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**First Extraordinary Meeting of the Parties
to the Montreal Protocol on
Substances that Deplete the
Ozone Layer**

Montreal, 24-26 March 2004

Item 3 of the provisional agenda*

Discussion on the issues and on draft decisions

Summary of issues on the agenda**Note by the Secretariat****I. Introduction**

1. By decision XV/56, adopted at their at their Fifteenth Meeting, in Nairobi, 10-14 November 2003, the Parties to the Montreal Protocol decided to hold an extraordinary Meeting of the Parties from 24 to 26 March 2004 in order to complete consideration of the items on the agenda of the Fifteenth Meeting of the Parties, in accordance with rule 4, paragraph 3, and rule 13 of the rules of procedure. A provisional agenda for the extraordinary Meeting of the Parties was provided in the annex to decision XV/56 (see annex I to the present note).

2. The present note provides a summary for discussion by the extraordinary Meeting on the issues related to item 3 of the provisional agenda, as considered and decided by the Fifteen Meeting of the Parties. A full account of the deliberations at the Fifteenth Meeting of the Parties may be found in the report of the Fifteenth Meeting of the Parties, contained in document UNEP/OzL.Pro.15/9.

3. The note also covers the issues discussed at the special meeting convened by the Methyl Bromide Technical Options Committee, as provided in decision XV/54, paragraph 2, in Los Angeles, United States of America, 9-12 February 2004, immediately followed by a meeting of the Technology and Economic Assessment Panel, on 13 and 14 February. The Technical and Economic Assessment Panel issued a report of that meeting, entitled: "Critical use nominations: 2004 supplementary report", dated 14 February 2004, which was placed on the web site of the Ozone Secretariat at: www.unep.org/ozone. A summary of recommendations and proposals in the Panel's report are provided below, in paragraphs 19-22.

* Unep/OzL.Pro.ExMP/1/1

4. For the convenience of participants at the extraordinary Meeting of the Parties, the following background documents were posted on the internet for review and downloading:
- (a) *TEAP Handbook on Critical Use Nominations for Methyl Bromide*, August 2003 (update);
 - (b) *TEAP May 2003 Progress Report*, chapter 3: “Critical use nominations for methyl bromide”, and chapter 4: “Alternatives evaluated in Article 5(1) countries – response to decision IX/5”;
 - (c) *TEAP October 2003 Supplementary Report on Critical Use Nominations*, supplementary report;
 - (d) Document UNEP/OzL.Pro.WG/23/CRP.12: Draft decision on conditions for granting critical-use exemptions for methyl bromide, submitted by the Dominican Republic at the twenty-third meeting of the Open-ended Working Group of the Parties to the Montreal Protocol, 7–11 July 2003, Montreal;
 - (e) Document UNEP/OzL.Pro.WG/23/5: Report of the twenty-third meeting of the Open-ended Working Group of the Parties to the Montreal Protocol, 7–11 July 2003, Montreal;
 - (f) Document UNEP/OzL.Pro.15/3/Add.1: Information to facilitate discussions on the appropriate reduction steps for methyl bromide for Parties operating under paragraph 1 of Article 5, addendum, Fifteenth Meeting of the Parties to the Montreal Protocol, 10–14 November 2003, Nairobi;
 - (g) Document UNEP/OzL.Pro.15/CRP.13: Submission by Australia on the critical use exemption process – parameters for streamlined annual reporting , Fifteenth Meeting of the Parties to the Montreal Protocol, 10–14 November 2003, Nairobi;
 - (h) Document UNEP/OzL.Pro.15/CRP.20: Decision to permit levels of production or consumption necessary to satisfy critical uses for non-Article 5 Parties, Fifteenth Meeting of the Parties to the Montreal Protocol, 10–14 November 2003, Nairobi;
 - (i) Document UNEP/OzL.Pro.15/CRP.21: Report from the contact group meeting on adjustment relating to the controlled substance in Annex E, Fifteenth Meeting of the Parties to the Montreal Protocol, 10–14 November 2003, Nairobi;
 - (j) Document UNEP/OzL.Pro.15/9: Report of the Fifteenth Meeting of the Parties to the Montreal Protocol, 10–14 November 2003, Nairobi.

II. Issues

A. **Item 3 (a): Adjustment of the Montreal Protocol regarding further specific interim reductions of methyl bromide for the period beyond 2005 applicable to Article 5 Parties**

5. At the Fifteenth Meeting of the Parties, the representative of the European Community introduced a proposal for an adjustment to the control the schedules for methyl bromide phase-out in Article 5 Parties. The proposal had been circulated prior to the meeting as document UNEP/OzL.Pro.15/3, and document UNEP/OzL.Pro.15/3/Add.1 added supporting information on the feasibility of the proposal, as requested at the twenty-third meeting of the Open-ended Working Group. He explained that the proposal had originated in 1997, with decision IX/5, which had resolved that the Meeting of the Parties in 2003 should consider interim reductions in methyl bromide consumption for Article 5 Parties beyond 2005. The European Community’s proposal added three new steps, after the existing 20 per cent reduction by 2005: a 60 per cent reduction by 2007, a 75 per cent reduction by 2009, and a 95 per cent reduction by 2012. The date for complete phase-out remained at 2015, and the current exemption for quarantine and pre-shipment uses also remained unaffected.

