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OPEN-ENDED WORKING GROUP OF THE PARTIES TO  
THE MONTREAL PROTOCOL ON SUBSTANCES THAT  
DEplete THE OZONE LAYER

Twenty-first meeting

Montreal, 24-26 July 2001

**SUMMARY OF THE ISSUES ON THE AGENDA**

Note by the Secretariat

Introduction

1. The present note provides for discussion the issues related to items 3, 4, 5, 6, 7, 8, 9, 10, 11 and 12 of the provisional agenda for the twenty-first meeting of the Open-ended Working Group (UNEP/OzL.Pro.WG.1/21/1). Recommendations by the Working Group on the agenda items will be submitted to the Thirteenth Meeting of the Parties to the Montreal Protocol, to be held in Sri-Lanka in October 2001. Items 4, 5, 6, 7 and 8 summarize the issues addressed in the 2001 report of the Technology and Economic Assessment Panel, which has been communicated to all Parties. It is important that the Parties study the full report of the Panel for its valuable suggestions, which are not repeated in the present summary.

Item 3: Terms of reference for the study on the 2003-2005 replenishment of the Multilateral Fund for the implementation of the Montreal Protocol

2. A decision by Parties on the process and mechanism for replenishment of the Multilateral Fund for the period 2003-2005 needs to be taken this year along with terms of reference for any studies that may be deemed necessary to facilitate the process. The Secretariat is presenting this matter for discussion and any possible guidance to the Parties to take an appropriate decision at the Thirteenth Meeting of the Parties. Previous decisions of the Parties on replenishment of the Multilateral Fund taken in 1993, 1995 and 1999 were preceded by studies, the last two having been carried out by the Panel with specific terms of reference on the projected needs of the Parties operating under Article 5 for the triennium period in question.

Item 4: Report of the Technology and Economic Assessment Panel on any new ozone-depleting substances of which it may be aware (Decision IX/24, para.4)

3. Decision IX/24 requested the Technology and Economic Assessment Panel to report to each ordinary Meeting of the Parties on any new substances with a significant ozone-depleting potential (ODP). A short report on n-propyl bromide (nPB) was prepared by the Solvents Technical Options Committee and

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included in the 2000 Technology and Economic Assessment Panel report. Decision X/8 further requests the Technology and Economic Assessment Panel and the Science Assessment Panel, taking into account, as appropriate, assessments carried out under decision IX/24, to collaborate in undertaking further assessments in order to determine whether substances such as n-propyl-bromide (nPB), with a very short atmospheric life time of less than one month, pose a threat to the ozone layer. The 2001 Technology and Economic Assessment Panel report contains information on the upper bound limits to the geographical dependent emission of nPB in the near future, which can be used by the Scientific Assessment Panel for further evaluation.

Item 5: Report of the Scientific Assessment Panel and the Technology and Economic Assessment Panel on the criteria to assess the ozone-depletion potential (ODP) of new chemicals and a guidance paper on mechanisms to facilitate public private sector cooperation in the evaluation of the potential ODP of new chemicals in a manner that satisfies the criteria to be set by the Panels (Decision XI/9, para. 3)

4. The Technology and Economic Assessment Panel recalls Decision XI/20 on procedures for new substances, that refers to previous decisions on the same issue, namely, IX/24 and X/8, and by which the Eleventh Meeting of the Parties sought to continue giving full consideration to ways of expediting the procedure for adding new substances and their associated control measures to the Protocol and for removing them.

5. The Panel also recalls decision XI/19 on the assessment of new substances, that requests the Scientific Assessment Panel and the Technology and Economic Assessment Panel to develop criteria to assess the potential ODP of new chemicals and to develop a guidance paper on mechanisms to facilitate public-private sector cooperation in the evaluation of the potential ODP of new chemicals in a manner that satisfies the criteria set by the Panels.

