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THIRD MEETING OF THE PARTIES TO THE  
MONTREAL PROTOCOL ON SUBSTANCES  
THAT DEplete THE OZONE LAYER

Nairobi, 19-21 June 1991

REPORT OF THE EXECUTIVE DIRECTOR

INTRODUCTION

1. The present Report covers the period from the Second Meeting of the Parties to the Montreal Protocol, held in London from the 27-29 June 1990 to 14 April 1991. The Report deals with the status of the implementation of the decisions taken at the London Meeting and the developments that have taken place at the following meetings convened under the Montreal Protocol since June 1990:

(a) Fifth Meeting of the Open-Ended Working Group on Trade, 3-5 December 1990;

(b) Ad Hoc Group of Experts on Data Reporting, 6-7 December 1990;

(c) First Meeting of the Implementation Committee, 10-11 December 1990;

(d) First Meeting of the Bureau of the Montreal Protocol, 14-15 March 1991.

I. IMPLEMENTATION OF DECISIONS

Decision II/1: Adjustments and Reductions

- To adopt in accordance with the procedure laid down in paragraph 4 and 9 of Article 2 of Montreal Protocol the adjustments and reductions of production and consumption of the controlled substances listed in Annex A to the Protocol, as set out in Annex I to the report on the work of the Second Meeting of the Parties;

Status of implementation:

2. The adjustments adopted by Parties at their Second Meeting were submitted to the Secretary-General of the United Nations in his capacity as depositary of the Montreal Protocol. The adjustments were circulated by the depositary on 7 September 1990 to all Governments by its Depositary Notification No. C.N.225.1990.TREATIES-7.

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3. In accordance with Article 2 (9) (d) of the Montreal Protocol, the adjustments entered into force for all Parties up on the expiry of six months from the date of circulation of the communication for the depositary, 7 March 1991.

4. In accordance with the decision of the Bureau of the Second Meeting of Parties to the Montreal Protocol (14 March 1991), the Secretariat will by its letter dated 3 May April 1991 bring the entry into force of the adjustments on 7 March 1991 to the attention of the Parties and requested that adequate steps be taken to conform to the adjusted control measures.

Decision II/2: Amendment

- To adopt in accordance with the procedure laid down in paragraph 4 of Article 9 of the Vienna Convention for the Protection of the Ozone Layer, the Amendment to the Montreal Protocol as set out in Annex II to the report on the work of the Second Meeting of the Parties;

Status of implementation:

5. The Amendment adopted by the Parties at their Second Meeting was submitted to the Secretary-General of the United Nations as depositary of the Vienna Convention on 16 August 1990. The depositary circulated the Amendment to all Governments on 14 November 1990 by its Depositary Notification No. C.N.246.1990.TREATIES-9. In accordance with Article 2 of the Amendment, read with Article 9 (5) of the Vienna Convention, the Amendment will enter into force on 1 January 1992, provided that at least 20 instruments of ratification, acceptance or approval of the Amendment have been deposited by States or Regional Economic Integration Organizations that are Parties to the Montreal Protocol.

6. To date, two Parties, Canada and New Zealand, have deposited their instruments of acceptance of the above-mentioned Amendment with the Secretary-General of the United Nations.

7. At its First Meeting, held on 14 March, the Bureau of the Montreal Protocol was informed that the European Economic Community (EEC) and its member States are currently taking action to ratify the Amendment. In accordance with the decisions at the Bureau Meeting, the Executive Director by letter dated 7 May 1991 will bring to the attention of both Parties and non-parties that 20 ratifications are required for the amendment to enter into force on 1 January 1992 and encouraged Governments to take steps for the early ratification of the Amendment. The Secretariat has, following a decision of the Bureau, begun issuing a monthly bulletin to Parties and non-parties informing them of the status of the ratification of Vienna Convention, the Montreal Protocol and the Amendment. The first bulletin issued under this decision contains information as of 12 April 1991.