6. Current baseline consumption for all Article 5 Parties was about 15,500 tonnes, of which almost half would be phased out by 2007 under existing projects supported by the Multilateral Fund. Given that additional projects were very likely to be approved shortly by the Multilateral Fund, including, in particular, phase-out projects in China, which had now ratified the Copenhagen Amendment, the further interim steps should certainly be achievable. In addition, of the 126 Article 5 Parties, almost half had no consumption of methyl bromide and a further 30 per cent had annual consumption below 60 tonnes, so only 27 countries posed a significant challenge. The advantages of the proposal to Article 5 Parties were that it would encourage the provision of financial assistance from the Multilateral Fund, maintain the momentum that many countries had already achieved through early phase-out, and help prevent consumer boycotts of products treated with methyl bromide.

7. A number of representatives stated that the proposal had merit, particularly in terms of facilitating the provision of assistance from the Multilateral Fund. Concern was expressed, however, over the extent and speed of the proposed reductions, and the possibility that the resources of the Multilateral Fund might be over-stretched as a result. It was also pointed out that the final step, a 95 per cent reduction by 2012, could lead to an anomalous situation, as after total phase-out in 2015 countries would become eligible for critical-use exemptions. Judging by the current experience of non-Article 5 Parties, the total of such exemptions could easily exceed 5 per cent, leading to Article 5 Parties' consumption levels increasing after phase-out.

8. Representatives of many Article 5 Parties expressed their concern over the lack of technically and economically feasible alternatives to methyl bromide, in contrast to the situation with chlorofluorocarbons (CFCs) and other substances. Many countries were still running demonstration projects, and were not yet ready to accelerate their phase-out schedules. Representatives also argued that it was essential to reach agreement on the procedure for critical-use exemptions related only to non-Article 5 Parties, and, in any case, many Article 5 Parties had already managed to achieve complete phase-out without great difficulty.

9. A contact group was established on 11 November 2003 to discuss the proposal of the European Community for further interim reduction steps for methyl bromide for Parties operating under Article 5. The report of the contact group was put before the meeting on 12 November 2003 as a conference room paper, which also contained a revised proposal for the adjustments to the Montreal Protocol to the controlled substance in Annex E of the Protocol and a draft decision on this issue, reflecting the comments of the delegates at the meeting. The text of the conference room paper is reproduced in annex II to the present note.

10. The Fifteenth Meeting of the Parties subsequently decided to consider the revised proposal for adjustments to the Montreal Protocol at its extraordinary Meeting and to place the issue on the agenda of the extraordinary Meeting as item 3 (a) (see decision XV/56 in annex I to the present note).

11. The Parties may wish to take a decision on the revised proposal for adjustment of the Montreal Protocol as contained in annex II to the present note.

B. Item 3(b): Nomination for critical-use exemptions for methyl bromide

12. At the Fifteenth Meeting of the Parties, Dr. Jonathan Banks, Co-Chair of the Methyl Bromide Technical Options Committee of the Technology and Economic Assessment Panel, introduced the Panel's October 2003 supplementary report on the critical-use nominations for methyl bromide that had been submitted by the Parties by 31 January 2003. Dr. Banks informed the Meeting that, as provided in paragraph 2 of decision IX/6, the Technology and Economic Assessment Panel had reviewed all the submitted nominations and in their initial May 2003 report had classified them as "recommended", or as "not recommended" or "unable to recommend", because the necessary requested information had not been provided.

13. In its supplementary October 2003 report, the Technology and Economic Assessment Panel had introduced a new response to the critical-use nominations, namely "noted". The Panel had introduced this new category to indicate that alternatives had been identified for the nominated use, but that the nominating Party had stated that there were constraints that precluded their use, or had provided specific reasons why methyl bromide was critical for a particular use (such as circumstances that made the local

use of alternatives not feasible on economic grounds for a number of reasons, including lack of marketing, insufficient lead time and problems of registration and regulations). The Panel emphasized that the “noted” category was not to be confused with nominations which the Panel was unable to recommend because the necessary information had not been provided.

14. The Panel also recommended that critical-use exemptions should be granted on an annual basis only; the guidance of the Parties was sought on this matter, however.

15. The Panel sought the guidance of the Parties on how to handle critical-use nominations for quantities of methyl bromide which exceeded the consumption level provided in the control measures for methyl bromide in 2003–2004 in Article 2H of the Protocol.

16. The preparatory segment agreed to establish an open-ended contact group on critical-use exemptions for methyl bromide that would report to the plenary on the outcome of its work. After further discussion, the Fifteenth Meeting of the Parties decided, in decision XV/56, to hold an extraordinary Meeting in Montreal on 24–26 March 2004, to resolve all the outstanding issues related to methyl bromide.

17. The reason for the decision to hold the extraordinary Meeting on 24–26 March 2004 was to allow Parties sufficient time to submit additional information on the critical-use nominations placed by the Technology and Economic Assessment Panel in the “noted” category in its October 2003 report, as well as for the Methyl Bromide Technical Options Committee and the Technology and Economic Assessment Panel to consider such additional information and issue a report of their deliberations and recommendations, and for the Parties to consider that report before the extraordinary Meeting.

18. Concerning the category “noted”, the Fifteenth Meeting of the Parties, in its decision XV/54 (see annex III to the present note), granted the request of the Methyl Bromide Technical Options Committee and the Technology and Economic Assessment Panel to evaluate the critical-use nominations that were currently categorized as “noted” and to recategorize them as “recommended”, “not recommended” or “unable to assess”. By decision XV/54, the Parties further directed the Methyl Bromide Technical Options Committee to provide additional guidance to assist Parties concerning the information required, and requested the Parties to submit additional information on any nomination currently categorized as “noted” by 31 January 2004. The decision also requested the Methyl Bromide Technical Options Committee to convene a special meeting in time to allow the Technology and Economic Assessment Panel to release a report to the Parties no later than 14 February 2004.

