fund secretariat and the implementing agencies;
- For those Parties that have sent representatives to the meeting, to identify the information that should be sought from the representatives so as to enable the Committee to develop appropriate recommendations on their situations;
- For those Parties that have not sent representatives to the meeting, to discuss and agree on in executive session appropriate recommendations for each Party, to be adopted by the Committee at the executive session at the end of the meeting, with reference to the suggested recommendations of the Ozone Secretariat and where appropriate to standardized recommendation types 9, 10, 11, 12 and 13 for addressing routine procedural matters of non-compliance.

Standardized recommendations types 9, 10, 11, 12 and 13: *The Committee adopts standardized recommendations to address routine procedural matters of non-compliance with a view to enabling the Committee to manage its increasing workload more efficiently and effectively and to ensuring the equitable treatment of Parties in like circumstances.*

Standardized recommendation type 9 addresses the situation where a Party has not submitted its report on its implementation of one or more of the commitments contained in its plan of action.

Standardized recommendation type 10 addresses the situation where a Party has reported failure to implement one or more of its commitments but has not submitted an explanation for the failure.

Standardized recommendation type 11 addresses the situation where a Party's report on the implementation of its commitment or commitments indicates that it has returned to compliance with its obligations under the Protocol.

Standardized recommendation type 12 addresses the situation where a Party's report on the implementation of its commitment or commitments indicates that it is in advance of its commitment or commitments for the preceding year.

Standardized recommendation type 13 addresses the situation where a Party's report on the implementation of its commitment or commitments indicates that it has fully implemented a particular commitment or commitments.

The text of these and all other types of standardized recommendations is contained in section 6.2.

Box 7

5.4.4.3. Other decisions on compliance

Under this agenda item a list is provided of all Parties subject to compliance-related decisions of the Meeting of the Parties that do not contain plans of action. Such decisions might include a decision requesting a given Party to submit an explanation for a deviation from the Protocol's consumption or production control measures and a plan of action for returning the Party to compliance, or requesting a Party to submit an explanation for a deviation from a commitment or commitments contained in a plan of action.

The President reminds the Committee of any listed Parties that will not be individually considered and that the draft recommendations pertaining to those Parties will be forwarded for adoption at the Committee's end-of-meeting executive session in accordance with the "blanket approval" procedure (see section 4.3. above).

The Ozone Secretariat presents the Committee with information relating to those listed Parties that have been identified for individual consideration by the Committee. The information the Secretariat presents is drawn from the meeting document prepared by the Secretariat on the cases of deviation from the Protocol's consumption and production reduction schedules and data-reporting requirements, as well as from documents submitted by Parties. The meeting document prepared by the Secretariat also contains draft recommendations on each party setting forth actions that the Committee might wish to recommend in respect of the Party. In its presentation, the Secretariat highlights any revised or additional information that it has received since the document was finalized and amends the Secretariat's draft recommendations as necessary.

A Party under this item that submits to the Secretariat an explanation for its deviation and a plan of action to redress the deviation will usually be invited by the Secretariat to send a representative to the meeting to respond to any questions the Committee may wish to ask regarding the Party's situation. Should the Party accept the invitation, the President will propose that, to make the best use of its time with the Party's representative, the Committee identify the gaps in its understanding of the Party's situation and defer agreement on a recommendation pertaining to the Party until after consultation with the Party's representative.

Expected Committee actions

- As necessary, ask questions and seek clarification on the Parties' situations from the Ozone Secretariat, Fund Secretariat and implementing agencies;
- For those Parties that have sent representatives to the meeting, identify the information that should be sought from the representatives to enable the Committee to develop appropriate recommendations on their situations;
- For those Parties that have not sent representatives to the meeting, to discuss and agree on in executive session appropriate recommendations for each Party, to be forwarded for adoption at the end-of-meeting executive session, with reference to the suggested recommendations of the Ozone Secretariat and where appropriate to standardized recommendation types 3, 4, 6, 7 and 8 for addressing routine procedural matters of non-compliance.

Standardized recommendations types 3, 4, 6, 7 and 8: *The Committee adopted standardized recommendation text to address routine procedural matters of non-compliance to enable the Committee to manage its increasing workload more efficiently and effectively and ensure the equitable treatment of Parties in like circumstances.*

Standardized recommendation type 3 addresses the matter of a Party that has submitted an explanation for its deviation from the Protocol's consumption or production control measures that confirms its non-compliance with those measures but has not submitted a plan of action.

Standardized recommendation type 4 addresses the matter of a Party that has submitted an explanation for its deviation that confirms that the deviation did not constitute non-compliance with the Protocol.

Standardized recommendation type 6 addresses the matter of a Party that has submitted an explanation for its deviation and a plan of action to return it to compliance that contains time-specific benchmarks and supporting regulatory and policy measures.

Standardized recommendation type 7 addresses the matter of a Party that submitted an explanation for its deviation at a previous meeting of the Committee that confirms its non-compliance and has at the current meeting of the Committee submitted a plan of action to return it to compliance that contains time-specific benchmarks and supporting regulatory and policy measures.

Standardized recommendation type 8 addresses the matter of a Party that submitted an explanation for its deviation at a previous meeting of the Committee that confirms its non-compliance but has not yet submitted a plan of action.

The text of these and all other types of standardized recommendations is contained in section 6.2.

Box 8

5.4.4.4. Other recommendations on compliance

Under this agenda item a list is provided of all Parties subject to compliance-related recommendations of the Committee that do not concern existing plans of action. Such recommendations include recommendations requesting a Party to submit an explanation for a deviation from the Protocol's consumption or production control measures and a plan of action for returning the Party to compliance or requesting a Party to submit data in accordance with its data-reporting obligations.

The President reminds the Committee of any listed Parties that will not be individually considered, and that the draft recommendations pertaining to those Parties will be adopted by the Committee at the Committee's end-of-meeting executive session in accordance with the "blanket approval" procedure (see section 4.3 above).

The Ozone Secretariat presents the Committee with information relating to those listed Parties that have been identified for individual consideration. The information the Secretariat presents is drawn from the meeting document prepared by the Secretariat on the cases of deviation from the Protocol's consumption and production reduction schedules and data-reporting requirements, as well as from documents submitted by Parties to the Committee. The meeting document prepared by the Secretariat also contains draft recommendations on each Party setting forth actions that the Committee might wish to recommend in respect of the Party. In its presentation, the Secretariat highlights any revised or additional information that it has received since the document was finalized and amends the Secretariat's draft recommendations as necessary.

A Party listed under this item that submits to the Secretariat an explanation for its deviation and a plan of action to redress the deviation will usually 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. Should the Party accept the invitation, the President will propose that, to make the best use of its time with the Party's representative, the Committee identify the gaps in its understanding of the Party's situation and defer agreement on a recommendation pertaining to the Party until after consultation with the Party's representative.

Expected Committee actions

- As necessary, to ask questions and seek clarification on the Parties' situations from the Ozone Secretariat, the Fund secretariat and the implementing agencies;
- For those Parties that have sent representatives to the meeting, to identify the information that should be sought from the representatives so as to enable the Committee to develop appropriate recommendations on their situations;
- For those Parties that have not sent representatives to the meeting, to discuss and agree on in executive session appropriate recommendations for each Party, to be adopted by the Committee at the executive session at the end of the meeting, with reference to the suggested recommendations of the Ozone Secretariat and where appropriate to

standardized recommendation types 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 15 and 16 for addressing routine procedural matters of non-compliance.

Standardized recommendations types 3, 4, 5, 6, 7, 8, 10, 11, 12, 13, 15 and 16: *The Committee adopts standardized recommendation text to address routine procedural matters of non-compliance to enable the Committee to manage its increasing workload more efficiently and effectively and ensure the equitable treatment of Parties in like circumstances.*

Standardized recommendation type 3 addresses the situation where a Party has submitted an explanation for its deviation from the Protocol's consumption or production control measures that confirms its non-compliance with those measures but has not submitted a plan of action.

Standardized recommendation type 4 addresses the situation where a Party has submitted an explanation for its deviation that confirms that the deviation did not constitute non-compliance with the Protocol.

Standardized recommendation type 5 addresses the situation where a Party has not submitted an explanation for its deviation or a plan of action.

Standardized recommendation type 6 addresses the situation where a Party has submitted an explanation for its deviation and a plan of action to return it to compliance that contains time-specific benchmarks and supporting regulatory and policy measures.

Standardized recommendation type 7 addresses the situation where a Party which submitted an explanation for its deviation at a previous meeting of the Committee that confirms its non-compliance has at the current meeting submitted a plan of action in accordance with a recommendation of the Committee.

Standardized recommendation type 8 addresses the situation where a Party submitted an explanation for its deviation at a previous meeting of the Committee that confirms its non-compliance but has not yet submitted a plan of action in accordance with a recommendation of the Committee.

Standardized recommendation type 10 addresses the situation where a Party has reported failure to implement one or more of its commitments but has not submitted an explanation for the failure.

Standardized recommendation type 11 addresses the situation where a Party's report on the implementation of its commitment or commitments indicates that it has returned to compliance with its obligations under the Protocol.

Standardized recommendation type 12 addresses the situation where a Party's report on the implementation of its commitment or commitments indicates that it is in advance of its commitment or commitments for the preceding year.

Standardized recommendation type 13 addresses the situation where a Party's report on the implementation of its commitment or commitments indicates that it has fully implemented a particular commitment or commitments.

Standardized recommendation type 15 addresses the situation where a Party has not submitted its outstanding data in accordance with a recommendation of the Committee.

Standardized recommendation type 16 addresses the situation where a Party has submitted its outstanding data in accordance with a recommendation of the Committee or a decision of the Meeting of the Parties.

The text of these and all other types of standardized recommendations is contained in section 6.2.

Box 9

5.4.5. Consideration of other non-compliance issues arising out of the data report

The provisional agenda does not list the Parties to be considered under this item as a complete list of such Parties cannot be reliably compiled in advance of the Committee meeting. This is because the Secretariat receives new data reports on a continuous basis and each new data report has the potential to reveal a deviation from the Protocol's control measures to phase out the production and consumption of controlled substances that might indicate possible non-compliance. The Secretariat seeks to present to the Committee as many of these reports and associated deviations as possible so that the Committee can provide the

Parties with the most comprehensive picture possible of compliance with the Montreal Protocol. Consequently, both the list of Parties that have not submitted their data in accordance with their data-reporting obligations and the list of Parties that have reported deviations indicating possible non-compliance with their obligations to phase out production and consumption of controlled substances remain in a state of flux up until the commencement of each meeting.

In addition, if a non-compliance issue arising out of the data report pertains to a Party scheduled for consideration under one of the preceding agenda items, the additional non-compliance issue arising out of the data report will also be considered under the preceding agenda item. This approach is intended to ensure that, to the greatest extent possible, the Committee develops a recommendation for a given Party with an understanding of all compliance issues relating to that Party.

Although the Parties to be considered under this item are not listed on the agenda, they are identified in the meeting document on information on cases of deviation from the Protocol's consumption and production reduction schedules and data-reporting requirements and the meeting document on information provided by Parties in accordance with Article 7 of the Montreal Protocol. The former document contains information on those Parties that, as of a given date, had submitted data that revealed deviations from the Protocol's control measures and indicated possible non-compliance with those control measures (in other words, it does not include those deviations that are exempted or otherwise approved by the Meetings of the Parties). The latter document lists those Parties that, as of a given date, had submitted data that deviated from the Protocol's control measures and those Parties that, as of the same date, had not fulfilled their base-year, baseline data or annual data-reporting obligations.