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Decision II/3: Halons

- To establish an ad hoc working group of experts to investigate, and make recommendations to the Fourth Meeting of the Parties in 1992 on the availability of substitutes for halons, the need to define essential uses of halons, methods of implementation and, if there is such a need, the identification of such uses;

Status of implementation:

8. By his letter of 31 January 1991, the co-Chairperson of Technical and Economic Assessment Panel informed the Secretariat that the Panel had accepted responsibility to take measures under decision II/3. The co-Chairperson also informed the Secretariat that the Halons Technical Options Committee of the Technical and Economic Assessment Panel would be undertaking the work on this issue. The co-Chairpersons of the Technical and Economics Panel informed the First Meeting of the Bureau of the Montreal Protocol (14-15 March 1991) that a list of essential uses of Halons was expected to be ready by September or October 1991. The Halons Options Committee under the Technical Assessment Panel met from 18-22 March 1991.

Decision II/4: Isomers

- To clarify the definition of "controlled substance" in paragraph 4 of Article 1 of the Protocol so that it is understood to include the isomers of such substances except as specified in the relevant Annex;

Status of implementation:

9. In accordance with the decision of the First Meeting of the Bureau of the Montreal Protocol (14 March 1991), decision II/4 on Isomers has been reflected in the Montreal Protocol Handbook.

Decision II/5: Non-Compliance:

- To adopt, on an interim basis, the procedures and institutional mechanisms for determining non-compliance with the provisions of the Protocol and for treatment of Parties found to be in non-compliance, as set out in Annex III to the report on the work of the Second Meeting of the Parties;
- To extend the mandate of the open-ended Ad Hoc Working Group of Legal Experts to elaborate further procedures on non-compliance and terms of reference for the Implementation Committee and to present the results for review by the preparatory meeting to the Fourth Meeting of the Parties with a view to their consideration at the Fourth Meeting.

Status of implementation:

10. At its first meeting on 14 March 1991, the Bureau of the Montreal Protocol emphasized the need to expedite the further elaboration of non-compliance procedures as a means of ensuring compliance with the provisions of the Montreal Protocol. It took note of the fact that some

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developing countries were reluctant to become Parties in the absence of a strict mechanism to ensure compliance. The meeting recognized that non-compliance could occur in a number of different situations, including failure to report the required data. The Bureau took note of the recommendations of the Implementation Committee, which had met in Nairobi on 10 and 11 December 1990 (the Committee's report is contained in document UNEP/OzL.Pro/ImpCom/1/1/2.) It was decided that the matter of non-compliance should be placed on the agenda of the Third Meeting of the Parties to the Montreal Protocol with a view to setting a time-table for the finalization of the non-compliance procedures in time for its presentation to the Fourth Meeting of Parties to be held in 1992.

11. The First Meeting of the Implementation Committee under the Non-compliance Procedure was held in Nairobi on 10-11 December 1990 and their report is contained in document number UNEP/OzL.Pro/ImpCom/1/2. The Committee discussed in detail the non-compliance procedure adopted at the Second Meeting of Parties with a view to the establishment of its specific terms of reference. The Committee's recommendations on the terms of reference and non-compliance procedure were placed before the Ad Hoc Group of Legal Experts on Non-compliance with the Montreal Protocol for consideration during its meeting held in Geneva from 8-10 April 1991.

12. The Ad Hoc Working Group of Legal Experts met in Geneva on 8-10 April 1991 to elaborate further procedures on non-compliance and terms of reference for the Implementation Committee as required by the above decision. This meeting was followed by the second meeting of the Implementation Committee under the Non-Compliance Procedure. The outcome of these two meetings will be set out in an addendum to the present report.