19. As provided for in decision XV/54, the Methyl Bromide Technical Options Committee convened a meeting in Los Angeles from 9 to 12 February 2004 immediately followed by a meeting of the Technology and Economic Assessment Panel on 13 and 14 February. During its meeting, the Committee reviewed the additional information submitted by Parties by 31 January 2004. A summary of the total tonnage of methyl bromide (in metric tonnes) nominated by each Party in 2003 for critical-use exemptions in 2005, as well as the tonnage which the Methyl Bromide Technical Options Committee had recommended or had not recommend or which had been adjusted by the Party, or which had been withdrawn by the Party or which the Methyl Bromide Technical Options Committee had been unable to assess, is presented in table 1.

Table 1: Summary of total critical-use nominations by tonnage (metric tonnes) and Party (including those recommended by the Methyl Bromide Technical Options Committee and the Technology and Economic Assessment Panel in both October 2003 and February 2004)

	Nominated	Recommended	Not recommended or adjusted by Party	Withdrawn by Party	Unable to assess
Australia	259.3	185.95	73.35		
Belgium	89.77	46.97	41.87	0.93	
Canada	55.152	55.152	0		
France	565	407	65		93
Greece	380	186	24	170	
Israel	1100	0	0	1100	
Italy	2840	1877	963		
Japan	284	284	0		
Netherlands	1.2	0	1.2		
Portugal	200	50	0		150
Spain	1159	781	378		
UK	147.551	128.078	19.473		
USA	9920.986	8942.207	978.779		
Totals	17002	12943	2545	1271	243

20. The Methyl Bromide Technical Options Committee also reconsidered, as provided in paragraph 3 of decision XV/54, nominations categorized in the Panel's October 2003 report as "noted", which had been received from the following nine countries: Australia, Belgium, Canada, France, Greece, Italy, Spain, United Kingdom and United States of America, and finalized the Committee's recommendations for the critical-use nominations submitted in 2003. The Methyl Bromide Technical Options Committee recommended critical-use nominations of methyl bromide fully or in part, at a total amount of 8,275.1 metric tonnes, and did not recommend a total of 8.6 metric tonnes. As a result of partial recommendation by the Methyl Bromide Technical Options Committee or reduction of their nomination by individual Parties, a total of a further 2,229.9 metric tonnes was not recommended. The tonnage of methyl bromide was adjusted from that nominated in several of the critical-use nominations. In most cases, this was to bring the nomination into conformity with dosage rates considered appropriate by the Methyl Bromide Technical Options Committee and the use of emission control technology, such as virtually impermeable films (VIF) or equivalent. The outcome of the recategorization of the "noted" critical-use nominations is summarized by Party in table 2.

Table 2: Summary of recategorized "noted" critical-use nominations by tonnage (metric tonnes) and Party

Party	Nominated	Recommended	Not recommended or reduced by Party
Australia	150.0	95.8	54.2
Belgium	86.4	44.5	41.9
Canada	47.2	47.2	0
France	315	273	42
Greece	210	186	24
Italy	2490	1527	963
Spain	629	351	278
UK	52.4	52.4	0
USA	6533.6	5698.5	835.0
Totals	10513.6	8275.1	2238.5

21. In addition to the recommendations by the Methyl Bromide Technical Options Committee in paragraphs 19 and 20, the following proposals were included by the Technology and Economic Assessment Panel in its February 2004 report, as provided by paragraph 2 of decision IX/6:

(a) The Meeting of the Parties might wish to consider the option of allowing quantities of methyl bromide nominated as critical-use exemption for 2005 and 2006, but not approved by a Meeting of the Parties, as long as the resulting emissions were offset through the collection and destruction of halon-1211, calculated at a rate of one kilogram of halon-1211 for each five kilograms of methyl bromide;

(b) The Meeting of the Parties might wish to consider and allow the use of methyl bromide for critical-use nominations approved by a Meeting of the Parties for 2007 and beyond, only if the ozone-depleting potential of the relevant quantity of methyl bromide was offset by destruction of a sufficient quantity of halons or CFCs. Approaches taken from previous Science Assessment Panel reports could provide a basis for choices of the appropriate exchange ratios for the offsets in 2007 and beyond. The Technology and Economic Assessment Panel could confirm that adequate quantities of surplus halons and CFCs were available beyond the quantities required for critical-uses and the basic domestic needs of the countries operating under Article 5, paragraph 1;

(c) The Meeting of the Parties might wish to consider and decide on an accounting framework for critical-use nominations similar to the one used for essential use nominations, which would list the quantity available from inventory and stockpile, the quantity allocated for critical-use exemptions, and the quantity used, with a year-end balance; the Secretariat could remind Parties that, after 1 January 2005, in countries that were granted critical-use exemptions, available stockpiles of methyl bromide could be used only for quarantine and pre-shipment, for export to Article 5 Parties, as feedstock, and for uses that had been granted critical-use exemptions; Parties could also be reminded that, under decision IX/6, they must first use existing stockpiles, or quantities of methyl bromide banked or recycled, to satisfy the uses granted under critical-use exemptions, and they could produce or import methyl bromide to the extent of the critical-use exemption not satisfied by the quantity of methyl bromide available through stockpiling, banking or recycling.