Deliberations under this agenda item are customarily separated into discussion of non-compliance with data-reporting obligations and discussion of deviations from the Protocols' control measures for the phase-out of controlled substances.

5.4.5.1. Data reporting

Details of data-reporting obligations under the Montreal Protocol are contained in section 6.1.1.

The Ozone Secretariat presents information on those Parties with outstanding data-reporting obligations not considered under preceding agenda items. The information presented by the Secretariat is drawn from the meeting document on information provided by Parties in accordance with Article 7 of the Montreal Protocol. In its presentation, the Secretariat highlights any revised or additional information that it has received since the document was finalized and amends the Secretariat's draft recommendations as necessary.

Expected Committee actions

- As necessary, to ask questions and seek clarification on the Parties' situations from the Ozone Secretariat, Fund secretariat and implementing agencies;
- In executive session, to discuss and agree on appropriate recommendations for the Parties to be adopted by the Committee at the executive session at the end of the meeting, with reference to the suggested recommendations of the Ozone Secretariat and where appropriate to standardized recommendation types 14 and 15 for addressing routine procedural matters of non-compliance.

Standardized recommendations types 14 and 15: *The Committee adopts standardized recommendation text to address routine procedural matters of non-compliance to enable the Committee to manage its increasing workload more efficiently and effectively and ensure the equitable treatment of Parties in like circumstances.*

Standardized recommendation type 14 addresses the situation where a Party has not submitted its outstanding data at the mid-year meeting of the Committee and has not yet been subject to a recommendation of the Committee on this issue.

Standardized recommendation type 15 addresses the situation where a Party has not submitted its outstanding data at the end-of-year meeting of the Committee and has not yet been subject to a recommendation of the Committee on this issue.

The text of these and all other types of standardized recommendations is contained in section 6.2.

Box 10

5.4.5.2. Control measures

Details of the Protocol's control measures for the phase-out of the production and consumption of controlled substances are contained in section 6.1.2.

As mentioned above, the Parties to be considered under this item are identified in the meeting document on information on cases of deviation from the Protocol's consumption and production reduction schedules and data-reporting requirements, thereby enabling the members of the Committee to notify the Secretariat prior to the commencement of the meeting which, if any, Parties they wish to consider individually.

The President therefore reminds the Committee of any Parties that will not be individually considered and that the draft recommendations pertaining to those Parties will be adopted by the Committee at the Committee's end-of-meeting executive session in accordance with the blanket approval procedure (see section 4.3. above).

The Ozone Secretariat then presents the Committee with information relating to those Parties that have been identified for individual consideration and have not already been considered under a prior agenda item. The information the Secretariat presents is drawn from the meeting document prepared by the Secretariat on the cases of deviation from the Protocol's consumption and production reduction schedules and data-reporting requirements, as well as from documents submitted by Parties to the Committee. The meeting document prepared by the Secretariat also contains draft recommendations on each Party setting forth actions that the Committee might wish to recommend in respect of the Party. In its presentation, the Secretariat highlights any revised or additional information that it has received since the documents were finalized and amends the Secretariat's draft recommendations as necessary.

For each Party, the meeting documents provide information on:

- (i) The nature of the Party's deviation from the Protocol's control measures, as appropriate noting when the Party has only recently ratified the treaty instrument that makes it subject to the control measure in question;
- (ii) Any response from the Party to the Secretariat's invitation to provide an explanation for the deviation and the date on which the Secretariat transmitted its invitation;
- (iii) The nature and status of any approved or planned assistance for the Party from the Multilateral Fund or the Global Environment Facility that relates to the control measures from which the Party has deviated;
- (iv) The identity of any implementing agency providing institutional strengthening assistance to the Party under the Multilateral Fund or the Global Environment Facility;
- (v) The status of the Party's system for the licensing of imports and exports of controlled substances and any other regulatory measures;
- (vi) Any other information that may give the Committee an insight into the reason for the Party's deviation or failure to respond to the Secretariat's invitation to provide an explanation. Such insights might be provided by the implementing agencies or the Fund secretariat and include information on natural disasters or civil unrest affecting the Party;
- (vii) If the Party's response includes a draft plan of action intended to redress the deviation:
 - The nature of any time-specific benchmarks for the phase-out of the controlled substance in question and, if it can be ascertained, the year in which the benchmarks would return the Party to compliance with the Protocol's control measures for that controlled substance;

- The nature of any regulatory or policy measures to support the achievement of the time-specific benchmarks;

A Party listed under this item that submits to the Secretariat an explanation for its deviation and a plan of action intended to address the non-compliance will usually 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. Should the Party accept the invitation, the President will propose that, to make the best use of its time with the Party's representative, the Committee identify the gaps in its understanding of the Party's situation and defer agreement on a recommendation pertaining to the Party until after consultation with the Party's representative.

Expected Committee actions

- As necessary, to ask questions and seek clarification on the Parties' situations from the Ozone Secretariat, the Fund secretariat and the implementing agencies;
- For those Parties that have sent representatives to the meeting, to identify the information that should be sought from the representatives to enable the Committee to develop appropriate recommendations on their situations;
- For those Parties that have not sent representatives to the meeting, to discuss and to agree on in executive session appropriate recommendations for each Party, to be adopted by the Committee at the executive session at the end of the meeting, with reference to the suggested recommendations of the Ozone Secretariat and where appropriate to standardized recommendation types 1, 2, 3, 4, 5 and 6 for addressing routine procedural matters of non-compliance.

Standardized recommendations types 1, 2, 3, 4, 5 and 6: *The Committee adopts standardized recommendation text to address routine procedural matters of non-compliance to enable the Committee to manage its increasing workload more efficiently and effectively and ensure the equitable treatment of Parties in like circumstances.*

Standardized recommendation type 1 addresses the situation where a Party has reported a deviation from the Protocol's control measures that is being considered by the Committee for the first time but has not submitted an explanation for its deviation or a plan of action to address the deviation.

Standardized recommendation type 2 addresses the situation where a Party has reported a deviation from the Protocol's control measures that is being considered by the Committee for the first time and has had insufficient time to respond to the Secretariat's invitation to submit an explanation and, if relevant, a plan of action to address the deviation.

Standardized recommendation type 3 addresses the situation where a Party has submitted an explanation for its deviation from the Protocol's consumption or production control measures that confirms its non-compliance with those measures but has not submitted a plan of action.

Standardized recommendation type 4 addresses the situation where a Party has submitted an explanation for its deviation that confirms that the deviation did not constitute non-compliance with the Protocol.

Standardized recommendation type 5 addresses the situation where a Party has not submitted an explanation for its deviation or a plan of action.

Standardized recommendation type 6 addresses the situation where a Party has submitted an explanation for its deviation and a plan of action to return it to compliance that contains time-specific benchmarks and supporting regulatory and policy measures.

The text of these and all other types of standardized recommendations is contained in section 6.2.

Box 11

5.4.6. Review of any information on requests for changes in baseline data

Under this agenda item a list is provided of all Parties that have submitted requests to the Implementation Committee, via the Ozone Secretariat, to change the data for the year or years used to calculate their baseline for a particular controlled substance and thereby determine their compliance status on a yearly basis with the Protocol's consumption and production control measure for that substance.

Decision XIII/15, paragraph 5: "To advise Parties that request changes in reported baseline data... to present their requests before the Implementation Committee which will in turn work with the Ozone Secretariat and the Executive Committee to confirm the justification for the changes and present them to the Meeting of the Parties for approval."

Box 12

Details of the baseline year or years for each controlled substance are contained in section 6.1.1.

Decision XV/19 of the Fifteenth Meeting of the Parties sets out the methodology adopted by the Parties for reviewing requests to change baseline data.

The full text of decision XV/19 and all other compliance-related decisions adopted by the Meeting of the Parties is maintained on the Ozone Secretariat's website at <http://ozone.unep.org/Publications/index>.

The President reminds the Committee of any Parties that will not be individually considered and that the draft recommendations pertaining to those Parties will be adopted by the Committee at the Committee's end-of-meeting executive session in accordance with the "blanket approval" procedure (see section 4.3 above).

The Ozone Secretariat presents the Committee with information relating to those Parties that have been identified for individual consideration. The information the Secretariat presents is drawn from the meeting document prepared by the Secretariat on the cases of deviation from the Protocol's consumption and production reduction schedules and data-reporting requirements, as well as from documents submitted by Parties to the Committee. The meeting document prepared by the Secretariat also contains draft recommendations on each Party setting forth actions that the Committee might wish to recommend in respect of the Party. In its presentation, the Secretariat highlights any revised or additional information that it has received since the document was finalized and amends the Secretariat's draft recommendations as necessary.

For each Party, the meeting documents provide:

- (i) A summary of the Party's submission, presented with reference to the methodology contained in decision XV/19, namely:
 - 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;
 - 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;
 - 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;
 - 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;
 - Information provided by the Multilateral Fund secretariat and the implementing agencies in relation to both the original data collection exercises and any exercises that resulted in the baseline revision request;
- (ii) The nature and status of any approved or planned assistance 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;
- (iii) The identity of any implementing agency providing institutional strengthening assistance to the Party under the Multilateral Fund or the Global Environment Facility;
- (iv) The status of the Party's system for the licensing of imports and exports of controlled substances and any other regulatory measures;
- (v) 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.

As noted above, the document prepared by the Secretariat also contains draft recommendations on each Party prepared by the Secretariat. 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 address the outstanding elements of decision XV/19.

A Party listed under this item will usually 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. Should the Party accept the invitation, the President will propose that, to make the best use of its time with the Party's representative, the Committee identify the gaps in its understanding of the Party's situation and defer agreement on a recommendation pertaining to the Party until after consultation with the Party's representative.

Expected Committee actions

- As necessary, to ask questions and seek clarification on the Parties' situations from the Ozone Secretariat, the Fund secretariat and the implementing agencies;
- For those Parties that have sent representatives to the meeting, to identify the information that should be sought from the representatives to enable the Committee to develop appropriate recommendations on the Parties' situations;
- For those Parties that have not sent representatives to the meeting, to discuss and agree on in executive session appropriate recommendations for each Party, to be adopted by the Committee at the executive session at the end of the meeting, with reference to the suggested recommendations of the Ozone Secretariat and the methodology contained in decision XV/19.

5.4.7. Information on compliance by Parties present at the invitation of the Implementation Committee

The provisional agenda does not list the Parties to be considered under this item as it must be circulated well in advance, generally before Parties confirm whether or not they are sending representatives.

The President indicates whether each of the invited Parties has consented to any request from the other invited Parties to observe its case. The President suggests that the representatives be invited to appear before the Committee in alphabetical order.

The Secretariat or the President presents to each representative in turn the queries collected from the members under the earlier agenda items. The representative provides responses to those or any other

queries arising from subsequent discussion with the Committee, identifying those queries to which a response cannot be made at the current meeting.

Expected Committee actions

- In the light of the representative's responses, to pose any additional questions required to develop a recommendation on the Party's situation;
- Once the Committee has completed its consultation with all invited Parties, to discuss and agree in executive session appropriate recommendations for each Party, for adoption at the executive session at the end of the meeting, with reference to the suggested recommendations of the Ozone Secretariat and the responses provided by the representatives of the invited Parties.