6. As a starting point, the Technology and Economic Assessment Panel is considering the following assessment process:

(a) Require developers of new substances with likely ODPs (substances containing chlorine or bromine and with certain other physical and chemical properties, to be decided after consulting the Scientific Assessment Panel and chemical researchers) to disclose to the Ozone Secretariat their likely ODPs based on standard scientific modelling;

(b) Prohibit (phase-out immediately) all such substances with a modelled ODP greater than a specific threshold to be determined by the Parties;

(c) Request the Technology and Economic Assessment Panel and the Scientific Assessment Panel to review substances nominated by Parties. The Technology and Economic Assessment Panel review could investigate potential uses and determine any environmental, health, or economic advantages or disadvantages of the new substance;

(d) Use the Montreal Protocol adjustment mechanism to authorise use of certain substances following review by the Scientific Assessment Panel and the Technology and Economic Assessment Panel.

7. The Technology and Economic Assessment Panel plans to meet with members of the Scientific Assessment Panel at the twenty-first meeting of the Open-ended Working Group to further elaborate the evaluation of potential ODPs of new chemicals in a manner that satisfies the criteria set by the Panels.

8. The meeting may wish to discuss the above.

Item 6: Report of the Technology and Economic Assessment Panel and the Executive Committee of the Multilateral Fund on the progress made in reducing emissions of controlled substances process-agent uses and on the implementation and development of emissions –techniques and alternative processes not using ozone-depleting substances (Decision X/14, para. 8)

9. In response to the request in decision X/14, paragraph 8 for the Technology and Economic Assessment Panel to report to the Meeting of the Parties in 2001 on the progress made in reducing emissions of controlled substances from process-agent uses and on the implementation and development of emissions-reduction techniques and alternative processes not using ozone-depleting substances (ODS) and to review tables A and B of this decision, the Technology and Economic Assessment Panel reconstituted in 2001 the Process Agents Task Force. The report of the Task Force, included in the 2001 Technology and Economic Assessment Panel report, covers the progress made in reducing emissions of controlled substances from process-agent uses and on the implementation and development of emissions-reduction techniques. The report also covers alternative processes not using ODS and a review of Tables A and B of decision X/14. The Technology and Economic Assessment Panel assumes that the review by itself and the Task Force should be limited to the non-Article 5 (1) Parties to avoid conflict with the instructions in decision X/14 to the Multilateral Fund.

10. In response to the request in decision X/14, paragraph 8 for the Multilateral Fund to report to the Thirteenth Meeting of the Parties on the same issue as the Technology and Economic Assessment Panel, the Multilateral Fund has prepared a separate 2001 Report to the Parties that describes the current process-agent uses in Article 5 (1) countries and also reports on the progress in financing the incremental costs of reducing and eliminating those emissions.

11. The Task Force notes in its report that most Parties have yet to report process-agent uses and emissions. Decision X/14, paragraph 4 requested all Parties to report to the Ozone Secretariat by 30 September 2000, but, as of April 2001, the Secretariat had received only 17 reports, four from non-Article 5 (1) Parties, three from countries with economies in transition and 10 from Article 5 (1) Parties. Most reports lacked sufficient detail to allow a meaningful evaluation.

12. The Panel noted that precise accounting of actual emissions is much more difficult than Parties may recognize, because estimates are based on engineering calculations using process assumption, chemical process yields vary over time and equipment failure and leaks result in unmonitored emissions.

13. The Panel also noted that ODS process agents are reported to be used by fewer than 10 Parties to produce intermediate and final products that are globally marketed for uses important to health, safety, environmental protection and economic prosperity. Products and processes depending on ODS process agents include human and animal drugs, pesticides, corrosion inhibitors, water purification, plastic armour, asbestos-free brake and clutch plates and chlorine.

14. The Task Force estimates that 4,000 – 5,000 tonnes of ODS are used annually in process-agent applications in the non-Article 5 (1) Parties as what is termed “make-up quantity”. Plant specific annual emissions are estimated at less than 250 tonnes – less than 7 per cent of make-up quantity. The Task Force expectation is that in the coming 10 years, a substantial part of the use of ODS as process agents will be virtually phased-out in non-Article 5 (1) Parties. It notes that adequate technical and financial assistance will facilitate the implementation of ODS-free process technologies in the Article 5 (1) Parties.

15. With regard to table A in decision X/14, information was received on processes that are not included in table A, listed in the following table:

Table 1: Summary of processes not included in decision X/14 or submitted to the Ozone Secretariat (cont.)