22. In its February 2004 report the Technology and Economic Assessment Panel also made the following observations and suggestions:

(a) The Technology and Economic Assessment Panel and its Methyl Bromide Technical Options Committee gave the benefit of the doubt to the nominations submitted by the Parties in 2003 and made extra efforts to obtain additional information to supplement the technical information presented by the Parties in their nominations. In the future, the Panel and the Committee would strictly evaluate nominations, with the onus resting on the nominating Party to substantiate that the nomination satisfied the criteria provided by decision IX/6;

(b) The nominations submitted by the Parties in 2003 had cited several categories of reasons for requesting critical-use exemptions:

- (i) Absence of identified alternatives;
- (ii) Identified alternatives not approved by the national regulatory authorities;
- (iii) Approved alternatives not available for such reasons as lack of time to develop supply infrastructure, training in use of the alternative and adaptation of the process to local conditions;
- (iv) Available alternatives not suitable to local conditions;
- (v) Longer time between fumigation and planting (plantback periods) with the use of some alternatives, causing disruption to cropping programmes;
- (vi) Available suitable alternatives not economically viable; and

- (vii) Economically viable and available alternatives not yet adopted owing to procrastination, inconvenience, and other reasons;

(c) The Technology and Economic Assessment Panel commented on the contention on which some Parties had based their critical-use nominations, namely, that available alternatives to methylbromide were not “economically viable”. The Panel observed that, no matter what concept of economic viability was adopted, the question of who bore the cost must be resolved separately. The additional costs could be borne by the users themselves, the Governments nominating the critical-use exemptions, or by some combination of the two. The clarifications provided by the Panel on the “economic viability” concept could allow the Methyl Bromide Technical Options Committee uniformly and objectively to evaluate the critical-use nominations submitted by the Parties;

(d) The Panel made certain observations regarding the importance of proactive efforts at the current time by the Parties to phase out the use of methyl bromide, including that less methyl bromide would be required today if more proactive steps had been taken earlier.

23. The Parties may wish to take a decision on the recommendations of the Technology and Economic Assessment Panel and its Methyl Bromide Technical Options Committee to approve the critical-use nominations submitted by the Parties by 31 January 2003 and on any other proposal included in the Panel’s February 2004 report.

C. Item 3(c): Conditions for granting and reporting critical-use exemptions for methyl bromide

24. The issue of the conditions for granting and reporting critical-use exemptions for methyl bromide was first raised by the Dominican Republic and discussed by the Open-ended Working Group at its twenty-third meeting, in Montreal in July 2003. Subsequently, a draft decision on this issue was forwarded by the Open-ended Working Group at its twenty-third meeting to the Fifteenth Meeting of the Parties for further consideration (see annex IV to the present note).

25. The issue was discussed by the Fifteenth Meeting of the Parties under item 3 (a) (i) (b) of the agenda (see paragraphs 23–29 of the report of the Fifteenth Meeting, contained in document UNEP/OzL.Pro.15/9). In the ensuing discussion in the preparatory segment of that meeting, the Parties agreed to set up an open-ended contact group, to consider outstanding issues in the draft decision and to report to the plenary. It was subsequently decided that the matter should be referred to the extraordinary Meeting of the Parties for further consideration and to place the issue on its agenda as item 3 (c) (see decision XV/56 in annex I to the present note).

26. A conference room paper on the permitted levels of production or consumption necessary to satisfy critical-uses for non-Article 5 Parties was then submitted to the Fifteenth Meeting of the Parties by the European Community, the text of which is reproduced below, in annex V to the present note. A contact group was established to discuss this proposal and one its co-chairs reported back to the meeting on progress made in the group, noting that the group had regrettably failed to reach consensus. The Fifteenth Meeting of the Parties therefore decided that this matter should also be referred to the extraordinary Meeting of the Parties for further discussion.

27. In the preparatory segment of the Fifteenth Meeting of the Parties, the representative of Australia introduced a conference room paper on critical-use exemptions process: parameters for streamlined annual reporting, the text of which is reproduced in annex VI to the present note. She explained that the draft decision followed the discussions held in a contact group at the twenty-third meeting of the Open-ended Working Group, and was intended as a basis for discussion by the contact group or groups set up at the Fifteenth Meeting of the Parties. The Fifteenth Meeting of the Parties subsequently decided that the matter should be referred to the extraordinary Meeting of the Parties for further consideration and to place the issue on its agenda as item 3 (d) (see annex I to the present document).

28. The Parties may wish to reconsider the draft decision by the Dominican Republic and the proposal by the European Community (as contained in annexes IV and V, respectively, to the present note) and to take a decision on these issues.

D. Item 3(d): Consideration of the working procedures of the Methyl Bromide Technical Options Committee as they relate to the evaluation of nominations for critical-use exemptions

29. Under this agenda item, the Parties may wish to consider any matter that concerns the working procedure of the Methyl Bromide Technical Options Committee related to the evaluation of nominations for critical-use nominations, and to take a decision on such matters.

Annex I

Decision XV/56 of the Fifteenth Meeting of the Parties¹

The Fifteenth Meeting of the Parties decides:

[...]