5.4.8. Consideration of the report by the Secretariat on Parties that have established licensing systems (Article 4B, paragraph 4, of the Montreal Protocol)

The Ozone Secretariat presents its note on licensing systems (Article 4B, paragraph 4, of the Montreal Protocol).

The note contains a list of Parties that have ratified the Montreal Amendment to the Protocol, which introduced the obligation that each Party establish a system for licensing the import and export of new, used, recycled and reclaimed controlled substances. The note indicates which of these Parties have reported the establishment of licensing systems and which have not. With regard to the latter category, it indicates the dates on which the Article 5 Parties that had ratified the Montreal Amendment but not yet established licensing systems had started to receive financial assistance for establishing their systems, given that those Parties that had only recently begun to receive assistance could reasonably be expected to not yet have fully functional systems. The note also includes a list of those countries which are not yet parties to the Montreal Amendment but which have reported the establishment of licensing systems. The note also contains a draft recommendation prepared by the Secretariat. In its presentation, the Secretariat highlights any revised or additional information that it has received since the note was finalized and amends the Secretariat's draft recommendation as necessary.

As noted above, the note prepared by the Secretariat contains a draft recommendation prepared by the Secretariat. Customarily, that draft recommendation provides for the forwarding of a draft decision to the Meeting of the Parties for its consideration and possible adoption along the following lines:

Draft decision -/—: Report on the establishment of licensing systems under Article 4B of the Montreal Protocol

Noting that paragraph 3 of Article 4B of the Montreal Protocol requires each Party, within three months of the date of introducing its system for licensing the import and export of new, used, recycled and reclaimed substances in Annexes A, B, C and E of the Protocol, to report to the Secretariat on the establishment and operation of that system,

Noting with appreciation that [x] Parties to the Montreal Amendment to the Montreal Protocol have established import and export licensing systems, as required under the terms of the Amendment,

Noting also with appreciation that [x] Parties to the Montreal Protocol that have not yet ratified the Montreal Amendment have also established import and export licensing systems,

Recognizing that licensing systems bring the following benefits: monitoring of imports and exports of ozone-depleting substances; prevention of illegal trade; and enabling data collection,

Noting that Parties to the Montreal Amendment to the Protocol that have not yet established licensing systems are in non-compliance with Article 4B of the Protocol and can be subject to the non-compliance procedure under the Protocol,

1. To record that [*names of Parties*] are Parties to the Montreal Amendment to the Protocol, that they have not yet established import and export licensing systems for ozone-depleting substances and are therefore in non-compliance with Article 4B of the Protocol and that financial assistance has been approved for all of them;
2. To request each of the [] Parties listed in paragraph 1 to submit to the Secretariat as a matter of urgency and no later than [], for consideration by the Implementation Committee under the Non-Compliance Procedure of the Montreal Protocol at its [] meeting, a plan of action to ensure the prompt establishment and operation of an import and export licensing system for ozone-depleting substances;
3. To encourage all the remaining Parties to the Montreal Protocol that have not yet ratified the Montreal Amendment to ratify it and to establish import and export licensing systems if they have not yet done so;
4. To urge all Parties that already operate licensing systems to ensure that they are structured in accordance with Article 4B of the Protocol and that they are implemented and enforced effectively;
5. To review periodically the status of the establishment of import and export licensing systems by all Parties to the Montreal Protocol, as called for in Article 4B of the Protocol.

Expected Committee actions

- As necessary, to ask questions and seek clarification on the situations of the Parties listed in the meeting document from the Ozone Secretariat, Fund Secretariat and implementing agencies;
- To discuss and agree on an appropriate recommendation or recommendations, to be forwarded to Committee for adoption at the executive session at the end of the meeting, with reference to the suggested recommendation of the Ozone Secretariat.

5.4.9. Implementation of paragraph 1 of decision XVII/12 with respect to the reporting of CFC production by non-Article 5 Parties to meet the basic domestic needs of Article 5 Parties

This item is included only in the agenda of the end-of-year meeting.

The Ozone Secretariat presents its report prepared in accordance with paragraph 2 of decision XVII/12 of the Seventeenth Meeting of the Parties.

That decision required the Secretariat to report to the end-of-year Meeting of the Parties:

- the level of production of CFCs in non-Article 5 Parties to meet the basic domestic needs of Article 5 Parties, as compared to their allowed production set out in Article 2A of the Protocol;
- copies of the affirmations received from the Article 5 Parties that confirm that their import of the CFC from the non-Article 5 Party would not result in their non-compliance;
- data on transfer of production rights.

The report is contained in the meeting document on information provided by Parties in accordance with Article 7 of the Montreal Protocol. In accordance with decision XIX/28 of the Nineteenth Meeting of the Parties, the Committee reviews non-Article 5 Parties' implementation of paragraph 1 of decision XVII/12. That paragraph urges all non-Article 5 Parties to:

- request written affirmations from Article 5 Parties that the CFCs are required by that Party and that the importation would not result in the Party's non-compliance; and
- include in their annual data reports to the Ozone Secretariat copies of the written affirmations they receive.

Expected Committee actions

- As necessary, to ask questions and seek clarification on the situations of the Parties listed in the meeting document from the Ozone Secretariat, Fund Secretariat and implementing agencies;
- To discuss and agree on an appropriate recommendation or recommendations, to be forwarded to Committee for adoption at the executive session at the end of the meeting.

5.4.10. Information on those Parties that had not reported the destinations of all exports (including re-exports) for all controlled substances (including mixtures) in accordance with paragraph 4 of decision XVII/16

This item is included only in the agenda of the end-of-year meeting.

The Ozone Secretariat presents information on those Parties that had not reported the destinations of all exports (including re-exports) for all controlled substances (including mixtures) in accordance with paragraph 4 of decision XVII/16 of the Seventeenth Meeting of the Parties.

Paragraph 4 of decision XVII/16 urged the Parties to use the revised annual data reporting format to report the destination of all exports, including re-exports, for all controlled ozone-depleting substances, including mixtures. Decision XVII/16 also requested the Ozone Secretariat to report back aggregated information related to the controlled substance in question received from the exporting/re-exporting Party to the importing Party concerned.

The information is contained in the meeting document on information provided by Parties in accordance with Article 7 of the Montreal Protocol.

Expected Committee actions

- As necessary, to ask questions and seek clarification on the situations of the Parties listed in the meeting document from the Ozone Secretariat, Fund Secretariat and implementing agencies;
- To discuss and agree on an appropriate recommendation or recommendations, to be forwarded to Committee for adoption at the executive session at the end of the meeting.

5.4.11. Adoption of the report of the meeting

The President recalls the customary practice of entrusting the President and Vice-President with finalizing the text of the report of the meeting, in cooperation with the Ozone Secretariat.

The President presents a compilation of draft recommendations for adoption and declares the Committee to be in executive session for the purpose of adopting the text of the draft recommendations.

Expected Committee actions

- To consider and adopt each draft recommendation, including any agreed changes.

5.5. Post-meeting arrangements

The Committee entrusts the Secretariat, the President and Vice-President with the finalization of the report of the meeting, in cooperation with the Ozone Secretariat. The report contains a summary of the Committee's discussions during the meeting as well as the recommendations adopted by the Committee. The Secretariat circulates the report to all Parties and posts it on its website. It also communicates the text of the adopted recommendations by letter to the Parties concerned, sending copies where relevant to the Multilateral Fund secretariat and any implementing agencies assisting the Party in returning to compliance with the Protocol.

An oral report on the last Committee meeting of each year is presented to the Meeting of the Parties by the Committee President. The President also invites the Meeting to consider and adopt any draft decisions recommended by the Committee, which are contained in a conference-room paper circulated to the Meeting.

The draft decisions of the Committee that are adopted by the Meeting of the Parties are circulated to all Parties in the report of the Meeting of the Parties, which is also posted on the Ozone Secretariat's website (http://ozone.unep.org/Meeting_Documents). The Secretariat communicates the text of the adopted decisions by letter to the Parties concerned, sending copies where relevant to the Multilateral Fund secretariat and any implementing agencies assisting the Party in returning to compliance with the Protocol.

Those Parties subject to decisions containing plans of action for returning to compliance with the Protocol's control measures for the phase-out of the production and consumption of controlled substances are requested to submit an annual report to the Secretariat on their implementation of the commitments contained in their plan of action, for the consideration of the Committee.

6. REFERENCE MATERIALS

6.1. Montreal Protocol obligations and other matters that are most commonly the subject of Implementation Committee review

6.1.1. Summary of data-reporting obligations under the Protocol (Article 7)

A Party's data-reporting obligations are determined by the Montreal Protocol and any amendments to the Protocol that the Party has ratified.

Table 2: Base-year data (Article 7, paragraphs 1 and 2)

Year for which data required	Controlled substance	Due date
1986	Annex A, group I (CFCs) Annex A, group II (halons)	Within three months of becoming a Montreal Protocol Party
1989	Annex B, group I (other CFCs) Annex B, group II (carbon tetrachloride) Annex B, group III (methyl chloroform) Annex C, group I (HCFCs)	Within six months of ratification, acceptance or approval of or accession or succession to the London Amendment
1989	Annex C, group II (HBFCs)	Within six months of ratification, acceptance or approval of or accession or succession to the Copenhagen Amendment
1991	Annex E (methyl bromide)	Within six months of ratification, acceptance or approval of or accession or succession to the Copenhagen Amendment

Table 3: Baseline data (Article 2A–2F, 2H; Article 5, paragraphs 3 and 8 ter)

Controlled substance	Baseline non-Article 5	Baseline Article 5	Due date
Annex A	1986	1995-97	Upon entry into force of the Protocol
Annex B	1989	1998-2000	Upon entry into force of the London Amendment
Annex C, group I (HCFCs)	1989 HCFCs 1989 Annex A/I CFCs*	2009-2010	Non-Article 5: Upon entry into force of the Copenhagen Amendment Article 5: Upon entry into force of the Copenhagen Amendment and the 2007 adjustments to the HCFC phase out schedule and passage of the year 2009 and 2010
Annex E	1991	1995–98	Upon ratification of the Copenhagen Amendment

* The HCFC consumption baseline for a non-Article 5 Party is the sum of 2.8% of its calculated level of consumption in 1989 of CFCs and its 1989 consumption of HCFCs.