13. The Implementation Committee at its first meeting also examined the reporting of data by Parties required by Article 7 of the Protocol and discussed, inter alia, the issue of possible non-compliance related to the reporting of data and the implementation of control measures. The recommendations of the implementation Committee, the status of actions taken by the Secretariat and the actions to be taken by Parties in regard to each of the recommendations are set out below:

#### Recommendations of the Implementation Committee

##### Recommendations:

14. "The Committee was encouraged by the fact that only two Parties had not responded at all to the Secretariat's requests for data, and requested the Secretariat to approach those countries again to ensure reporting prior to the next meeting of the Committee and to offer them any necessary assistance. The Committee expressed some concern that several Parties had not reported accurate data for 1986, and requested the Secretariat to approach them with a view to obtaining, at least, the best estimates of data before the Committee's next meeting, bearing in mind that several countries had requested or received assistance in that regard. The Secretariat was further requested to provide the necessary assistance to developing countries to obtain such best estimates, bearing in mind the recommendations made by the Ad Hoc Group of Experts on the Reporting of Data at its first meeting." (See paragraph 8 of the report of the meeting.)

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Status of actions by the Secretariat:

15. The Secretariat, by its letters dated 12 April 1991, requested the Parties that have not yet done so, to report the required data for 1986 and/or 1989, drawing to their attention that best estimates could be provided where actual data are not available. In the letters to the Parties that have not managed to report the required data, the Secretariat requested, as it has done in the past, information on the reasons that are preventing the Parties to provide the Secretariat with the required data so that the necessary assistance could be provided. Country-specific case studies to be conducted under the Interim Multilateral Ozone Fund should facilitate the reporting of data.

16. The Bureau of the Second Meeting of the Parties to the Montreal Protocol recognized the importance of providing consultants to assist Governments that are having difficulties in reporting and decided that such consultancy services be provided within the approved budget for the Secretariat.

Actions to be taken by the Parties:

17. To report the required 1986 data to the Secretariat if they have not done so, or to provide at least the best possible estimates, as well as to report on the difficulties so that the necessary assistance can be provided.

Recommendations:

18. "The Committee noted that the control measures in the Protocol required the Parties to freeze consumption of CFCs from 1 July 1989, whereas the reports on data submitted by the Parties covered the calendar year 1989. Hence, it was not yet possible for the Committee to judge whether the Parties were complying with the control measures. The Committee expressed its concern that only 18 Parties had reported 1989 data, but was satisfied with the improving quality of the data reports. It requested the Secretariat to strongly urge Parties to report their 1989 data without delay, but recognized the relatively late dispatch (on 11 September 1990) of the letters requesting data." (See paragraph 9 of the report of the meeting.)

Status of actions by the Secretariat:

19. The Secretariat, in its letter of 12 April 1991 requesting data, urged the Parties that are required to report the 1989 data and have not yet done so to report the data urgently.

Actions to be taken by the Parties:

20. The Parties for which the Protocol entered into force during 1989, should urgently report to the Secretariat the required 1989 data if they have not already done so.

Recommendations:

21. "The Committee also reviewed the data reported in light of the control measures set out in Article 2. It was satisfied with the fact that all

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but one Party had reported 1989 data that were lower than 1986. Hence the Committee saw no need to seek additional verification from the Parties of their compliance with the provision of the Protocol requiring them to freeze their production and/or consumption between 1 July 1989 and 30 June 1990, even if the data had been reported for the calendar year 1989. The Secretariat was, however, asked to request the one country that showed a slight increase from 1986 to confirm to the Secretariat with relevant data that it had a calculated level of production and consumption of not more than its 1986 level for the period 1 July 1989 to 30 June 1990." (See paragraph 10 of the report of the meeting.)

Status of actions by the Secretariat:

22. The Party whose 1989 data showed an increase from the 1986 data was requested by the Secretariat, in its letter of 12 April 1991, to confirm, with relevant data, that its level of production and consumption of CFCs during the period 1 July 1989 to 31 December 1989 did not increase from the 1986 level.