Decision XV/56. Extraordinary Meeting of the Parties

Recognizing that the Fifteenth Meeting of the Parties has been unable to complete consideration of the items on its agenda,

Recalling Article 11, paragraph 2, of the Protocol,

Having regard to paragraph 3 of rule 4 and to rule 13 of the rules of procedure,

1. To deem necessary an extraordinary Meeting of the Parties, to be funded from the Trust Fund of the Montreal Protocol;
2. That the extraordinary Meeting of the Parties shall be held from 24 to 26 March 2004;
3. That the provisional agenda of the extraordinary Meeting of the Parties is set out in the annex to the present decision;
4. To make a financial provision of \$596,000 from the Trust Fund of the Montreal Protocol for the 2004 budget, for the expenses of the extraordinary Meeting of the Parties, including funds for the attendance of the members and experts of the Methyl Bromide Technical Options Committee at its special meeting;

Annex

Provisional agenda for the extraordinary Meeting of the Parties

1. Opening of the Meeting.
2. Organizational matters:
 - (a) Adoption of the agenda;
 - (b) Organization of work.
3. Discussion on the issues and on draft decisions:
 - (a) Adjustment of the Montreal Protocol regarding further specific interim reductions of methyl bromide for the period beyond 2005, applicable to Article 5 Parties;
 - (b) Nominations for critical-use exemptions for methyl bromide;
 - (c) Conditions for granting and reporting critical-use exemptions for methyl bromide;
 - (d) Consideration of the working procedures of the Methyl Bromide Technical Options Committee as they relate to the evaluation of nominations for critical-use exemptions;
4. Adoption of the report of the extraordinary Meeting of the Parties;
5. Closure of the Meeting.

¹

See pages 78 and 79 of document UNEP/OzL.Pro.15/9.

Annex II**Report from the contact group meeting on adjustments relating to the controlled substance in Annex E²****A. Report**

A contact group was established on 11 November 2003 to discuss further interim reduction steps for methyl bromide for Parties operating under Article 5, paragraph 1, as called for by decision IX/5, which states: "The Meeting of the Parties shall decide in 2003 on further specific interim reductions on methyl bromide for the period beyond 2005 applicable to Parties operating under paragraph 1 of Article 5."

Participants in the meeting examined both the timing and percentage reduction of the step-downs in methyl bromide consumption. Representatives from the European Community agreed to show flexibility in the timing and percentage reduction of step-downs, particularly the first and the last. Step-downs were seen as important in assisting Parties to meet phase-out targets.

Participants thanked the European Community for the detailed information posted on the Ozone Secretariat web site showing the progress in the phase-out of methyl bromide in Article 5 (1) Parties (UNEP/OzL.Pro.15/3/Add.1). That information showed that 57 per cent of methyl bromide use was scheduled to be phased out by 2007 based on current Multilateral Fund contracts with Article 5 (1) Parties for methyl bromide reduction and phase-out.

Participants in the Contact Group were mindful of the differences in the individual circumstances of Article 5 (1) Parties in their progress toward the phase-out of methyl bromide and the need for sufficient methyl bromide in the last three years, when finding alternatives could be challenging.

A short prolongation of the time to complete an Multilateral Fund contract was seen as important in particular circumstances, where necessary, for Article 5 (1) Parties that had accelerated phase-out agreements with the Multilateral Fund. Such a safety net could help to maintain government and grower confidence in attaining methyl bromide reduction targets, particularly when non-Article 5 (1) Parties were applying for critical uses of methyl bromide.

Participants agreed that there would be advantages in having further step-downs after 2005, as the Multilateral Fund would need to examine the step-down commitments occurring during each funding triennium and the need to assist Article 5 (1) Parties in meeting those commitments.

A linear reduction consisting of mostly 20 per cent step-downs was considered practical and potentially achievable. Representatives of the European Community agreed to submit a revised schedule (see attached) for the consideration of the Parties that took into account both the discussions in the contact group and the data provided by the European Community in document UNEP/OzL.Pro.15/3/Add.1.

²

As contained in conference room paper UNEP/OzL.Pro.15/CRP. 21.

B. Proposed adjustments – revised 12 November 2003

1. Adjustments relating to the controlled substance in Annex E

The following three paragraphs shall be added after paragraph 8 ter (d) (ii) of Article 5 of the Protocol:

“(ii) bis Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on **1 January 2008**, and in each twelve-month period thereafter, its calculated levels of consumption and production of the controlled substance in Annex E do not exceed, annually, **sixty per cent** of the average of its annual calculated levels of consumption and production, respectively, for the period 1995 to 1998 inclusive;

“(ii) ter Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2010, and in each twelve-month period thereafter, its calculated levels of consumption and production of the controlled substance in Annex E do not exceed, annually, forty per cent of the average of its annual calculated levels of consumption and production, respectively, for the period 1995 to 1998 inclusive;

“(ii) quater Each Party operating under paragraph 1 of this Article shall ensure that for the twelve-month period commencing on 1 January 2012, and in each twelve-month period thereafter, its calculated levels of consumption and production of the controlled substance in Annex E do not exceed, annually, thirty per cent of the average of its annual calculated levels of consumption and production, respectively, for the period 1995 to 1998 inclusive;”

2. Draft decision XV/...: Further adjustments with regard to the substance in Annex E

To adopt, in accordance with the procedure laid down in paragraph 9 of Article 2 of the Montreal Protocol and on the basis of the assessments made pursuant to Article 6 of the Protocol, the adjustments regarding the controlled substance in Annex E to the Protocol, as set forth in annex [...] to the report of the fifteenth Meeting of the Parties;

Comment: The above legal text is equivalent to the following:

Year	Control schedule	Percentage reduction	Comment
2002	Freeze on 1995-1998	--	Current control schedule
2005	20% reduction on baseline	20%	Current control schedule
2008	40% reduction on baseline	20%	
2010	60% reduction on baseline	20%	
2012	70% reduction on baseline	10%	
2015	Phase-out	--	Current control schedule

Annex III

Decision XV/54 of the Fifteenth Meeting of the Parties³

The Fifteenth Meeting of the Parties decides:

[...]