Table 4: Annual data report (Article 7, paragraphs 3 and 4)

Due date	Controlled substance	Commencement year
<p>No later than 30 September of the year following the year to which the data relate, but decision XVIII/34 encourages the Parties to report the data by 30 June</p>	<p>Annex A, group I (CFCs) Annex A, group II (halons)</p>	<p>The year that falls three months after ratification, acceptance or approval of the Montreal Protocol</p>
	<p>Annex B, group I (other CFCs) Annex B, group II (carbon tetrachloride) Annex B, group III (methyl chloroform) Annex C, group I (HCFCs)</p>	<p>The year that falls three months after ratification, acceptance or approval of or accession or succession to the London Amendment</p>
	<p>Annex C, group II (HBFCs) Annex E (methyl bromide)</p>	<p>The year that falls three months after ratification, acceptance or approval of or accession or succession to the Copenhagen Amendment</p>
	<p>Annex C, group III (bromochloromethane)</p>	<p>The year that falls three months after ratification, acceptance or approval of or accession or succession to the Beijing Amendment</p>

6.1.2. Summary of control measures applicable to Parties in the year 2007 under the Protocol (Articles 2A–2I and 5)

Table 5: Summary of control measures applicable to Parties in the year 2007 under the Protocol (Articles 2A–2I and 5)

Controlled substance	Applicable treaty instrument*	Non-Article 5		Article 5
Annex A/I (CFCs)	Montreal Protocol	100% reduction (with possible essential use exemptions)		85% reduction from baseline level (average of 1995–1997)
Annex A/II (halons)	Montreal Protocol	100% reduction (with possible essential use exemptions)		50% reduction from baseline level (average of 1995–1997)
Annex B/I (“other” CFCs)	London Amendment	100% reduction (with possible essential use exemptions)		85% reduction from baseline level (average of 1998–2000)
Annex B/II (carbon tetrachloride)	London Amendment	100% reduction (with possible essential use exemptions)		85% reduction from baseline level (average of 1998–2000)
Annex B/III (methyl chloroform)	London Amendment	100% reduction (with possible essential use exemptions)		30% reduction from baseline level (average of 1998–2000)
Annex C/I (HCFCs)	<i>Consumption</i> Copenhagen Amendment <i>Production</i> Beijing Amendment	<i>Consumption</i> 35% reduction from baseline level (1989 HCFC consumption + 2.8% of 1989 CFC consumption)	<i>Production</i> Freeze at baseline level (average of: 1989 HCFC production + 2.8% of 1989 CFC production & 1989 HCFC consumption + 2.8% 1989 CFC consumption)	N/A
Annex C/II (HBFCs)	Copenhagen Amendment	100% reduction (with possible essential use exemptions)		100% reduction (with possible essential use exemptions)
Annex C/III (bromochloromethane)	Beijing Amendment	100% reduction (with possible essential use exemptions)		100% reduction (with possible essential use exemptions)
Annex E (methyl bromide)	Copenhagen Amendment	100% reduction (with possible critical use exemptions))		20% reduction from baseline level (average of 1995–98)

* Parties are only required to have complied with the control measures for a particular controlled substance if they have ratified, accepted, acceded to, succeeded to or approved the treaty instrument listing that substance. In addition, where the treaty instrument is an amendment, only those Parties that have ratified, accepted, acceded to, succeeded to or approved the amendment more than three months prior to the end of 2007 are required to have complied with the stated control measures in 2007.

6.1.3. Trade with non-Parties (Article 4 of the Protocol)

Each amendment to the Montreal Protocol provides that the Parties to the amendment must impose bans on the import from and export to “States not party to this Protocol” of the controlled substances subject to the amendments. The term “States not party to this Protocol” is determined by the controlled substance that is the subject of the proposed trade and refers to countries that have not yet become Party to the amendment. It should be noted that paragraph 8 of Article 4 makes provision for the Meeting of the Parties to determine that a country should be considered a State party to the Protocol for the purpose of trade in a particular controlled substance.

Paragraph 3 of Article 7 requires Parties to report annually on imports from and exports to non-Parties.

The table below indicates when a Party must impose a ban on the import of a particular controlled substance.

Table 6: Trade with non-Parties and import and export bans (Article 4 of the Protocol)

Controlled substance	If a country is a Party to:	That Party must ban trade in the controlled substance with States not Party to:	The ban must commence
Annex A, group I (CFCs) Annex A, group II (halons)	London Amendment	Montreal Protocol	Within three months of becoming a Montreal Protocol Party
Annex B, group I (other CFCs) Annex B, group II (carbon tetrachloride) Annex B, group III (methyl chloroform)	London Amendment	London Amendment	Within six months of the Party's ratification, acceptance or approval of or accession or succession to the London Amendment
Annex C, group I (HCFCs)	Beijing Amendment*	Copenhagen Amendment or Beijing Amendment*	Within six months of the Party's ratification, acceptance or approval of or accession or succession to the Beijing Amendment*
Annex C, group II (HBFCs)	Copenhagen Amendment	Copenhagen Amendment	Within six months of the Party's ratification, acceptance or approval of or accession or succession to the Copenhagen Amendment
Annex C, group III (bromochloromethane)	Beijing Amendment	Beijing Amendment	Within six months of the Party's ratification, acceptance or approval of or accession or succession to the Beijing Amendment*
Annex E (methyl bromide)	Montreal Amendment	Copenhagen Amendment	Within six months of the Party's ratification, acceptance or approval of or accession or succession to the Copenhagen Amendment

* A party to the Beijing Amendment is permitted to trade in HCFCs with States operating under paragraph 1 of Article 5, of the Protocol until 1 January 2013, regardless of whether such States are party to the Copenhagen or Beijing Amendments by that date (decision XV/3 as amended by decision XX/9).

6.1.4. Establishment of a system for licensing the import and export of new, used, recycled and reclaimed controlled substances (Article 4B of the Protocol)

Within six months of ratifying the Montreal Amendment to the Montreal Protocol, Parties must establish and implement a system for licensing the import and export of new, used, recycled and reclaimed controlled substances in Annexes A, B, C and E of the Protocol. Once established, the Party should send written notification to the Ozone Secretariat.

6.1.5. Reporting on research, development, public awareness and exchange of information activities (Article 9 of the Protocol)

Article 9 of the Protocol requires the Parties to cooperate, either directly or through competent international bodies, in various activities including: promoting research and development; exchanging information on technologies for reducing emissions, alternatives to the use of controlled substances and the costs and benefits of relevant control strategies; and promoting awareness of the environmental effects of emissions of controlled substances and other substances that deplete the ozone layer.

In paragraph 3 of Article 9, the Protocol states that, every two years, the Parties shall submit to the Secretariat a summary of the activities that they have conducted pursuant to this Article.

In its decision XVII/24, the Seventeenth Meeting of the Parties in 2005 recognized that information relevant to the reporting obligation contained in paragraph 3 of Article 9 may be generated through cooperative efforts undertaken in the context of regional ozone networks, ozone research managers' activities under Article 3 of the Vienna Convention for the Protection of the Ozone Layer, participation by Parties in the assessment work of both the Technology and Economic Assessment Panel and the Scientific Assessment Panel under Article 6 of the Montreal Protocol and national public awareness-raising initiatives. The decision also noted that the reporting under Article 9, paragraph 3, could be undertaken through electronic means.

6.2. Standardized recommendations addressing routine procedural matters of non-compliance with the Montreal Protocol

In accordance with recommendation 36/52 of the thirty-sixth meeting of the Implementation Committee, the Committee agreed that standardized recommendations would be used as a basis for adopting recommendations to address the following types of routine procedural matters of non-compliance, for the purpose of helping the Committee to manage its increasing workload more efficiently and effectively and to ensure the equitable treatment of Parties in like circumstances, while continuing to ensure that the individual circumstances of each Party subject to the non-compliance procedure are taken into full consideration.

Table 7: Routine procedural non-compliance matters for which standardized recommendation text has been agreed by the Committee

1	Request for an explanation and a plan of action
2	Deferral of compliance assessment in the light of limited time for a Party's response to Secretariat
3	Acknowledgement of an explanation and request for a plan of action
4	Acknowledgement of an explanation and resolution of a compliance matter
5	No explanation or plan of action submitted, resulting in the forwarding of a draft decision to the Meeting of the Parties
6	Acknowledgement of an explanation and a plan of action and forwarding of a draft decision to the Meeting of the Parties
7	Acknowledgement of a plan of action and forwarding of a draft decision to the Meeting of the Parties
8	No plan of action submitted, resulting in the forwarding of a draft decision to the Meeting of the Parties
9	Request for a report on some or all commitments contained in a decision that are due in a given year
10	Acknowledgement of failure to meet some or all ODS reduction commitments in a decision due in a given year and request for an explanation
11	Acknowledgement of return to compliance with the Protocol
12	Acknowledgement of implementation of a decision in advance of commitment in a given year
13	Acknowledgement of commitment satisfaction
14	Request for outstanding base year and baseline data
15	Required data has not been submitted, resulting in the forwarding of a draft decision to the Meeting of the Parties
16	Acknowledgement that required data has been submitted, resolving data reporting compliance matter

The flowcharts at the end of this section illustrate the sequence in which the above types of routine procedural matters of non-compliance usually occur.

A number of the standardized recommendations include draft decisions that make reference to indicative measures A, B and C of the non-compliance procedure. For ease of reference these measure are presented in the following box.

Indicative list of measures that might be taken by a Meeting of the Parties in respect of non-compliance with the Protocol

The “Indicative list of measures that might be taken by a meeting of the Parties in respect of non-compliance with the Protocol” was adopted by the Fourth Meeting of the Parties in 1992 in conjunction with the original version of the non-compliance procedure and was unchanged in the 1998 revision of the procedure. The measures contained in the indicative list are:

- | | |
|--------|---|
| Item A | Appropriate assistance, including assistance for the collection and reporting of data, technical assistance, technology transfer and financial assistance, information transfer and training |
| Item B | Issuing cautions |
| Item C | Suspension, in accordance with the applicable rules of international law concerning the suspension of the operation of a treaty, of specific rights and privileges under the Protocol, whether or not subject to time limits, including those concerned with industrial rationalization, production, consumption, trade, transfer of technology, the financial mechanism and institutional arrangements |

To date, items A and B have been implemented by the Meeting of the Parties with regard to Parties subject to decisions on non-compliance. Item C has not been implemented to date, but has been referred to in a cautionary context in decisions on non-compliance.

Box 13

Standardized recommendations

Type 1. Request for explanation and plan of action

Type 1 relates to the mid-year meetings of the Committee and applies when a Party has submitted annual data in accordance with Article 7 of the Protocol prior to a mid-year meeting that reveals a deviation from the Party's obligations under the Protocol to phase out production or consumption of a particular controlled substance, the deviation is not exempted or otherwise allowed by a decision of the Meeting of the Parties and the Party has not submitted an explanation or plan of action for addressing the deviation.

The recommendation on this matter could read:

“The Committee agreed:

Noting with concern that [the Party] had reported [consumption] [production] of [x] ODP-tonnes of [ODS] in [year], in excess of the Protocol's requirement to limit [consumption] [production] of those substances in that year to no greater than [description of amount allowed by applicable control measure];

(a) To request [the Party] to submit to the Secretariat as soon as possible, and no later than [date 10 weeks prior to the next Committee meeting], an explanation for this deviation and, if relevant, a plan of action with time-specific benchmarks for ensuring the Party's prompt return to compliance;

(b) To invite [the Party], if necessary, to send a representative to the [xth] meeting of the Committee to discuss the matter;

(c) In the absence of an explanation for the excess [consumption] [production], to forward for consideration by the [xth] Meeting of the Parties the draft decision contained in annex [x] (section [y]) to the present report, which would request the Party to act in accordance with subparagraph (a) above.