Included in Decision X/14	Process	Process agent	Case study	Application	Reason used	Product use	Used in Article 5 (1)	Used in non-Article 5(1)
1 – Submitted to Ozone Secretariat	Manufacture of cyclodime	CTC	CS-26*	Solvent	Inert solvent	Extreme and adverse temperatures in aeronautic hydraulic system components	Unknown	Yes
2 – Not yet submitted to Ozone Secretariat	Chlorophenesin	CTC	No- see Chapter 5a	Unknown	Unknown	Pharmaceutical	Yes	Unknown
3 – Not yet submitted to Ozone Secretariat	Manufacture of chlorinated polypropene	CTC	No – see Chapter 5b	Solvent	Yield, quality of product	Coating materials, adhesives, silk screen inks	Yes	Unknown
4 – Not yet submitted to Ozone Secretariat	Manufacture of chlorinated EVA	CTC	No – see Chapter 5b	Solvent	Yield, quality of product	Coating materials, silk screen inks	Yes	Unknown
5 – Not yet submitted to Ozone Secretariat	Manufacture of methyl isocyanate derivatives	CTC	No – see Chapter 5b	Solvent	Inert solvent, yield, quality, safety	Pesticide	Yes	Unknown
6 – Not yet submitted to Ozone Secretariat	Manufacture of 3-phenoxyBenzyldehyde	CTC	No – see Chapter 5b	Solvent	Inert solvent, yield, quality, safety	Pesticide	Yes	Unknown
7 – Not yet submitted to Ozone Secretariat	Manufacture of 2-chloro-5-methylpyridin	CTC	No – see Chapter 5b	Solvent	Inert solvent, yield, quality, safety	Intermediate for Imidacloprid	Yes	Unknown
8 – Not yet Submitted to Ozone Secretariat	Manufacture of imidacloprid; 1-(6-chloro-3-pyridylmethyl)-N-nitroimidazoleneamine-2	CTC	No – see Chapter 5b	Solvent	Inert solvent, yield, quality, safety	Pesticide	Yes	Unknown
9 – Not yet submitted to Ozone Secretariat	Manufacture of bupropfenzin; 2-tert-butylimino-3-isopropyl-5-phenylperhydro-1,3,5-thiodiazin-4-one	CTC	No- see Chapter 5b	Solvent	Inert solvent, yield, quality, safety	Pesticide	Yes	Unknown
10 – Not yet submitted to Ozone Secretariat	Manufacture of oxadiazon; 2-tert-butyl-4-(2,4-dichloro-5-isopropoxyphenyl-1,3,4-oxadiazolan-5-one	CTC	No – see Chapter 5b	Solvent	Inert solvent, yield, quality, safety	Herbicide	Yes	Unknown
11 – Not yet submitted to Ozone Secretariat	Manufacture of ohloridized N-methylaniline	CTC	No – see Chapter 5b	Solvent	Inert solvent, yield, quality, safety	Intermediate for Bupropfenzin	Yes	Unknown
12 – Not yet submitted to Ozone Secretariat	Manufacture of mefenacet; D-(1,3-benzothiozole-2-oxy)-N-methylacetanilide	CTC	No – see Chapter 5b	Solvent	Inert solvent, yield, quality, safety	Pesticide	Yes	Unknown
13 – Not yet submitted to Ozone Secretariat	Manufacture of 1,3-dichloro-benzothiazole	CTC	No – see Chapter 5b	Solvent	Inert solvent, yield, quality, safety	Intermediate for Mefenacet	Yes	Unknown

\* Case Studies can be found at: [http://www.teap.org/html/process\\_agents\\_reports.html](http://www.teap.org/html/process_agents_reports.html)

16. With regard to table B of decision X/14, the Task Force recommended the following:

(a) In order to clarify uses of controlled substances as process agents, the Parties may wish to decide on the following definitions:

- (i) Feedstock: a controlled substance that undergoes transformation in a process in which it is converted from its original composition except for insignificant trace emissions as allowed by decision IV/12;
- (ii) Process agents: a controlled substance, that because of its unique chemical and/ or physical properties, facilitates an intended chemical reaction and /or inhibits an unintended chemical reaction;
- (iii) Make-up quantity: the quantity of controlled substance per year, needed to continue the manufacture of products in a plant due to transformation, destruction and inadvertent losses (i.e., emissions and residual amounts in final product);

(b) Parties may wish to restructure table B to require annual reporting of each ODS process-agent use and estimated emissions, but may prefer not to prescribe limits to either use or emissions. The Task Force provides technical justification for this proposed change;

(c) Parties may wish to consider that the “make-up quantity” includes the total quantity of ODS from both stockpile and new production plus estimated ODS produced in situ;

(d) Parties may wish to not require reporting of estimated emissions. The Task Force provides technical justification for this proposed change.