Decision XV/54. Categories of assessment to be used by the Technology and Economic Assessment Panel when assessing critical uses of methyl bromide

Recognizing that Parties had difficulty in taking a decision on the appropriate amount of methyl bromide to use for critical-uses,

Mindful that exemptions must comply fully with decision IX/6 and are intended to be limited, temporary derogations from the phase-out of methyl bromide,

1. To invite Parties with nominations that are currently categorized as “noted” in the Technology and Economic Assessment Panel 2003 supplementary report to submit additional information in support of their nominations, using the comments by the Technology and Economic Assessment Panel/Methyl Bromide Technical Options Committee in the October 2003 supplementary report as a guide to the additional information required. The Methyl Bromide Technical Options Committee co-chairs will provide additional guidance to assist Parties concerning the information required if so requested. Parties are requested to submit additional information to the Ozone Secretariat by 31 January 2004;

2. To request the Methyl Bromide Technical Options Committee to convene a special meeting, which should be held in sufficient time to allow a report by the Technology and Economic Assessment Panel to be released to the Parties no later than 14 February 2004;

3. To request the Technology and Economic Assessment Panel to evaluate the critical-use nominations for methyl bromide that are currently categorized as “noted” and recategorize them as “recommended”, “not recommended” or “unable to assess”;

³ See page 78 of document UNEP/OzL.Pro.15/9.

Annex IV

Draft decision on the conditions for granting critical-use exemptions for methyl bromide forwarded by the Open-ended Working Group at its twenty-third meeting to the Fifteenth Meeting of the Parties⁴

The Fifteenth Meeting of the Parties decides:

[...]

[Draft decision XV/[...]: Conditions for granting critical-use exemptions for methyl bromide

Recognizing that both article 5 and non-article 5 parties have made substantial progress in adopting effective alternatives and thus reducing the consumption of methyl bromide, and noting the desirability of continuing the momentum in methyl bromide phase-out,

Noting that the Methyl Bromide Technical Options Committee has identified existing technically feasible alternatives for at least 93 per cent of methyl bromide uses, and that the uses without alternatives are limited to specific cases,

Noting also that parties have a responsibility strictly to limit exemptions from the Montreal Protocol schedule to the specific cases where there are no technically and economically feasible alternatives available to users,

Recognizing that a large number of article 5 Parties have made firm commitments towards the early reduction and phase-out of methyl bromide as a condition of projects funded by the Multilateral Fund.

1. In relation to critical-use exemptions in non-article 5 parties:
 - (a) To request the Technology and Economic Assessment Panel:
 - (i) **To make an evaluation of any potential economic, trade or other impacts in article 5 parties that might arise as a result of critical-use exemptions in non-article 5 parties, with particular reference to domestic and export products;**
 - (ii) To identify options for preventing the dumping of surplus methyl bromide stocks in article 5 parties as consumption is reduced in non-article 5 regions;
 - (iii) To publish its evaluation in May 2004 so that the Meeting of the Parties in 2004 can discuss and decide suitable mitigating steps;
 - (b) To endorse the recommendation made by the Technology and Economic Assessment Panel in its May 2003 report that critical-use exemptions should not be authorized in cases where technically feasible options are registered, available and commercially used by similarly situated enterprises, and can be implemented at less cost than the median cost of Multilateral Fund projects, which was estimated to be \$24/ODP-kg at present;
 - (c) That critical-use exemptions will be granted in non-article 5 parties on the following conditions:
 - (i) Exemptions will be granted only in cases where there are no technically and economically feasible alternatives available and suitable to users, as specified in decision IX/6;
 - (ii) Exemptions will be granted on an annual basis only, as recommended by the Technology and Economic Assessment Panel, the Methyl Bromide Technical Options Committee and the Agricultural Economics Task Force of the Technology and Economic Assessment Panel, to take

⁴

See pages 35–37 of document UNEP/OzL.Pro/WG.1/23/5.

full account of rapid developments in alternatives and the fact that registration of additional alternatives is expected in the next one to two years;

(iii) If appropriate alternatives (that meet the criteria in decision IX/6) become registered and available in or prior to 2005, the relevant party will notify the Ozone Secretariat and will not issue licences for the importation/production of methyl bromide for the specific uses where alternatives have become available;

(iv) Parties that are granted critical-use exemptions will establish effective measures, including a permit system and clear labelling of methyl bromide containers, to ensure that all of the methyl bromide authorized for critical-use exemptions will be used only for the specific uses for which the exemption was granted;

(v) Parties that receive authorization for critical-use exemptions will provide detailed, full reports on actions taken and progress made in reducing their need for methyl bromide for critical-uses, including progress in alternative registration efforts; such reports will be a condition of submitting any further nominations for critical-use exemptions;

(d) To request the Technology and Economic Assessment Panel, when recommending critical-use exemptions, to recommend possible specific actions that would assist parties in reducing the need for methyl bromide for critical-uses;

2. In relation to critical-use exemptions in article 5 parties that implement early phase-out:

(Option 1)

(a) To request the Technology and Economic Assessment Panel to provide a report in 2004 outlining the options and modalities for authorizing critical-use exemptions for article 5 parties that are implementing early phase-out of methyl bromide;

(Option 2)

(a) To request the Executive Committee of the Multilateral Fund to make an addendum to existing (national or sector) methyl bromide phase-out project agreements, specifying that critical-use exemptions may be authorized in cases where parties are genuinely unable to identify technically and economically feasible alternatives to methyl bromide;

(b) The Executive Committee should request the Technology and Economic Assessment Panel to carry out a review of any requests for exemptions. If the Executive Committee is unable to address the matter in a way that is deemed to be satisfactory by all the article 5 party representatives in the Executive Committee, the issue will be decided upon by the parties.]

