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OPEN-ENDED WORKING GROUP OF THE PARTIES TO
THE MONTREAL PROTOCOL ON SUBSTANCES THAT
DEplete THE OZONE LAYER
Twentieth meeting
Geneva, 11-13 July 2000
Item 11 of the provisional agenda *

OTHER MATTERS

Adjustments to the Montreal Protocol on Substances that
Deplete the Ozone Layer - adjustments relating to the
controlled substance in Annex E

Proposal by Canada, Finland, Switzerland and the United
Kingdom of Great Britain and Northern Ireland

1. Canada, Finland, Switzerland and the United Kingdom have drawn the attention of the secretariat to an unintended consequence of a technical drafting error in the adjustments to Article 2H of the Montreal Protocol agreed at the Eleventh Meeting of the Parties, in Beijing, and would like to recommend that the error be brought to the attention of the meeting of the Open-ended Working Group of the Parties with a view to correction by means of a decision at the Twelfth Meeting of the Parties (a "Ouagadougou Adjustment").

2. In essence, they note that paragraphs 3 and 4 of Article 2H should have been redrafted in relation to the issue of basic domestic needs to cover the

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period before 2005, whereas the adjustment adopted in Beijing addressed this issue starting only at paragraph 5. Furthermore, they note that the figure that appeared in paragraph 1 of the Beijing Adjustment for Article 2H was 15%. In their view, this figure should have been 10% to be consistent with the rest of Article 2H. They understand that inserting 10% instead of 15% could be viewed as slightly more than a rectification of a technical error. They believe, however, that the use of 15% as a figure appears to be an unintended consequence of a technical drafting error, hence the suggestion to revert to the 10% figure.

3. They are of the view that the issue is one of drafting precision rather than substance. They recommend that this issue be put to the meeting of the Open-ended Working Group in July 2000 as a technical error that should be rectified by means of a decision at the Twelfth Meeting of the Parties.

4. They explain that:

- (a) In legal terms, the adjustments adopted in Beijing would work as written;
- (b) No change of substance is being suggested;
- (c) The alteration is merely a matter of presentation to ensure that each paragraph of Article 2H is - in the usual way - self-contained in terms of its timing.

The proposed further adjustment to Article 2H as adjusted in Beijing appears in the annex.

Annex

ADJUSTMENTS TO THE MONTREAL PROTOCOL ON SUBSTANCES
THAT DEplete THE OZONE LAYER

Proposed adjustments relating to the controlled substance in annex E

Article 2H: Methyl bromide

1. The third sentence of paragraph 3 of Article 2H of the Protocol shall be replaced by the following sentence:

However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may, until 1 January 2002, exceed that limit by up to ten per cent of its calculated level of production in 1991; thereafter, it may exceed that limit by a quantity equal to the annual average of its production of the controlled substance in Annex E for basic domestic needs for the period 1995 to 1998 inclusive.

2. The third sentence of paragraph 4 of Article 2H of the protocol shall be replaced by the following sentence:

However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may exceed that limit by a quantity equal to the annual average of its production of the controlled substance in Annex E for basic domestic needs for the period 1995 to 1998 inclusive.

3. The third sentence of paragraph 5 of Article 2H of the Protocol shall be replaced by the following sentence:

However, in order to satisfy the basic domestic needs of the Parties operating under paragraph 1 of Article 5, its calculated level of production may not exceed eighty per cent of the annual average of its production of the controlled substance in Annex E for basic domestic needs for the period 1995 to 1998 inclusive.

4. Paragraph 5 bis of Article 2H of the Protocol shall be repealed and paragraph 5 ter of that Article shall be renumbered 5 bis.