17. One member of the Task Force has offered a dissenting opinion to the 2001 Task Force report, which is included in the report together with the response of the Co-chair of the Task Force.

18. The meeting may wish to consider the above proposals.

Item 7: Report of the Technology and Economic Assessment Panel on assessment of the future need for halon for critical uses in light of national or regional strategies for the management of halons, including emissions reduction and alternate elimination of their use (Decision X/7)

19. Decision X/7 requested all Parties to develop and submit to the Secretariat a national or regional strategy for the management of halons, including reduction and ultimate elimination of their use.

20. The following 10 Parties not operating under Article 5 (1), Australia, Canada, Czech Republic, Hungary, Japan, New Zealand, Norway, Poland, Slovakia and United States of America, have submitted national strategies. The European Union, representing its 15 Member States, submitted a regional strategy. Eleven additional national strategies (some in the form of country plans) were received from the following Parties operating under Article 5 (1): Colombia, Ecuador, Guyana, Jordan, Republic of Korea, Kuwait, Maldives, Niger, Oman, Uruguay and South Africa.

21. The Panel presents an overview of the halon management strategies submitted by the Parties and provides an assessment of the future need for halons. Based on the quantitative information provided by three Parties and one region, it appears that in these Parties and region there is a surplus of both halon-1211 and halon-1301 in excess of the requirements for present and future critical use. The information provided, however, contained significant uncertainties. Two Parties also reported a surplus of halon-2402. The supplied data appears to confirm the Panel’s estimate of surplus halon-1211 in many of the Parties not operating under Article 5 (1). Parties therefore may wish to consider developing measures to collect and store surplus halon-1211 and proceed with the destruction of excess material.

22. Regarding halon-1301, the information supplied indicates a larger regional surplus of halon-1301 than the Panel estimated previously. The estimates provided, however, contain significant uncertainties. Parties may therefore wish to consider developing measures to collect and store surplus halon-1301 and continue to assess their future needs. Parties may also wish to consider not destroying the stored halon-1301

before all Parties, including Article 5 (1) Parties, have confirmed that they have sufficient halon-1301 to meet the future needs of their critical uses.

23. The Panel recommends that before destruction schemes for halons are implemented, a review process should be established to determine whether or not changes in the risk situation for critical uses, or the availability of fire protection solutions, have affected the original estimates for critical uses.

24. The Panel made known that it is concerned by the decommissioning of halons, and confirmed that efforts to recover halon-1211 and/ or halon-1301 will only succeed if Governments finance the collection and destruction of surplus halons.

25. The Panel also notes that for the past several years the Halon Technical Options Committee has used a computer programme to model trends of halon uses, which is based on historical trends. Two events that have taken place recently, namely the establishment of the United States military's own halon bank and the implementation of the European Union regulation EC 2037/2000, will cause the historical trends not to be a good indicator for the future. The Panel thus recommends that Parties may wish to rely upon data provided in the different halon management strategies to predict future supply for critical and essential uses.

26. The meeting may wish to discuss the above issues.

Item 8: Other issues arising out of the report of the TEAP

A. Applications for essential-use exemptions for ozone-depleting substances for the year 2002 and beyond

27. Six Parties, Australia, European Community, Hungary, Japan, Russian Federation and United States have applied in 2001 for essential-use exemptions for metered-dose inhalers (MDIs). The Panel's observations are as follows:

(a) The Australian nomination for 2001 requested a reduction in the quantities previously nominated and approved (in 2000) for 2001 and 2002. The initial nomination for 2001 and 2002 of 74.95 metric tonnes was reduced to 11 metric tonnes for each year. The Panel noted these reductions and proposed to commend Australia on its success in reducing CFC use;