Draft decision –/– Potential non-compliance in [year] with [consumption] [production] of the controlled substances in Annex [x] by [the Party], and request for a plan of action

Noting that [the Party] ratified the Montreal Protocol on [date and the London Amendment on etc] [,] [and] is classified as a Party [operating/not operating] under paragraph 1 of Article 5 of the Protocol [and had its country programme approved by the Executive Committee in [date]],

Noting also that the [Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol] [Global Environment Facility] has approved [\$xxx] [from the Fund in accordance with Article 10 of the Protocol] to enable [the Party's] compliance,

1. That [the Party] has reported annual [consumption] [production] for the controlled substance in [Annex x (ODS)] for [year] of [x] ODP-tonnes, which exceeds the Party's maximum allowable [consumption] [production] level of [x] ODP-tonnes for those controlled substances for that year, and is therefore presumed in the absence of further clarification to be in non-compliance in [year] with the [consumption][production] control measures under the Montreal Protocol for [ODS],

2. To request [the Party] to submit to the Secretariat, as a matter of urgency and no later than [date 10 weeks prior to the next Committee meeting], for consideration by the Implementation Committee at its next meeting, an explanation for its excess [consumption] [production], together with a plan of action with time-specific benchmarks to ensure a prompt return to compliance. [The Party] may wish to consider including in its plan of action the establishment of [import quotas to support the phase-out schedule, a ban on imports of ozone-depleting-substance-using equipment and] policy and regulatory instruments that will ensure progress in achieving the phase-out;

3. To monitor closely the progress of [the Party] with regard to the phase-out of [ODS]. To the degree that the Party is working toward and meeting the specific Protocol control measures, it should continue to be treated in the same manner as a Party in good standing. In that regard, [the Party] should continue to receive international assistance to enable it to meet its commitments in accordance with item A of the indicative list of measures that may be taken by a Meeting of the Parties in respect of non-compliance;

4. To caution [the Party], in accordance with item B of the indicative list of measures, that, in the event that it fails to return to compliance in a timely manner, the Meeting of the Parties will consider measures consistent with item C of the indicative list of measures. Those measures may include the possibility of actions available under Article 4, such as ensuring that the supply of the [ODS] that [is] [are] the subject of non-compliance is ceased so that [exporting] [importing] Parties are not contributing to a continuing situation of non-compliance;”

Type 2. Deferral of compliance assessment in the light of limited time for Party's response to Secretariat

Type 2 relates to both the mid-year and end-of-year meetings of the Committee and applies when a Party has submitted annual data in accordance with Article 7 of the Protocol that contains a deviation from the Party's obligations under the Protocol to phase out production and consumption of a particular controlled substance, the deviation is not exempted or otherwise allowed by a decision of the Meeting of the Parties and the Party has not submitted an explanation for the deviation but the Committee has determined that the Party has had insufficient time to respond to the Secretariat's request for an explanation.

The recommendation on this matter could read:

“The Committee therefore *agreed* to defer consideration of the Party's compliance with the Protocol's control measures in [year] until its [xth] meeting, in the light of the limited time which [the Party] had had to review the data reports generated by the Secretariat from its [year] data submission and to

respond to the Secretariat's request for information on the apparent deviation[s] from its requirement to [control measure description] in that year.”

Type 3: Acknowledgement of explanation and request for plan of action

Type 3 relates to the mid-year meetings of the Committee and applies when a Party has submitted an explanation confirming its non-compliance with its obligations under the Protocol to phase out the consumption or production of a particular controlled substance but has not submitted a plan of action for addressing the non-compliance. The matter is becoming less common as, with the growth in the ozone community's understanding of the non-compliance procedure, it is more likely that a Party submitting an explanation for a deviation which confirms its non-compliance will at the same time submit a plan of action to address that non-compliance. This is particularly likely to be the case if the Party has already been subject to a recommendation along the lines of Type 1 above.

The recommendation on this matter could read:

“The Committee therefore *agreed*:

Noting with appreciation [the Party's] explanation for its reported [consumption] [production] of [x] ODP-tonnes of [ODS] in [year], in excess of the Protocol's requirement to limit [consumption] [production] of those substances in that year to no greater than [description of amount allowed by applicable control measure];

(a) To request [the Party] to submit to the Secretariat as soon as possible, and no later than [date 10 weeks prior to the next Committee meeting], a plan of action with time-specific benchmarks for ensuring the Party's prompt return to compliance;

(b) To invite [the Party], if necessary, to send a representative to the [xth] meeting of the Committee to discuss the matter;

(c) In the absence of the submission of a plan of action, to forward for consideration by the [xth] Meeting of the Parties the draft decision contained in annex [x] (section [y]) to the present report, which would request the Party to act in accordance with subparagraph (a) above.

Draft decision -/-: Non-compliance with the Montreal Protocol by [the Party] and request for a plan of action

Noting that [the Party] ratified the Montreal Protocol on [date and the London Amendment on etc] [,] [and] is classified as a Party [operating/not operating] under paragraph 1 of Article 5 of the Protocol [and had its country programme approved by the Executive Committee in [date]];

Noting that the [Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol] [Global Environment Facility] has approved [\$xxx] [from the Multilateral Fund in accordance with Article 10 of the Protocol] to enable [the Party's] compliance;

1. That [the Party] has reported annual [consumption] [production] for the controlled substance in [Annex x] for [year] of [x] ODP-tonnes, which exceeds the Party's maximum allowable [consumption] [production] level of [x] ODP-tonnes for that controlled substance for that year, and was therefore in non-compliance in [year] with the [consumption][production] control measures under the Montreal Protocol for [ODS];

2. To request [the Party] to submit to the Secretariat, as a matter of urgency and no later than [date 10 weeks prior to the next Committee meeting], for consideration by the Implementation Committee at its next meeting, a plan of action with time-specific benchmarks to ensure a prompt return to compliance. [The Party] may wish to consider including in its plan of action the establishment of [import quotas to support the phase-out schedule, a ban on imports of ozone-depleting-substance-using equipment and] policy and regulatory instruments that will ensure progress in achieving the phase-out;

3. To monitor closely the progress of [the Party] with regard to the phase-out of the controlled substance in [Annex x (ODS)]. To the degree that the Party is working toward and meeting the specific Protocol control measures, it should continue to be treated in the same

manner as a Party in good standing. In that regard, [the Party] should continue to receive international assistance to enable it to meet its commitments in accordance with item A of the indicative list of measures that may be taken by a Meeting of the Parties in respect of non-compliance.

4. To caution [the Party], in accordance with item B of the indicative list of measures, that, in the event that it fails to return to compliance in a timely manner, the Meeting of the Parties will consider measures consistent with item C of the indicative list of measures. Those measures may include the possibility of actions available under Article 4, such as ensuring that the supply of the [ODS] that [is] [are] the subject of non-compliance is ceased so that [importing/exporting] Parties are not contributing to a continuing situation of non-compliance;”

Type 4: Acknowledgement of explanation and resolution of compliance matter

Type 4 relates to both the mid-year and end-of-year meetings of the Committee and applies when a Party has submitted an explanation for a reported deviation from its obligations under the Protocol to phase out the consumption or production of a particular controlled substance or from its commitments contained in a plan of action to return it to compliance and the explanation resolves the deviation and confirms its compliance with the Protocol or the plan of action commitment.

The recommendation on this matter could read:

“The Committee therefore *agreed* to note with appreciation that [the Party] had [description of explanation: e.g., “submitted revised data for 2004 to correct the misclassification of imports as methyl chloroform and Annex B group I substances (other fully halogenated CFCs)”], which confirmed that the Party was in compliance with [the Protocol’s control measures in [year]] [the commitment[s] contained in decision [-/-]] to [description of commitment(s)].”

Type 5: No explanation or plan submitted resulting in forwarding of draft decision to Meeting of Parties

Type 5 relates to the end-of-year meeting of the Committee and applies when a Party has submitted annual data in accordance with Article 7 of the Protocol after the mid-year meeting that contains a deviation from the Party’s obligations under the Protocol to phase out production and consumption of a particular controlled substance, the deviation is not exempted or otherwise allowed by a decision of the Meeting of the Parties and the Party has not submitted an explanation or plan of action for addressing the deviation. This routine procedural matter is becoming less common now that the Parties are increasingly reporting their data prior to the mid-year meeting of the Committee and thus becoming subject to Type 1 recommendations at that meeting when their reported data indicates potential non-compliance.

The recommendation on this matter could read:

“The Committee *agreed*:

Noting with concern that [the Party] had reported [consumption] [production] of [x] ODP-tonnes of [ODS] in [year], in excess of the Protocol’s requirement to limit [consumption] [production] of those substances in that year to no greater than [description of amount allowed by applicable control measure];

- (a) To request [the Party] to submit to the Secretariat as a matter of urgency, and no later than [date 10 weeks prior to the next Committee meeting], an explanation for this deviation and, if relevant, a plan of action with time-specific benchmarks for ensuring the Party’s prompt return to compliance;
- (b) To invite [the Party], if necessary, to send a representative to the [xth] meeting of the Committee to discuss the matter;

- (c) To forward for consideration by the [xth] Meeting of the Parties the draft decision contained in annex [x] (section [y]) to the present report, which would request the Party to act in accordance with subparagraph (a) above.

Draft decision -/- Potential non-compliance in [year] with [consumption] [production] of the controlled substances in Annex [x] by [the Party], and request for a plan of action

Refer to the draft decision text contained in Type 1 recommendation above.

Type 6: Acknowledgment of explanation and plan and forwarding of draft decision to Meeting of Parties

Type 6 relates to both the mid-year and end-of-year meetings of the Committee and applies when a Party has submitted an explanation for a deviation from its obligations under the Protocol to phase out production and consumption of a particular controlled substance and a plan of action containing time-specific benchmarks and supporting regulatory measures to return the Party to compliance.

The recommendation on this matter could read:

“The Committee therefore *agreed*:

Noting with appreciation [the Party's] explanation for its reported [consumption] [production] of [x] ODP-tonnes of [ODS] in [year], in excess of the Protocol's requirement to limit [consumption] [production] of those substances in that year to no greater than [description of amount allowed by applicable control measure];

Noting also with appreciation the Party's submission of a plan of action for returning to compliance with the Protocol's control measures for that ozone-depleting substance in [year];

- (a) To forward to the [xth] Meeting of the Parties for its consideration a draft decision incorporating the plan of action, as contained in annex [x] (section [y]) to the present report.

Draft decision -/-: Non-compliance with the Montreal Protocol by [the Party]

Noting that [the Party] ratified the Montreal Protocol on [date and the London Amendment on etc] [,] [and] is classified as a Party [operating] [not operating] under paragraph 1 of Article 5 of the Protocol [and had its country programme approved by the Executive Committee in [date]];

Noting that the [Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol] [Global Environment Facility] has approved [\$xxx] [from the Multilateral Fund in accordance with Article 10 of the Protocol] to enable [the Party's] compliance;

1. That [the Party] has reported annual [consumption] [production] for the controlled substance in [Annex x] for [year] of [x] ODP-tonnes, which exceeds the Party's maximum allowable [consumption] [production] level of [x] ODP-tonnes for that controlled substance for that year, and was therefore in non-compliance in [year] with the control measures under the Montreal Protocol for [ODS];

2. To record with appreciation the submission by [Party] of a plan of action to ensure a prompt return to compliance with the Protocol's [ODS] [consumption][production] control measures, under which, without prejudice to the operation of the financial mechanism of the Protocol, [the Party] specifically commits itself:

[(a) To [time-specific benchmarks for reducing consumption] [production to compliance levels];

(b) To [monitoring] [the introduction by [date]] [description of regulatory measures, such as a licensing and quota system, import ban on bulk and equipment containing the ODS];

3. To also record with appreciation that the commitments listed in the present decision should enable [the Party] to return to compliance in [year];

4. To urge [the Party] to work with the relevant implementing agencies to implement its plan of action to phase out consumption of the controlled substance in Annex [x];

5. To monitor closely the progress of [the Party] with regard to the implementation of its plan of action and the phase-out of [ODS]. To the degree that the Party is working toward and meeting the specific Protocol control measures, it should continue to be treated in the same manner as a Party in good standing. In that regard, [the Party] should continue to receive international assistance to enable it to meet those commitments in accordance with item A of the indicative list of measures that may be taken by a Meeting of the Parties in respect of non-compliance;

6. To caution [the Party], in accordance with item B of the indicative list of measures, that, in the event that it fails to remain in compliance, the Parties will consider measures consistent with item C of the indicative list of measures. Those measures may include the possibility of actions available under Article 4, such as ensuring that the supply of the [ODS] that [is] [are] the subject of non-compliance is ceased so that [importing/exporting] Parties are not contributing to a continuing situation of non-compliance;”

Type 7: Acknowledgement of plan and forwarding of draft decision to Meeting of Parties

Type 7 relates to both the mid-year and end-of-year meetings of the Committee and applies when a Party has submitted an explanation for a deviation from its obligations under the Protocol to phase out production and consumption of a particular controlled substance at a previous Committee meeting and has subsequently submitted a plan of action containing time-specific benchmarks and supporting regulatory measures to return the Party to compliance. This procedural matter is becoming less common as the ozone community becomes increasingly familiar with the non-compliance procedure, since it is now more likely that a Party submitting an explanation for a deviation which confirms its non-compliance will at the same time submit a plan of action for addressing that non-compliance.