Actions to be taken by the Parties:

23. To comply with the control measures of the Protocol (as adjusted).

Recommendations:

24. "In the light of the figures contained in the report on data (UNEP/OzL.Pro/WG.2/1/3 and Add.1), the recommendation contained in paragraph 14 (e) of the report of the Ad Hoc Group of Experts on the Reporting of Data (UNEP/OzL.Pro/WG.2/1/4), Committee determined that the following developing countries should be temporarily categorized as not operating under Article 5, paragraph 1: Bahrain, Malta, Singapore and United Arab Emirates. All other developing countries were considered to be operating under Article 5, paragraph 1." (See paragraph 11 of the report of the meeting.)

Actions to be taken by the Parties:

25. To note the above recommendation on the categorization of the developing countries operating under paragraph 1 of Article 5.

Recommendations:

26. "The Committee requested the Secretariat to approach countries that, while not constituting a regional economic integration organization, had reported data jointly, and inform them that while the Committee recognized the organizational and institutional problems they faced, it also emphasized the need for reporting by each individual party in the future." (See paragraph 12 of the report of the meeting.)

Status of actions by the Secretariat:

27. The Secretariat incorporated the above recommendation in its letter of 12 April 1991 to the relevant Parties.

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Actions to be taken by the Parties:

28. The Parties to which the issue of joint reporting apply should take note of the Committee's request. Should the relevant Parties intend to operate as a regional economic integration organization, these Parties must inform the Secretariat, in accordance with Article 2, paragraph 8 of the Protocol, of the terms of agreement, as well as the manner of implementation.

Decision II/6: Article 19 (Withdrawal)

- To agree that the phrase "at any time after four years of assuming the obligations" in Article 19 should be understood to mean at any time after four years after a Party's obligation to comply became operative;

Status of implementation:

29. In accordance with the decision of the First Meeting of the Bureau of the Montreal Protocol (14 March 1991), decision II/6 on Withdrawal has been reflected in the Montreal Protocol Handbook.

Decision II/7: Montreal Protocol Handbook

- To invite the Executive Director to prepare as soon as possible a Montreal Protocol Handbook setting out the Protocol as adjusted, and amended and the decisions of the Parties that relate to its interpretation and other material relevant to its operation, and to update the Handbook, as necessary, after each meeting of the Parties;

Status of implementation:

30. The preparation of the Montreal Protocol Handbook is now under way and will be available for presentation at the Third Meeting of Parties to the Montreal Protocol.

Decision II/8: Financial Mechanism

- To establish for the three-year period from 1 January 1991 to 31 December 1993 or until such time as the Financial Mechanism is established, an Interim Financial Mechanism according to the following:
  1. The Interim Financial Mechanism is established for the purposes of providing financial and technical co-operation, including the transfer of technologies, to Parties operating under paragraph 1 of Article 5 of the Montreal Protocol to enable their compliance with the control measures set out in Articles 2 A to 2 E of the Protocol. The Mechanism, contributions to which shall be additional to other financial transfers to Parties operating under that paragraph, shall meet all agreed incremental costs of such Parties, in order to enable their compliance with the control measures of the Protocol. An indicative list of the categories of incremental costs is attached as Appendix I to this decision.

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2. The Mechanism established under paragraph 1 shall include a Multilateral Fund. It may also include other means of multilateral, regional and bilateral co-operation.

3. The Multilateral Fund shall:

(a) Meet, on a grant or concessional basis as appropriate, and according to criteria to be decided upon by the Parties, the agreed incremental costs;

(b) Finance clearing-house functions to:

(i) Assist Parties operating under paragraph 1 of Article 5, through country-specific studies and other technical co-operation, to identify their needs for co-operation;

(ii) Facilitate technical co-operation to meet these identified needs;

(iii) Distribute, as provided for in Article 9 of the Protocol, information and relevant materials, and hold workshops, training sessions and other related activities for the benefit of Parties that are developing countries; and

(iv) Facilitate and monitor other multilateral, regional and bilateral co-operation available to Parties that are developing countries; and

(c) Finance the secretarial services of the Multilateral Fund and related support costs.