(b) Regarding the European Community, the Panel noted that actual use in 2000 matched more closely the quantities nominated, and proposed to commend the European Community for continuing to reduce the quantities nominated and actually used for essential use. The 2003 nomination includes 1200 tonnes for domestic use, relating to the disparate pace of transition to non-CFC MDIs within Members States. The stockpile has increased from 2,887 tonnes in 1999 to 3,096 tonnes in 2000, but still represents less than one-year's supply. The nomination of 2,579 metric tonnes for 2003 is recommended;

(c) Regarding Hungary, the nomination for 2002 and 2003 of 1.75 metric tonnes each year is recommended;

(d) Concerning Japan, the quantity nominated for 2002 amounts to 53 per cent of that estimated to have been used in 2000. The Panel proposed to commend Japan for the continued reduction in CFC quantities used over an extended number of years. The nomination for 2002 of 45 metric tonnes is recommended;

(e) Concerning the Russian Federation, the Panel congratulated it for its decision to cease domestic CFC production as of December 2000. The Panel requested clarification regarding the quantities nominated strictly for MDI production, and recommended exemptions for 2002 and 2003 only for the MDI production;

(f) Concerning the United States, the Panel noted that the decline in CFC tonnages nominated as essential-use exemption is small and the pace of transition in the United States is slower than in most nominating Parties. The Panel also noted that the stockpile is reducing and represents a nine-month supply. The nominations for supplemental quantity of 550 tonnes for 2002 and nomination of 3,270 tonnes for 2003 is recommended.

28. Poland has nominated an essential-use exemption of 0.85 tonnes CFC-113 for the year 2002, as was requested and approved in 2001. The Panel after having carefully considered this request, recommends the essential-use exemption of 0.85 tonnes CFC-113 for 2002.

29. A nomination for an essential-use exemption for the production of quantities of halon-1211, 1301 and 2402 was received from the Russian Federation. The Halon Technical Options Committee was informed by the United Nations Environment Programme (UNEP), however, that the Russian Federation has withdrawn the nomination, in view of the fact that all halon production in the Russian Federation had ceased as of December 2000. The Russian Federation also reported that the ODS needed for 2002-2004 would be met by legal imports from abroad.

30. A summary of the recommendations is given in the table below:

Table 2: Essential-use nominations for 2002-2004 recommended by the Technology and Economic Assessment Panel for consideration by the Open-ended Working Group at its twenty-first meeting (in metric tonnes)

	2002		2003	
	CFCs	CFC-113	CFCs	CFC-113
Australia	(1)	-	-	-
European Community	-	-	2539	40
Hungary	1.50	0.25	1.50	0.25
Japan	45	-	-	-
Russian Federation	(2)	-	(2)	-
United States	550(3)	-	3270	-
Total	596.50	0.25	5800.50	40.25

Notes:

- (1) Australia reduced its essential-use nomination for CFC in 2001 and 2002 from 74.95 to 11 metric tonnes each year.
- (2) The Russian Federation requested an essential use exemption for 2002, 2003 and 2004 of 495, 465 and 445 metric tonnes respectively. The Panel recommended essential-use exemption only for 2002 and 2003 subject to clarification of the quantities strictly used for MDI production.
- (3) The United States nominated a supplemental quantity of 550 metric tonnes for 2002 (in addition to the previously approved quantity by the Parties in 2000, of 2900 metric tonnes).

B. Handbook for Essential – Use Nominations

31. Following decision V/18, and specifically in response to Decision XII/2, paragraph 10, a new “Handbook for Essential Use Nominations” has been compiled in 2001. This Handbook which augments and updates the earlier August 1997 Handbook, has been prepared separately from the 2001 Technology and Economic Assessment Panel report and published by the Ozone Secretariat.

32. The Handbook describes the nomination process for essential use exemptions as it has evolved through articles of the Protocol and decisions of the Parties; the procedures followed under the Protocol; and the experience of the Panel and its Technical Options Committees in managing the process to date. The Handbook contains three sections:

- (a) Review of the essential use process;
- (b) Instructions for the completion of essential use nominations;
- (c) Appendices. The appendices contain provisions of the Montreal Protocol, decisions of the Parties to the Protocol and an essential use nomination form.