This situation does, however, also arise when a Party responds to a decision of the Meeting of the Parties noting that the Party’s explanation for a deviation reveals the Party to be in non-compliance and requests the Party to submit a plan of action for addressing the deviation. It may also arise when the Committee needs to consult a Party over the course of successive meetings to clarify elements of the Party’s plan of action, in which case the Party may also have been subject to non-routine recommendations.

The recommendation on this matter could read:

“The Committee therefore *agreed*:

Noting with appreciation [the Party’s] submission [, in accordance with recommendation -/- or decision -/-], of a plan of action for returning to compliance with the Protocol’s [ODS] control measures by [date];

(a) To forward to the [xth] Meeting of the Parties for its consideration a draft decision incorporating the plan of action, as contained in annex [x] (section [y]) to the present report.

Draft decision -/—: Non-compliance with the Montreal Protocol by [the Party]

Refer to the draft decision text contained in recommendation Type 4 above.

Type 8: No plan submitted, resulting in forwarding of draft decision to Meeting of Parties

Type 8 relates to the end-of-year meeting and applies when a Party has submitted an explanation for its reported deviation from its obligations under the Protocol to phase out production or consumption of a

particular controlled substance confirming its non-compliance but has not submitted a plan of action for addressing the deviation.

The recommendation on this matter could read:

“The Committee therefore *agreed*:

Noting with appreciation [the Party's] explanation for its reported [consumption] [production] of [x ODP tonnes of ODS] in [year], in excess of the Protocol's requirement to limit [consumption] [production] of those substances in that year to no greater than [description of amount allowed by applicable control measure];

(a) To request [the Party] to submit to the Secretariat as a matter of urgency, and no later than [date 10 weeks prior to the next Committee meeting], a plan of action with time-specific benchmarks for ensuring the Party's prompt return to compliance;

(b) To invite [the Party], if necessary, to send a representative to the [xth] meeting of the Committee to discuss the matter;

(c) To forward for consideration by the [xth] Meeting of the Parties the draft decision contained in annex [x] (section [y]) to the present report, which would request the Party to act in accordance with subparagraph (a) above.

Draft decision -/-: Non-compliance with the Montreal Protocol by [the Party] and request for a plan of action

Refer to the draft decision text contained in recommendation Type 4 above.

Type 9: Request for report on some or all commitments contained in decision that are due in given year

Type 9 relates to the mid-year and end-of-year meetings of the Committee and applies when a Party subject to a decision detailing the various commitments which it has undertaken to ensure its return to compliance has not reported to the Secretariat on its implementation of any commitments due for completion.

With regard to a situation where the Committee is requesting a report on the implementation of a particular commitment or commitments for the first time, the recommendation on this matter could read:

“The Committee *agreed*:

Recalling that the ozone-depleting substances data for [year] submitted by [the Party] [description of compliance with the Protocol. For example, “returned it to compliance with the Protocol / placed it in advance of its compliance obligations under the Protocol / demonstrated progress toward compliance with the Protocol”];

(a) To urge [the Party] to report to the Secretariat as soon as possible, and no later than [the date 10 weeks prior to the next Committee meeting or 30 September for commitments relating to data due in that year], on the status of its commitment contained in decision [-/-] to [description of commitment(s)], in time for consideration by the Committee at its [no.] meeting.”

With regard to a situation where the Committee is requesting a report on the implementation of a particular commitment or commitments for a second time, the recommendation on this matter could read:

“The Committee therefore *agreed*:

Recalling that the ozone-depleting substances data for [year] submitted by [the Party] [description of compliance with the Protocol. For example “had returned it to compliance with the Protocol / had placed it in advance of its compliance obligations under the Protocol / had demonstrated progress toward compliance with the Protocol”];

Noting with great concern that [the Party] had not reported, in accordance with recommendation [-/-], on the status of its commitment[s] contained in decision [-/-] to [description of commitment(s)];

(a) To urge [the Party] to submit the status report to the Secretariat, as a matter of priority and no later than [date 10 weeks prior to the next Committee meeting], in time for consideration by the Committee at its [xth] meeting.”

Type 10: Acknowledgement of failure to meet some or all ODS reduction commitments in decision due in a given year and request for explanation

Type 10 relates to the mid-year and end-of-year meetings of the Committee and applies when a Party subject to a decision detailing the various commitments which it has undertaken to ensure its return to compliance has reported failure to implement some or all of its commitments to reduce ozone-depleting substance consumption or production.

With regard to a Party that has reported its failure to meet a commitment or commitments at a mid-year meeting of the Committee, the recommendation on this matter could read:

“The Committee therefore *agreed*:

Noting that [the Party] had submitted its ozone-depleting substances data for [year], reporting [consumption] [production] of [x] ODP-tonnes of [ODS], [which represents a [reduction] [increase] in [consumption] [production] from the preceding year];

Noting with concern that this [consumption] [production] was inconsistent with the Party's commitment[s] contained in decision [-/-] to [description of time-specific benchmark] [description of compliance status relative to Protocol obligations. For example, “although it does maintain the Party's compliance with the Protocol's control measures / although it does demonstrate progress toward compliance with the Protocol's control measures / and does not demonstrate progress toward compliance with the Protocol's control measures”];

(a) To request [the Party] to submit to the Secretariat as soon as possible, and no later than [date 10 weeks prior to the next Committee meeting], an explanation for this deviation;

(b) To invite [the Party], if necessary, to send a representative to the [xth] meeting of the Committee to discuss the matter;

(c) In the absence of an explanation for the deviation, to forward for consideration by the [xth] Meeting of the Parties the draft decision contained in annex [x] (section [y]) to the present report, which would request the Party to act in accordance with subparagraph (a) above.

Draft decision -/-: Potential non-compliance in [year] with decision [x] by [the Party]

Recalling decision -/-, which noted that [the Party] was in non-compliance [in/from [year(s)] with its obligations under Article [xx] of the Montreal Protocol to [description of control measure], but also noted with appreciation the plan of action submitted by [the Party] to ensure its prompt return to compliance;

1. That [the Party] reported annual [consumption] [production] for the controlled substances in Annex [x], group [y] in [year] of [x] ODP-tonnes, which was inconsistent with the Party's commitment contained in decision -/- to [description of time-specific benchmark, and has not submitted to the Implementation Committee the requested explanation for this deviation;

2. To strongly urge [the Party] to submit to the Secretariat an explanation for the deviation, as a matter of priority and no later than [date 10 weeks prior to the next Committee meeting], in time for consideration by the Committee at its next meeting;

3. To remind the Party of paragraph [x] of decision [-/-], which records the agreement of the [xth] Meeting of the Parties to monitor the progress of [the Party] with regard to the phase-out of [ODS], particularly its progress in meeting the specific commitments

contained in decision [-/-]. To the degree that [the Party] is working toward and meeting the specific Protocol control measures, it should continue to be treated in the same manner as a Party in good standing. In that regard, [the Party] should continue to receive international assistance to enable it to meet those commitments in accordance with item A of the indicative list of measures that may be taken by a Meeting of the Parties in respect of non-compliance;

4. To again caution [the Party], in accordance with item B of the indicative list of measures, that, in the event that it fails to meet the commitments noted above in the times specified, the Parties shall consider measures, consistent with item C of the indicative list of measures. These measures could include the possibility of actions that may be available under Article 4 designed to ensure that the supply of [ODS] that [is] [are] the subject of non-compliance is ceased so that [importing/exporting] Parties are not contributing to a continuing situation of non-compliance;”

With regard to a Party that has reported its failure to meet a commitment or commitments at an end-of-year meeting of the Committee, the recommendation on this matter could read:

“The Committee therefore *agreed*:

Noting that [the Party] has submitted its ozone-depleting substance data for [year], reporting [consumption] [production] of [x]ODP-tonnes of [ODS], [which represents a [reduction] [increase] in [consumption] [production] from the preceding year];

Noting with concern that this [consumption] [production] is inconsistent with the Party’s commitment[s] contained in decision [-/-] to [description of time-specific benchmark] [description of compliance status relative to Protocol obligations. For example, “although it does maintain the Party’s compliance with the Protocol’s control measures / although it does demonstrate progress toward compliance with the Protocol’s control measures / and does not demonstrate progress toward compliance with the Protocol’s control measures”];

- (a) To request [the Party] to submit to the Secretariat as a matter of urgency, and no later than [date 10 weeks prior to the next Committee meeting], an explanation for this deviation;
- (b) To invite [the Party], if necessary, to send a representative to the [xth] meeting of the Committee to discuss the matter;
- (c) To forward for consideration by the [xth] Meeting of the Parties the draft decision contained in annex [x] (section [y]) to the present report, which would request the Party to act in accordance with subparagraph (a) above.

Draft decision -/-: Potential non-compliance in [year] with decision [x] by [the Party]

Refer to the draft decision text contained in the above recommendation.

Type 11: Acknowledgement of return to compliance with Protocol

Type 11 relates to the mid-year and end-of-year meeting of the Committee and applies when a Party subject to a decision detailing the various commitments which it has undertaken to ensure its return to compliance has reported annual data that confirms its return to compliance with the Protocol’s control measures for the phase-out of the controlled substance to which the decision applies.

The recommendation on this matter could read:

“The Committee therefore *agreed* to congratulate [the Party] on its return to compliance in [year] with the [ODS] control measures of the Montreal Protocol as well as its implementation of its commitment[s] contained in decision [-/-] to [description of commitment(s)], as indicated by the Party’s data report for [year].”

Type 12: Acknowledgement that implementation of decision is in advance of commitment due in given year

Type 12 relates to the mid-year and end-of-year meeting of the Committee and applies when a Party subject to a decision detailing the various commitments which it has undertaken to ensure its return to compliance has submitted information that places it in advance of some or all of the commitments contained in the decision.