Annex V

Draft decision to permit levels of production or consumption necessary to satisfy critical-uses for non-Article 5 Parties, submitted by the European Community⁵

The Fifteenth Meeting of the Parties decides

[...]

Decision XV/[...]: Decision to permit levels of production or consumption necessary to satisfy critical-uses for non-Article 5 Parties

Recognizing that technically and economically feasible alternatives exist for most uses of methyl bromide, and noting that Parties have made substantial progress in the adoption of effective alternatives,

Resolved that any critical-use exemptions should be implemented in a manner that removes impediments to the further adoption of alternatives and creates disincentives for use of methyl bromide,

Mindful that exemptions must comply fully with decision IX/6 of the Meeting of the Parties, and are intended to be limited, temporary derogations from the phase-out of methyl bromide,

Resolved that each Party's authorized critical-use volume should decrease each year, targeting the closure of the critical-use exemption as soon as possible in non-Article 5 Parties,

Taking into account the recommendation by the Technology and Economic Assessment Panel that critical-use exemptions should not be authorized in cases where feasible options are registered, available locally and used commercially by similarly situated enterprises,

To authorize, subject to paragraphs 2 and 3, and taking into account paragraphs 4–10 of the present decision, the production and consumption of methyl bromide for the specific critical-use nominations categorized by the Technology and Economic Assessment Panel as "recommended" and, on an exceptional basis for 2005, "noted" (set forth in appendix I). The total authorized is up to a maximum of 30 per cent of each Party's baseline;

That where the application of the 30 per cent maximum provided for in paragraph 1 above leads to a reduction of a Party's production and/or consumption from the level that would otherwise be permitted, it will be the responsibility of that Party to adjust its level of production and consumption accordingly;

To grant any critical-use exemptions on an annual basis, in order to take into account the rapid development of alternatives to methyl bromide and the anticipated registration of such alternatives in 2005;

To request the Technology and Economic Assessment Panel to develop a format for an accounting framework by 30 April 2004 that would record the details of specific critical-uses and to request each Party that has been granted critical-use exemptions to submit with their nomination the details of their specific critical-uses in that format annually, starting on 1 January 2005;

To request the Technology and Economic Assessment Panel to develop a format for a critical-use exemption report by 30 April 2004, and to request each Party submitting a nomination for critical-use exemptions for methyl bromide after 31 December 2004 to submit a report in that format;

That each Party that has received a critical-use exemption will ensure that the criteria set forth in paragraph 1 of decision IX/6 are applied during its domestic procedures that provide for the licensing, permitting or authorization of that critical use;

That each nominating Party will submit to the Ozone Secretariat, by 1 January 2006, a national or regional strategy for phasing out critical-uses of methyl bromide;

⁵

As contained in conference room paper UNEP/OzL.Pro.15/CRP.20.

To request the Technology and Economic Assessment Panel to categorize critical-use nominations of methyl bromide only as “recommended”, “not recommended” or “unable to assess”, following the procedures established for essential uses;

To request the Technology and Economic Assessment Panel to develop guidelines for assessing “economic feasibility” in the nominations for critical-uses of methyl bromide, taking into account commercial use by similarly situated enterprises, and to provide a report to the Parties in May 2004;

To request the Technology and Economic Assessment Panel to modify the Handbook on Critical-Use Nominations for Methyl Bromide to take the present decision into account.

Annex VI

Submission by Australia on the critical use exemption process: parameters for streamlined annual reporting⁶

The parameters proposed here are suggested to apply only to annual reporting by exemption applicants for whom the first year exemption (for 2005) had been approved. This is separate from the development of any revised/reduced data points that could be applied to new applications.

It is proposed that the data points for annual reporting should focus primarily on the following broad points:

1. **Firstly, the applicant's ongoing progress in their efforts to evaluate, commercialize and secure national regulatory approval of alternatives. This should include a delineation of new actions taken, new trials begun, and/or progress reports on ongoing trials (including reports of success or failure of such trials, and alternative plans proposed to address any implementation delays or adverse results from trials of alternatives);**
2. **If pending registration of an alternative was identified as a reason for the exemption in the original exemption application, the progress achieved towards achieving registration of the product;**
3. **Where recommendations made by the Methyl Bromide Technical Options Committee/Technology and Economic Assessment Panel in regard to their applications were adopted in a decision of the Meeting of the Parties, progress in addressing those recommendations;**
4. **Where an exemption is based on the economic infeasibility of alternatives, confirmation that the market factors used to demonstrate economic infeasibility identified in the original application have not subsequently varied; or, if they have varied, advice on such changes;**
5. **Where applicable, advice of any reduction in the number of hectares/cubic metres to which methyl bromide was proposed to be applied in the original application.**

1. **Implementation of the Parties' Mandate on Continued Efforts to Find Alternatives**

In order for an applicant to qualify for an exemption, they must demonstrate their commitment to finding technically and economically viable alternatives and achieving a transition to the use of alternatives. In particular, Decision IX/6 requires the following of an exemption application:

"It is demonstrated that an appropriate effort is being made to evaluate, commercialize and secure national regulatory approval of alternatives and substitutes... Non-Article 5 Parties must demonstrate that research programmes are in place to develop and deploy alternatives and substitutes. Article 5 Parties must demonstrate that feasible alternatives shall be adopted as soon as they are confirmed as suitable to the Party's specific conditions..."