33. The meeting may wish to discuss the above issues.

C. CFC campaign production for manufacturing CFC – MDIS

34. In response to decision XII/2, paragraph 11, the Technology and Economic Assessment Panel considered the issue of CFC campaign production for manufacturing CFC-containing metered-dose inhalers (MDIs). The Panel recommends to continue CFC production for just-in-time supply for as long as possible, and to conduct a final campaign production, if necessary, only when the end of the transition to non-CFC MDIs can be seen with greater clarity. Should a final production campaign be needed in the future, and recognizing that this could not be implemented quickly, the Parties may wish to consider changes to the legal framework of the Montreal Protocol to facilitate the final campaign production.

35. The meeting may wish to discuss the above.

D. Laboratory and analytical uses of ozone depleting substances

35. The Panel has no changes to report to the Parties from last year. It does request, however, that the Parties provide any new information on alternatives they may have identified and are now available, or on analytical methods that do not require the use of ODS. Any new development will be reported to the Parties in the 2002 Assessment.

E. Critical-use exemptions for methyl bromide

36. The Panel was requested in decision IX/6 to review nominations for critical-use exemptions of methyl bromide submitted by the Parties when their applicable dates become effective (2005 for the non-Article 5 (1) Parties and 2015 for the Article 5 (1) Parties). The recommendations regarding the nominations of the Parties should be based on the three criteria established in decision IX/6.

37. Parties that wish to lodge nominations for critical-use exemption of methyl bromide, are required by decision IX/6 to demonstrate that an appropriate effort is being made to evaluate, commercialize and secure regulatory approval of alternatives and substitutes, and that research programmes are in place.

38. In order for the Parties to authorize a critical-use exemption of methyl bromide where suitable alternatives do not exist, a nomination will need to be submitted to the Secretariat by national Governments, reviewed and recommended by, and finally considered and decided upon by the Parties. The Technology and Economic Assessment Panel operates according to the following time frame: for a critical-use exemption of methyl bromide required immediately following the phase-out (namely, 1 January 2005), nominations will need to be lodged with the Ozone Secretariat by mid-January 2003 or 2004 to allow for the consideration of the nominations by the Parties in late 2004. Assuming a consideration process by the national Governments of their nominations of six months, the initiation of research and trials of alternatives and substitutes by the national Governments should start early in 2002 in the northern hemisphere's spring treatments and in late 2002 in the southern hemisphere's spring treatments.

39. From this time frame it can be seen that the development of an appropriate framework for nominations of critical uses of methyl bromide is now urgent. The Panel offers two alternative timetables and recommends that the Technology and Economic Assessment Panel be requested now to prepare for nominations for critical use exemptions of methyl bromide under decision IX/6.

40. The meeting may wish to discuss the above issues and make appropriate recommendations.

F. Progress and developments in the control of substances

41. In decision VII/34, paragraph 5 (c), the Technology and Economic Assessment Panel was requested to report on progress and developments in the control of substances each year. This request was renewed in decision XI/17. Progress reports of five Technical Options Committees operating under the Technology and Economic Assessment Panel (namely, Aerosols, Foams, Methyl bromide, Refrigeration and Solvents) are included in the 2001 Technology and Economic Assessment Panel report.

G. Background and contact information for Technology and Economic Assessment Panel and Technology and Economic Assessment Panel members

42. The Panel presents updated information on the membership and composition of the Technology and Economic Assessment Panel and its Technology and Economic Assessment Panel. The Panel also includes, in accordance with decision VII/34, paragraph 5 (e) (iv), background and disclosure information of the Technology and Economic Assessment Panel members.

43. The meeting may wish to discuss the above.

Item 9: Options for studying issues, relating to monitoring of international trade and prevention of illegal trade in ozone-depleting substances, mixtures and products containing ozone-depleting substances (Decision XII/10, para.1)

44. At the Twelfth Meeting of the Parties, in Ouagadougou in 2000, in decision XII/10, the Parties requested the Ozone Secretariat, in consultation, as appropriate, with the Technology and Economic Assessment Panel, UNEP Division of Technology, Industry and Economics (DTIE), the discussion group on customs codes for ozone-depleting substances and international trade and customs organizations, to examine the options for a study on the issues highlighted in the decision. The issues relate to the threat of illegal trade in ODS, mixtures and products containing ODS; control of trade in ODS including universal labelling of ODS and associated products, national legislation and handling of illegally traded ODS seized on borders.