4. The Multilateral Fund shall operate under the authority of the Parties who shall decide on its overall policies.

5. The President of the Second Meeting of the Parties shall ensure that the Executive Committee establishes, with effect from 1 January 1991, an "Interim Multilateral Fund for the Implementation of the Montreal Protocol" and draws up the financial regulations and rules of the Fund.

6. The Parties hereby establish an Executive Committee to develop and monitor the implementation of specific operational policies, guidelines and administrative arrangements, including the disbursement of resources for the purpose of achieving the objectives of the Multilateral Fund. It is established for a three-year period. Before the end of that three-year period, the terms of reference of the Executive Committee shall be reviewed by the meeting of the Parties. The Executive Committee shall discharge its tasks and responsibilities specified in its terms of reference as agreed by the Parties, with the co-operation and assistance of the International Bank for Reconstruction and Development (World Bank), the United Nations Environment Programme, the United Nations

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Development Programme, or other appropriate agencies depending on their respective areas of expertise. The members of the Executive Committee, which shall be selected on the basis of a balanced representation of the Parties operating under paragraph 1 of Article 5 and of the Parties not so operating shall be endorsed by the Parties. The terms of reference of the Executive Committee are attached as Appendix II to this decision.

7. The Multilateral Fund shall be financed by contributions from Parties not operating under paragraph 1 of Article 5 in convertible currency or, in certain circumstances, in kind and/or in national currency, on the basis of the United Nations scale of assessments as set out in Appendix III to this decision. Contributions by other Parties shall be encouraged. Bilateral and, in particular cases agreed by a decision of the Parties, regional co-operation may, up to twenty per cent and consistent with any criteria specified by decision of the Parties, be considered as a contribution to the Multilateral Fund, provided that such co-operation as a minimum:

- (a) Strictly relates to compliance with the provisions of the Protocol;
- (b) Provides additional resources; and
- (c) Meets agreed incremental costs.

The terms of reference of the Multilateral Fund are attached as Appendix IV to the present decision.

8. The Parties shall decide upon the programme budget of the Multilateral Fund for each fiscal period and upon the percentage of contributions of the individual Parties thereto.

9. Resources under the Multilateral Fund shall be disbursed with the concurrence of the beneficiary Party.

10. Decisions by the Parties under this decision shall be taken by consensus whenever possible. If all efforts at consensus have been exhausted and no agreement reached, decisions shall be adopted by a two-thirds majority vote of the Parties present and voting, representing at least a majority of the Parties operating under paragraph 1 of Article 5 present and voting and at least a majority of the Parties not so operating present and voting.

11. The Financial Mechanism set out in this decision is without prejudice to any future arrangements that may be developed with respect to other environmental issues.

12. References to dollars (\$) in the appendices to this decision are to United States dollars.

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Status of implementation:

31. The Executive Director has secured the approval of the Secretary-General of the United Nations to the establishment of the Interim multilateral Ozone Fund in UNEP in accordance with the financial rules and regulations of the United Nations and to its administration by the Executive Director. The account established in UNEP would receive contributions to the Interim Multilateral Ozone Fund and would make transfers from it according to the directives of the Executive Committee. No additional charge would be required by UNEP operating as "treasurer" of the Fund and all associated costs would be covered by its overhead charge assessed against the funds that it receives in its role as one of the implementing agencies. The Fund became effective on the date specified by the Parties, i.e., 1 January 1991.

32. The Fund Secretariat, co-located with UNEP, has been established in Montreal. The Executive Committee accepted the offer of the Government of Canada to cover any additional costs of locating and operating the Secretariat in Canada relative to costs associated with UNEP headquarters. The Chief Officer of the Fund Secretariat has been appointed by the Executive Director upon the recommendation of the Executive Committee.

33. The agreement between the three implementing agencies (the World Bank, UNDP and UNEP) was concluded in November 1990 and the final version signed in March 1991.