With regard to ODS consumption or production commitments, the recommendation on this matter could read:

“The Committee therefore *agreed* to congratulate [the Party] on its reported data for the [consumption] [production] of Annex [x] group [y] substances [(ODS)] in [year], which showed that it was in advance of its commitment contained in decision [-/-] to [description of commitment] in that year.”

With regard to regulatory measure commitments, the recommendation on this matter could read:

“The Committee *agreed* to congratulate [the Party] on the [establishment] [introduction] of [description of regulatory measure] in [year], in advance of its commitment[s] contained in decision [-/-] to [description of commitment(s) including year in which implementation of commitment due].”

Type 13: Acknowledgement of completion of commitment due in given year

Type 13 relates to the mid-year and end-of-year meeting of the Committee and applies when a Party subject to a decision detailing the various commitments which it has undertaken to ensure its return to compliance has submitted information that indicates completion of some or all of the commitments due for completion by the time of the meeting.

The recommendation on this matter could read:

“The Committee therefore *agreed* to note with appreciation that [the Party] had completed implementation in [year] of the commitment[s] contained in decision [-/-] to [description of commitment including year implementation of commitment due].”

Type 14: Request for outstanding data

Type 14 relates to the mid-year meeting of the Committee and applies when a Party has not submitted baseline, base-year or annual data in accordance with its data-reporting obligations under the Protocol.

The text of recommendations on this routine procedural matter varies with the nature of the outstanding data. It also varies depending on whether the Committee is considering a Party only with regard to outstanding data. The text varies with the nature of the outstanding data because the submission of baseline data by an Article 5 Party is critical to the assessment of that Party's compliance with the Protocol's control measures, whereas its submission of base-year data is not. In addition, paragraphs 1 and 2 of Article 7 of the Protocol provide that estimated data will satisfy the base-year data-reporting requirement. The text will also vary depending on whether the Committee is considering a Party only with regard to outstanding data because Parties with only outstanding data reporting issues are grouped together in a single recommendation, while Parties with additional compliance issues for consideration are addressed through individual, Party-specific recommendations.

The group recommendation on this matter for outstanding base-year, baseline and annual data, where the annual data was due for submission in a previous year (for example, annual data for the year 2004 and preceding years) could read:

“The Committee therefore *agreed* to remind the Parties in non-compliance with their base-year, baseline or year [year(s)] annual data-reporting obligations under the Protocol to submit their outstanding data as soon as possible, and no later than [date 10 weeks prior to the next Committee meeting], for consideration by the Committee at its [xth] meeting.”

The group recommendation on this matter for annual data that are yet to be reported for the immediately preceding year could read:

“The Committee therefore *agreed* to urge the Parties yet to report their data for the year [year immediately preceding the meeting] to submit that data as soon as possible, in accordance with paragraphs 3 and 4 of Article 7 of the Protocol, and preferably no later than [date 10 weeks prior to the next Committee meeting], in order that the Committee might assess the Parties’ compliance with the Protocol at its [xth] meeting.”

The Party-specific recommendation on this matter with regard to outstanding baseline data could read:

“The Committee therefore *agreed* to urge [the Party] to submit its baseline data for the ozone-depleting substances in Annexes [x,y,z] of the Protocol, as a matter of priority and no later than [date 10 weeks prior to the next Committee meeting], in order that the Committee might assess the Party’s compliance with the Protocol at its [xth] meeting.”

The Party-specific recommendation on this matter with regard to outstanding base-year data could read:

“The Committee therefore *agreed*:

Recalling that paragraphs 1 and 2 of Article 7 of the Protocol state that best possible estimates of base-year data may be submitted where actual data are not available;

(a) To request [the Party] to submit its base-year data for the ozone-depleting substances in Annexes [x,y,z] of the Protocol, as soon as possible and no later than [date 10 weeks prior to the next Committee meeting], for consideration by the Committee at its [xth] meeting;”

The Party-specific recommendation on this matter with regard to outstanding annual data due for submission in the immediately preceding year could read:

“The Committee therefore *agreed* to remind [the Party] to submit its data for the year [year preceding the meeting], in accordance with paragraphs 3 and 4 of Article 7 of the Protocol, and preferably no later than [date 10 weeks prior to the next Committee meeting], in order that the Committee might assess the Party’s compliance with the Protocol at its [xth] meeting.”

The Party-specific recommendation on this matter with regard to outstanding annual data due for submission in other previous years could read:

“The Committee therefore *agreed* to request [the Party] to submit its data for the year(s) [year(s)], as soon as possible and no later than [date 10 weeks prior to the next Committee meeting], for consideration by the Committee at its [xth] meeting.”

Type 15: Required data not submitted, resulting in the forwarding of a draft decision to Meeting of Parties

Type 15 relates to the end-of-year meeting of the Committee and applies when a Party has not submitted data in accordance with its data-reporting obligations under the Protocol by the closure of the end-of-year meeting.

The recommendation on this matter with regard to outstanding baseline data could read:

“The Committee therefore *agreed*:

Noting that [the Party] had not reported its outstanding baseline data for the controlled substances in Annex [x];

(a) To include the Party in the draft decision contained in annex [x] (section [y]) to the present report in the event that the Party did not report the outstanding data prior to the adoption of the draft decision by the [xth] Meeting of the Parties.

Draft decision -/-: Non-compliance with data-reporting requirements for the purpose of establishing baselines under Article 5, paragraphs 3 and 8 ter (d)

Noting that the following Parties are required to report data for one or more of the years in order to establish their baselines for Annex [x] to the Protocol, as provided for by Article 5, paragraphs 3 and 8 ter (d): [the Parties];

Noting that failure to report such data would place those Parties in non-compliance with their data-reporting obligations under the Montreal Protocol until such time as the Secretariat received the outstanding data;

Stressing that compliance by those Parties with the Montreal Protocol cannot be determined without knowledge of those data;

[*Acknowledging* that all those Parties have only recently ratified either the Montreal Protocol or the amendments to the Protocol to which the data-reporting obligation relates,] [but also noting that the Parties have received assistance with data collection from the Multilateral Fund through the implementing agencies;]

1. To determine that the following Parties have not reported data for the years and controlled substances indicated, which are required to establish their baseline for the controlled substances contained in Annex [x], group [y] (ODS) of the Montreal Protocol, and are therefore in non-compliance with their data-reporting obligations under the Montreal Protocol until such time as the Secretariat receives their outstanding data:

(a) [Party]: Annex [x], group [y] [ODS] for years [z]

2. To urge those Parties to work together with the United Nations Environment Programme under that agency's Compliance Assistance Programme and with other implementing agencies of the Multilateral Fund to report the data as a matter of urgency to the Secretariat;

3. To request the Implementation Committee to review the situation of those Parties with respect to data reporting at its next meeting;"

The recommendation on this matter with regard to outstanding base-year data could read:

"The Committee therefore *agreed*:

Noting that [the Party] had not reported its outstanding base-year data for the controlled substances in Annex [x];

(a) To include the Party in the draft decision contained in annex [x] (section [y]) to the present report in the event that the Party did not report the outstanding data prior to the adoption of the draft decision by the [xth] Meeting of the Parties.

Draft decision -/-. Non-compliance with data-reporting requirements under Article 7, paragraphs 1 and 2, of the Montreal Protocol

Noting that the following Parties are required to report data for one or more of the base years (1986, 1989 or 1991) for one or more groups of controlled substances, as required by Article 7, paragraphs 1 and 2, of the Montreal Protocol: [the Parties];

Noting that failure to report such data would place those Parties in non-compliance with their data-reporting obligations under the Montreal Protocol until such time as the Secretariat receives the outstanding data;

[*Acknowledging* that all those Parties have only recently ratified either the Montreal Protocol or the amendments to the Protocol to which the data-reporting obligation relates,] [but also noting that the Parties have received assistance with data collection from the Multilateral Fund through the implementing agencies;]

Noting that paragraphs 1 and 2 of Article 7 of the Protocol provide for Parties to submit best possible estimates of the data referred to in those provisions where actual data are not available;

1. To determine that the following Parties have not reported data for the base years and controlled substances indicated, and are therefore in non-compliance with their

data-reporting obligations under Article 7, paragraphs 1 and 2, of the Protocol until such time as the Secretariat receives its outstanding data:

(a) [Party]: Annex [x], group [y] [ODS] for years [z]

2. To urge those Parties to work together with the United Nations Environment Programme under that agency's Compliance Assistance Programme and with other implementing agencies of the Multilateral Fund to report the data as soon as possible to the Secretariat;

3. To request the relevant implementing agencies of the Multilateral Fund to make available to the Secretariat any data that they have obtained which may be relevant;

4. To request the Secretariat to communicate with the Parties listed in the present decision and to offer assistance in reporting such estimates in accordance with Article 7, paragraphs 1 and 2;

5. To request the Implementation Committee to review the situation of those Parties with respect to data reporting at its next meeting;"

The recommendation on this matter with regard to outstanding annual consumption and production data could read:

"The Committee therefore *agreed*:

"*Recalling* the data report contained in document UNEP/OzL.Pro/ImpCom[xx][xx] [citation of the Secretariat's report on Article 7 data],

(a) To include in the draft decision contained in annex [x] (section [y]) to the present report those Parties that had not yet submitted their ozone-depleting substance data for [year] in accordance with Article 7 of the Montreal Protocol prior to the adoption of the draft decision by the [xth] Meeting of the Parties."

Draft decision -/-: Data and information provided by the Parties in accordance with Article 7 of the Montreal Protocol

Noting with appreciation that [x] Parties out of the [y] that should have reported data for [year] have done so and that [z] of those Parties reported their data by 30 June [year] in accordance with decision XV/15;

Noting with concern, however, that the following Parties have still not reported [year] data: [the Parties];

Noting that their failure to report their [year] data in accordance with Article 7 places those Parties in non-compliance with their data-reporting obligations under the Montreal Protocol until such time as the Secretariat receives their outstanding data;

Noting also that a lack of timely data reporting by Parties impedes effective monitoring and assessment of Parties' compliance with their obligations under the Montreal Protocol;

Noting further that reporting by 30 June each year greatly facilitates the work of the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol in assisting Parties operating under paragraph 1 of Article 5 of the Protocol to comply with the Protocol's control measures;

1. To urge the Parties listed in the present decision, where appropriate, to work closely with the implementing agencies to report the required data to the Secretariat as a matter of urgency;

2. To request the Implementation Committee to review the situation of those Parties at its next meeting;

3. To encourage Parties to continue to report consumption and production data as soon as figures are available, and preferably by 30 June each year, as agreed in decision XV/15;"

Type 16: Acknowledgement that data submitted, resolving data-reporting compliance matter

Type 16 relates to the mid-year and end-of-year meeting of the Committee and applies when a Party has submitted its outstanding data in accordance with its Protocol obligations and a prior decision of the Parties or recommendation of the Committee.

The recommendation on this matter could read:

“The Committee therefore *agreed* to note with appreciation [the Party's] submission of all outstanding data in accordance with its data-reporting obligations under the Protocol and [decision/recommendation reference], which indicate that it was [description of compliance status, e.g., “in compliance with the Protocol’s control measures in [year]”].”