45. As a result of that decision, the Secretariat consulted with relevant bodies on possible ways to conduct the study. Based on the responses received by the Secretariat, there are three proposed options on the basis of which the Parties may wish to consider and take a decision on how the proposed study might be carried out. The three options are as follows:

(a) To request the Ozone Secretariat in consultation with the Technology and Economic Assessment Panel, the World Customs Organization (WCO), DTIE and the World Trade Organization (WTO), to undertake a study and report to the Open Ended Working Group at its twenty-third meeting in 2002 for consideration by the Parties in 2002. Under this arrangement, legal consultancy services may be needed for about three months by the Secretariat to consult widely with select countries and experts with respect to customs, trade and industrial issues to supplement the information that will be provided by the Technology and Economic Assessment Panel, WCO, DTIE and WTO;

(b) To request Technology and Economic Assessment Panel, in consultation with the Secretariat, WCO, DTIE and WTO to undertake a study and report to the Open-ended Working Group meeting in 2002 for consideration by Parties in 2002;

(c) To establish an international body (Illegal Trade Prevention Task Force) consisting of experts representing both Article 5 and non-Article 5 Parties (six members each) to be appointed by the Secretariat and approved by the Parties at their Thirteenth Meeting in Colombo, Sri Lanka. To request the Technology and Economic Assessment Panel, in consultation with the Secretariat, international organizations like WCO and DTIE to report relevant technical and economic information to the Task Force and to the Open-ended Working Group at its twenty-third meeting in 2002 for consideration by the Parties in 2002.

46. The Task Force meetings were to be arranged by the Secretariat, preferably back to back with other meetings, and the Task Force was to present its report on the issues listed under decision XII/10 at the meeting of the Open-ended Working Group of the Parties and the Meeting of the Parties in 2002. The Task Force may be split into small expert working groups on: labelling, classification and identification; differentiation between mixtures and products; handling of illegally traded substances and products; monitoring of production phase-out and closure of such facilities. Under the Task Force arrangement, consultancy services may be needed to analyse current national legislation on labelling; a feasibility study needed to define the scope and cost of a universal labelling/classification system; and a list of categories of products containing ODS created with corresponding harmonised system/coding number classification. The meeting may wish to consider these options and make a recommendation to the Parties out of the three options.

47. The Secretariat received the following specific comments from experts, some groups and Organizations on the five parts of the decision relative to the proposed study which may be taken into account while conducting the study. Most of the respondents made comments on the elements for the study without suggesting options on how the study may be carried out.

Comments received on the five parts of the decision:

- (a) Current national legislation on the labelling of ozone-depleting substances:
- (i) National legislation must follow international standards by determining national requirements and work with WTO and similar bodies to require exporters to meet these standards. At national level, countries should require products and equipment presented for sale to be labelled conspicuously;
  - (ii) A guidebook on regulations to control ozone-depleting substances published by DTIE, 1996 is a relevant publication;
  - (iii) An Enforcement Working Group and an Enforcement Assistance Officer should be established;
  - (iv) National labelling legislation would have to be developed or modified in order to develop a universal labelling and/or classification system after a decision by the Meeting of the Parties;
- (b) The need for, scope of and cost of implementation of a universal labelling and/or classification system for ODS, mixtures and products containing ODS:
- (i) This matter should be explored. If achieved, it will be the most effective for local customs authorities to control trade;
  - (ii) Consider working with the Convention on the Prior Informed Consent procedure to explore option of having ODS and products containing ODS included in the list of exports requiring prior notification for export;

- (iii) The Technology and Economic Assessment Panel might be the appropriate group to coordinate and establish sub-groups on four sets of issues:
  - a. Technical feasibility (labels, markers, identifiers, etc.) – industry and enforcement people should know what is technically possible;
  - b. Customs issues – what can customs officers actually manage in the way of identification and labelling systems, and how can they be introduced most effectively and easily- need to contact customs agencies and (WCO);
  - c. Trade/WTO related issues – contact WTO secretariat and countries that use labels already. WTO Secretariat has indicated that nothing in the decision would go against the provisions of the Technical Barriers to Trade (TBT) Agreement's labelling;
  - d. Feasibility of introduction at an international level.