Decision II/8 A: Budget for the Fund Secretariat

- To adopt the provisional budget for the Fund Secretariat as attached in Annex V of the report on the work of the Second Meeting of the Parties and to request the Executive Committee of the Parties to present to the Third Meeting of the Parties a revised version of the budget in the light of the experience gained during its implementation;

Status of implementation:

34. Please see Report of the Executive Committee that will be presented to the Parties under agenda item 6.

Decision II/8 B: Acceptance of Offer of Canada

- To accept the offer of Canada:
  - (a) To host the Executive Committee meetings as necessary during the interim period;
  - (b) To support participation of developing countries in those meetings; and
  - (c) To assume the administrative costs of those initiatives.

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Status of implementation:

35. In accordance with this decision, the Government of Canada hosted the First and Second Executive Committee Meetings held on 19-21 September and 17-19 December and supported the participation of developing countries at these meetings and assumed administrative costs of those initiatives. The Executive Director expressed his deep appreciation to the Government of Canada for their generous contribution.

Decision II/9: Data Reporting

- To establish an ad hoc group of experts to consider the reasons leading to the difficulties faced by some countries in reporting data as required by Article 7 of the Protocol and to recommend possible solutions to the Parties concerned and to report on its progress to the Third Meeting of the Parties; and
- To confirm that any data on consumption of the controlled substances that are submitted to the Secretariat as required by Article 7 of the Protocol are not to be confidential;

Status of implementation:

36. The Ad Hoc Group of Experts on the Reporting of Data established by this decision held its first meeting from 6-7 December 1990 in Nairobi. The report of the meeting is contained in document UNEP/OzL.Pro/WG.2/1/4. The recommendations and conclusions of the Group of Experts, the status of actions taken by the Secretariat and the actions to be taken by Parties in regard to each of the recommendations and conclusions are set out below:

Recommendations of Ad Hoc Group of Experts

Problems faced by some Parties in reporting data and possible solutions to those problems

Recommendations:

37. "The following different options for facilitating data reporting were identified:
- (a) Import control with the help of custom regulations and the Harmonized Commodity System codes;
  - (b) Licensing of imports and exports of controlled substances;
  - (c) Legislation on the reporting of data;
  - (d) A special survey of consumption carried out by a consultant or official body, preferably with the co-operation of industry;
  - (e) A special survey of data as a part of a country study in a developing country;

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(f) An international panel of manufacturing companies which can supply data for larger regions consisting of many countries." (See paragraph 12 of the report of the meeting.)

The Group of Experts concluded that Parties should not rely solely on the Harmonized Commodity System for gathering data now or in the near future.

For developing countries the best way of gathering data was generally to have special surveys carried out. Special legislation and licensing was thought to be more difficult to implement in the short run. There would, however, be a need for legislation in order to comply with the control measures of the Montreal Protocol." (See paragraph 13 of the report of the meeting.)

Actions to be taken by the Parties:

38. The Parties that are faced with difficulties in reporting the required data may wish to consider utilizing the possible options identified above, for facilitating the required reporting of data.

Under the sub-heading "Recommendations" the following were listed:

Recommendations:

39. "The UNEP secretariat should gather and distribute experience in data collection in countries that have successfully fulfilled the task, focusing especially on developing countries (such experience is readily available from Fiji and Kenya, and also from the United States)." (See paragraph 14 (a) of the report of the meeting.)

Status of actions by the Secretariat:

40. In its letter of 12 April 1991 requesting the Parties to report data as required by Article 7 of the Protocol, the Secretariat requested from the Parties that have reported complete data information on experience in data collecting.

Recommendations:

41. "The UNEP secretariat should compile and distribute a list of trade names of chemical products, including mixtures containing controlled substances." (See paragraph 14 (b) of the report of the meeting.)

Status of actions by the Secretariat:

42. In light of the fact that the task would be most efficiently handled by expert(s) in the field of technology and chemistry having contacts with manufacturers and distributors of the chemical products in question, the Secretariat suggests that the Technical and Economic Assessment Panel could be requested to compile such a list.