Chart 2: Flowchart of routine types of recommendations that the Committee might adopt at the various stages of the application of the non-compliance procedure to non-compliance or potential non-compliance with the ozone-depleting substance phase-out schedules of the Protocol*

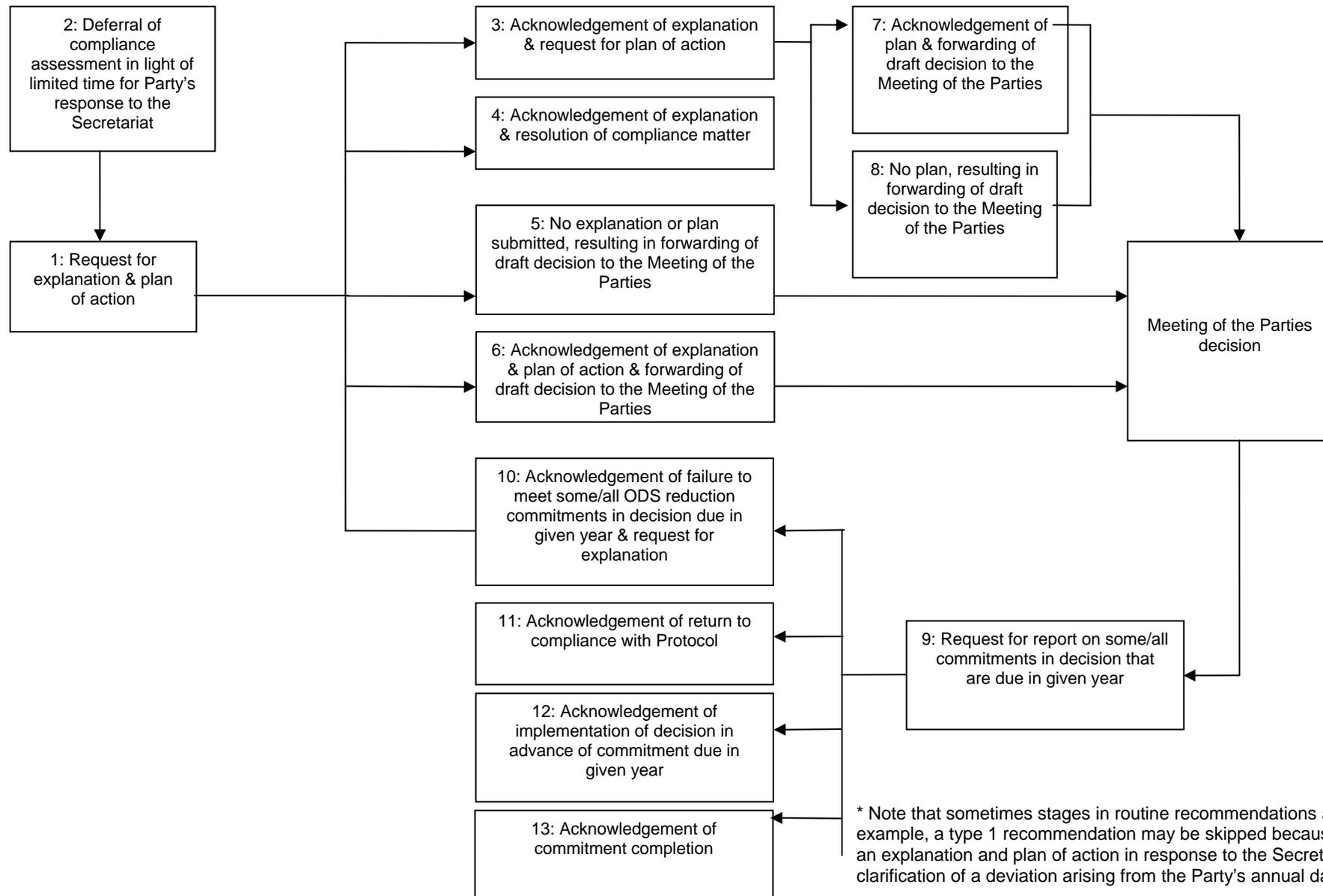
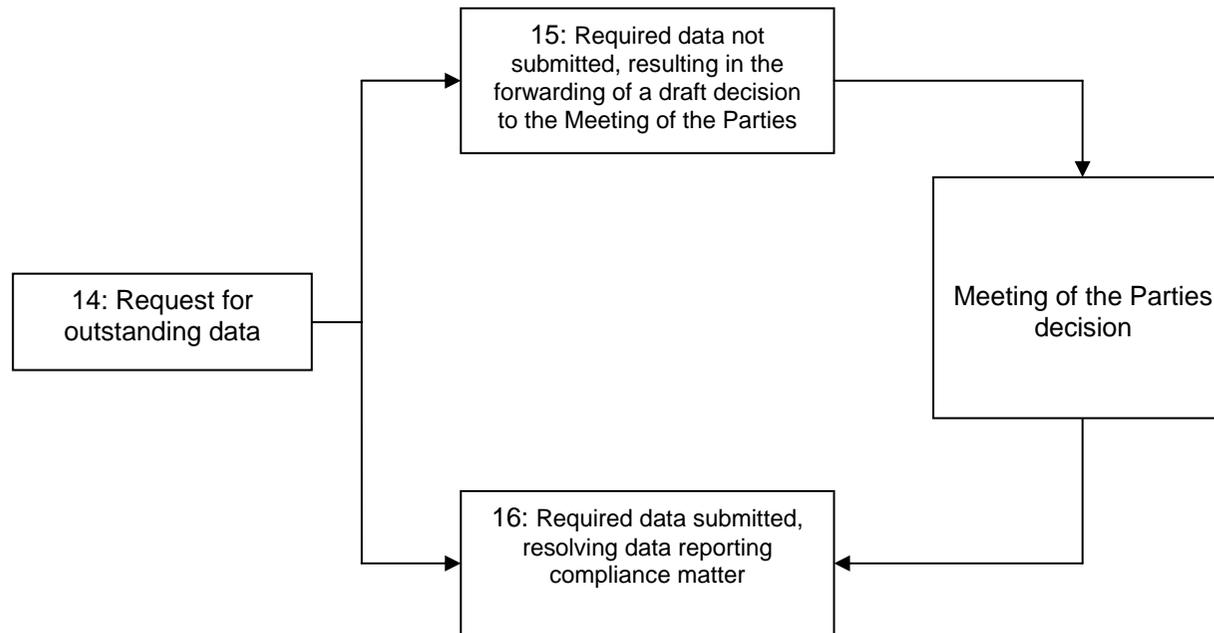


Chart 3: Flowchart of routine types of recommendations that the Committee might adopt at the various stages of the application of the non-compliance procedure to non-compliance with the data-reporting requirements of the Protocol



6.3. Glossary of abbreviations, acronyms and specialized terms commonly encountered in ozone-related texts

A5	Party operating under Article 5, paragraph 1, of the Montreal Protocol
Annex A, group I	Chlorofluorocarbon-11, 12, 113, 114 and 115
Annex A, group II	Halon 1211, 1301 and 2402
Annex B, group I	Chlorofluorocarbon-13, 111, 112, 211, 212, 213, 214, 215, 216 and 217
Annex B, group II	Carbon tetrachloride
Annex B, group III	Methyl chloroform (1,1,1-trichloroethane)
Annex C, group I	Hydrochlorofluorocarbons
Annex C, group II	Hydrobromofluorocarbons
Annex C, group III	Bromochloromethane
Annex E	Methyl bromide
Baseline (data)	A quantity of consumption or production for a given controlled substance, calculated using historical annual consumption or production data for that substance reported by a Party, which is used to determine the Party's maximum allowable annual consumption or production of that substance in a given year. The formulas used to calculate the baseline for each controlled substance are specified in section 6.1.1 of the primer, table 3.
Base-year data	Consumption or production data for a controlled substance that are reported by a Party for a year prescribed by Article 7, paragraphs 1 and 2, of the Protocol.
BCM	Bromochloromethane
CAP	Compliance Assistance Programme
CEIT	Country with economy in transition
CFC	Chlorofluorocarbon
Consumption	Production + import – export of a controlled substance reported by a Party for a given year.
Controlled substances	The chemicals contained in Annexes A, B, C and E of the Montreal Protocol
CRP	Conference-room paper
CTC	Carbon tetrachloride
ExCom	Executive Committee
GEF	Global Environment Facility
GTZ	German Agency for Technical Cooperation

HCFC	Hydrochlorofluorocarbon
ImpCom	Implementation Committee
Indicative list of measures	Actions specified in the non-compliance procedure of the Montreal Protocol that might be taken by a meeting of the Parties in respect of non-compliance with the Protocol
Item A of the indicative list of measures	Appropriate assistance, including assistance for the collection and reporting of data, technical assistance, technology transfer and financial assistance, information transfer and training
Item B of the indicative list of measures	Issuing cautions
Item C of the indicative list of measures	Suspension, in accordance with the applicable rules of international law concerning the suspension of the operation of a treaty, of specific rights and privileges under the Protocol, whether or not subject to time limits, including those concerned with industrial rationalization, production, consumption, trade, transfer of technology, financial mechanism and institutional arrangements
INF	Information document
LVC	Low volume consuming country
MAC	Mobile air conditioning
MDI	Metered-dose inhaler
MLF	Multilateral Fund for the Implementation of the Montreal Protocol
MLFS	Multilateral Fund secretariat
MOP	Meeting of the Parties
NCP	Non-compliance procedure
Non-A5	Party not operating under Article 5 of the Montreal Protocol
NOO	National ozone officer
NOU	National ozone unit
ODP	Ozone-depleting potential
ODS	Ozone-depleting substance
OEWG	Open-ended Working Group
Production	Total Production – feedstock – destruction of a controlled substance reported by a Party for a given year
QPS	Quarantine and pre-shipment
R&R	Recovery and recycling
RMP	Refrigerant management plan
TCA	Methyl chloroform

TEAP	Technology and Economic Assessment Panel
TOC	Technical Options Committee
TPMP	Terminal phase-out management plan
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
UNIDO	United Nations Industrial Development Organization
WB	World Bank

6.4. Box, chart and table references

Box references

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6.5. Useful website addresses

6.5.1. Useful website addresses

Implementation Committee members-only homepage, with links to meeting documents (contact Ozone Secretariat for access):

<https://ozone.unep.org/impcom/private>

Reports of the meetings of the Implementation Committee; compilation of recommendations adopted by the Implementation Committee; compilation of decisions adopted by the Meetings of the Parties on the non-compliance procedure and matters considered by the Implementation Committee; Implementation Committee Primer:

http://ozone.unep.org/Meeting_Documents/impcom/

Reports of the Meetings of the Parties:

http://ozone.unep.org/Meeting_Documents/mop/

Ozone Secretariat homepage, including links to the text of the Protocol and its amendments and information on the status of ratification of these treaties and planned future meeting dates:

<http://ozone.unep.org/>
http://ozone.unep.org/Treaties_and_Ratification/
<http://ozone.unep.org/Events/meetings2008and2009.pdf>

Multilateral Fund Secretariat homepage, with links to the reports of the meetings of the Executive Committee and documents for meetings since July 2005:

<http://www.multilateralfund.org/>
<http://www.multilateralfund.org/documents.htm>

Website of the Global Environment Facility and link to its searchable project database:

<http://www.gefweb.org/>
<http://www.gefonline.org/home.cfm>

Implementing agency homepages:

United Nations Development Programme
<http://www.undp.org/montrealprotocol/>

United Nations Environment Programme, OzonAction Programme
<http://www.uneptie.org/ozonaction>

United Nations Industrial Development Organization
<http://www.unido.org/doc/5072>

World Bank
<http://www.worldbank.org/montrealprotocol>