Consultants like the Stockholm Environment Institute may be needed on some of these issues. Implementation of a universal system for ODS, mixtures containing ODS and products containing ODS would contribute greatly to identifying and tracking illegal trade. For used ODS and ODS-containing equipment, a ninth digit in the Harmonized System could be considered. A producer - specific marker or identification methodology would be a useful tool in tracking illegal trade in ODS, as well as in identifying counterfeit material. Hazardous waste could be a useful model.

(c) Methods for sharing experience between Parties on issues related to classification, labelling, compliance and incidents of illegal trade:

- (i) Protocols for gathering information on classification, labelling, compliance and incidents of illegal trade should be developed and channelled through UNEP clearing house for dissemination;
- (ii) This can be done by either requesting Parties to report every year and issue the reports at the Meeting of the Parties, or commission someone to collect information from Parties and then issue the report;
- (iii) The creation of an enforcement working group, or task force on the prevention of illegal ODS traffic, together with the appointment of an Enforcement Assistance Officer within the Ozone Secretariat would create a channel for the sharing of information between Parties. Useful information on this recommendation can be garnered from the activities of the Enforcement Assistance Unit within the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Such a model could be extremely useful for the Montreal Protocol process;
- (iv) A formalised Enforcement Working Group is needed to initiate progress in the five areas detailed in decision XII/10, and to ensure that information on illegal trade is disseminated at each Meeting of the Parties.

(d) Differences between products containing ODS and mixtures containing ODS:

- (i) Many mixtures are currently known and others can possibly be identified by working with producer States. Decisions IX/24; X/8; XI/19 and XI/20 are relevant on this issue;

- (ii) Since most of the products containing ODS are already known, Parties could adopt a decision similar to the ones on mixtures.

The Technology and Economic Assessment Panel should handle this and may consult with WCO. The signing of a memorandum of understanding with WCO coupled with the appointment of an Enforcement Assistance Officer to serve as a contact point within the Secretariat would assist.

(e) Possible guidance for customs authorities on how to handle illegally traded ODS. Seized illegal ODS may be sold to registered importers against their annual import quotas. The following issues should, however, be examined:

- (i) If ODS enter a country illegally and are seized, does this qualify as “imports” in the calculation of consumption?
- (ii) If the quantity of illegal import seized is added to the consumption of the country into which it is imported and the calculated consumption goes beyond the limit under the phase-out schedule, will that situation lead to non-compliance?
- (iii) Should the exporting ports have some responsibility for the seized ODS?
- (iv) What mechanisms are available to assist a Party to dispose of seized products, for instance through resale to other Parties who need supplies within Protocol limits? Could a clearing-house mechanism of “buyers” and “sellers” be created?

Destruction may be a better option than resale although a very costly one in relation to resale and adjustment of global quotation in the next few years. The Technology and Economic Assessment Panel may offer advice to the Meeting of the Parties to consider. The Montreal Protocol has been efficient in terms of enforcement. Decision XII/10 presents an opportunity to overcome some of the deficiencies.

Item 10: Review of the implementation of the fixed-exchange-rate mechanism, its impact on the operations of the Multilateral Fund including on the funding of the phase-out of ozone-depleting substances in Article 5 countries during the triennium 2000-2002. (Decision XI/6, para. 6)

48. The interim report on the review envisaged under this decision is contained in document UNEP/OzL.Pro/WG.1/21/3.

Item 11: Issues arising out of the twenty-sixth meeting of the Implementation Committee.

49. The Implementation Committee is meeting on 23 July 2001 and its President will make a presentation to the meeting on the issues discussed by the Committee.

Item 12: The need for further adjustments to the phase-out schedule for hydrochlorofluorocarbons (HCFCs) for Parties operating under paragraph 1 of Article 5 (paragraphs 24-27 of the report of the Twelfth Meeting of the Parties, UNEP/OzL.Pro.12/9)

50. The issue under this item was discussed inconclusively at the Twelfth Meeting of the Parties. A contact group facilitated by Brazil had been set up to consider a proposal that the Technology and Economic Assessment Panel be requested to study the need for further adjustments to the phase-out schedule of hydrochlorofluorocarbons for Article 5 Parties, but the contact group reported that some Parties remained in doubt about the scope, implications and usefulness of the proposed study. It was recommended by the Meeting of the Parties that the Open-ended Working Group be invited to pursue discussion of the matter at the present meeting.

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