It is proposed that applicants should report on their ongoing progress in implementing this mandate. The nature of information required would vary according to the specific actions that had been outlined in each application, but generally could consist of basic mandatory elements:

- (a) **Confirmation of implementation by the applicant of any trials or other transitional activities identified in their original application;**
- (b) **Description of actions planned to address any implementation delays;**
- (c) **Reporting of the results of such trials or other activities (such as yield results achieved with the alternative in comparison those achieved through methyl bromide treatment), including copies of formal trial reports where available;**

⁶ As contained on pages 1–5 of conference room paper UNEP/OzL.Pro.15/CRP.13.

- (d) **A summary of the implication of the trial/activity results and outcomes, and of how they would impact on the need for a critical-use exemption (in some cases, this could include confirmation of the ongoing need for methyl bromide, but of a lower quantity than that requested in the original application); and**
- (e) **Where trials of alternatives identified in the applicant's original transition plan had been conducted but yielded negative results, details of any alternative treatments or trials subsequently considered and proposed variations to implementation plan, as appropriate.**

In relation to point (c), it should be noted that formal trial reports may not be available where an applicant's efforts focus on grower trials. In such circumstances, the applicant could include in their report a description of all relevant parameters of the trials that are available. These could include items such as soil and climate types in which they were conducted, plant-back times observed, the rate of methyl bromide/alternatives application (kg/hectare, or kg/m³), the proportionate mix of methyl bromide/chloropicrin, etc.

2. Registration of an alternative

Where an applicant has identified that an alternative was not yet registered at the time of the original application's submission, but was intended to be subsequently registered, the applicant should report on the progress of the alternative through the registration process. Similarly, where an alternative was de-registered subsequent to submission of the original application, the applicant would also report on this development, and its impact (if any) on the applicant's transitional plan.

Where applicable, this may include advice on any agreement from the nominating Party's relevant government authority to prioritize or "fast-track" the registration of the alternative. However, it should be noted that such "fast-tracking" may not be an available option in some countries.

It should also be noted that progress in registration of a product will often be beyond the control of an exemption applicant, as the registration application and process must be undertaken by the manufacturer or supplier of the product. In such cases, any delay in the seeking of a product's registration should not be attributed to the exemption applicant, and should not impact on their eligibility for an exemption.

3. Implementation of Methyl Bromide Technical Options Committee/Technology and Economic Assessment Panel recommendations

For many of the exemption applications submitted in 2003, the Methyl Bromide Technical Option Committee and the Technology and Economic Assessment Panel have recommended that applicants should explore either:

- options for reducing the quantity of methyl bromide required, or
- the use of particular alternatives not originally identified by the applicant as part of their transitional plan.

Applicants subject to such recommendations were requested to respond through the nominating Party to the Methyl Bromide Technical Option Committee and the Technology and Economic Assessment Panel by September. In some cases, it may be that the applicants' initial responses will result in the recommendations not being pursued further (for example, where an applicant can demonstrate that a recommendation cannot be applied to the applicant's specific circumstances).

In other cases, an applicant may advise in their response that they require further time in which to determine the applicability of a recommendation (for example, where a potential alternative identified by the Methyl Bromide Technical Option Committee requires assessment and/or trialing by the applicant to determine its relative applicability to their own specific circumstances). In such cases, the applicant could report on their further exploration of the recommendation as part of their annual reporting.

- (a) **Where this further exploration took the form of trialing of an alternative, the reporting would be consistent with the parameters outlined in Section 1 above.**

- (b) Where it related to an assessment of the economic viability of a recommended option, the reporting would be required to address the relevant economic data points identified for original applications set out in Section 3 of the critical-use exemption Handbook.**

Alternatively, an applicant may advise that they require further time in which to actually implement a recommendation, and that this implementation will have only a gradual effect on their eligibility for an exemption, or on their exemption quantity (for example, where a recommendation has focused on the use of virtually impermeable films (VIFs), but the availability of such films to the applicant is limited, and they require sufficient time in which to source, import and/or apply them).

- (c) In such circumstances, annual reporting would include information on the applicant's implementation of the recommendation. This would include any technical, economic or practical obstacles arising to prevent or delay such implementation. Information on technical or economic obstacles should, where applicable, refer to relevant data points identified for assessment of economic and technical viability identified in Section 3 of the Handbook.**

4. Variations in economic feasibility

Where an application has focused on economic infeasibility of an alternative, the applicant would have clearly stated the data points on which the economic infeasibility determination was established.

These factors can be subject to change over time, and it is possible that fluctuations in such factors could impact on the applicant's claims that an alternative is not economically viable.

Where an application has been approved on the basis of economic infeasibility of an alternative, the applicant should report on any significant changes to the data points used in the analysis which served as the basis for economic infeasibility. This will undoubtedly include:

- (a) The purchase cost per kilogram of methyl bromide and of the alternative;**
(b) Gross and net revenue with and without methyl bromide, and with the next best alternative.

5. Reduction in quantity of methyl bromide required

Section 3.1 of the Handbook requests pre-plant applicants to provide information on the number of hectares to be treated with methyl bromide. (There is no comparable requirement for post-harvest/structural applicants, although presumably the same intent applies: to allow confirmation of the quantity of methyl bromide requested in an application.)

In some cases, it is possible that the number of growers represented in a pre-plant application could vary over time, with a resultant change in the number of hectares proposed to be treated with methyl bromide. Where such a change resulted in a lower number of hectares requiring treatment than that identified in the original application, the quantity of methyl bromide required for the exemption would also reduce.

- (a) Applicants should therefore confirm that their number of hectares or fumigation facilities identified in their original application has not changed. Where the number has been reduced, the applicant should quantify the resultant reduction in the quantity of methyl bromide nominated in the exemption.**