Action to be taken by the Parties:

43. The Parties may wish to consider the suggestion of the Secretariat that

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the task could be undertaken by the Technical and Economic Panel.

Recommendations:

44. "Substances listed in Annexes B and C should be taken into account by the Customs Co-operation Council in its revision of the Harmonized Commodity System. This process has already been initiated by the UNEP secretariat." (See paragraph 14 (c) of the report of the meeting.)

Status of actions by the Secretariat:

45. The Ozone Secretariat informed the Customs Co-operation Council by its letter of 17 October 1990 of this decision by the Parties and requested the Council's assistance. The Ad Hoc Group of Experts on the Reporting of Data, which met in Nairobi from 6-7 December 1990, recommended that substances listed in Annexes B and C of its report (UNEP/OzL.Pro/WG.2/1/4) should be taken into account by the Customs Co-operation Council in its revision of the Harmonized Commodity System. The recommendation of the Working Group has been forwarded to the Customs Co-operation Council for early action.

Recommendations:

46. "In the country studies carried out under the Interim Multilateral Fund, a special effort should be made to involve local experts and authorities in order to facilitate further reporting during subsequent years." (See paragraph 14 (d) of the report of the meeting.)

Status of actions by the Secretariat:

47. By its letter of 28 March 1991, the Secretariat has brought the above recommendation to the attention of the Chief Officer of the Secretariat for the Interim Multilateral Ozone Fund. The Secretariat requested the Chief Officer to bring this to the attention of the Executive Committee as appropriate.

Recommendations:

48. "In view of the fact that only a few developing countries have reported complete data on their production, imports and exports of controlled substances, the Secretariat, as an interim measure, had temporarily categorized some developing countries as operating under Article 5, paragraph 1. Developing countries should inform the Ozone Secretariat of any difficulties they face in reporting data, so that suitable measures can be taken to rectify the situation. Developing countries with a per capita consumption figure which the Secretariat estimates to be below 0.3 kg should be able to meet their obligation to report 1986 data by reporting to the Secretariat that they accept the Secretariat's estimate." (See paragraph 14 (e) of the report of the meeting.)

Status of actions by the Secretariat:

49. The Secretariat will undertake the task of estimating per capita consumption for the developing countries that have not reported data. When the task is completed, the Secretariat will inform the developing countries

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that have reported that no data are available, the estimated figure of consumption for the country.

Recommendations:

50. "Countries with free trade zones inside their territory should make a special effort to include consumption figures for those zones in their data reporting." (See paragraph 14 (f) of the report of the meeting.)
51. "The quantities of controlled substances used for refilling refrigeration and fire-extinguishing systems in ports should be included in the consumption figure of the country with jurisdiction over the port." (See paragraph 14 (g) of the report of the meeting.)

Action to be taken by the Parties:

52. To take note of recommendations cited in paragraphs 50 and 51 above.

Recommendations:

53. "The Group of Experts considered the issue of trans-shipment in response to a request made by the fifth meeting of the Open-ended Working Group of the Parties to the Montreal Protocol, and in view of the fact that the parties had taken no firm position in earlier meetings on definitions of export and import. The Group recommended that the country of origin should be regarded as the exporter, and the country of final destination the importer. That would apply in cases of trans-shipment (as opposed to imports and subsequent re-exports) through a third country. For such cases the responsibility for reporting data would lie with the country of origin as the exporter and the country of final destination as the importer. Cases of import and re-export should be treated as two separate transactions; the country of origin would report shipment to the country of intermediate destination, which would subsequently report import from the country of origin and export to the country of final destination, and the country of final destination would report the import." (See paragraph 14 (h) of the report of the meeting.)

Action to be taken by the Parties:

54. To take note of the content of the above recommendation. The Parties may wish to adopt this recommendation as a clarification under Article 7 of the Protocol.

Recommendations:

55. "It has been reported that some developing countries have not been able to purchase adequate quantities of controlled substances. The following recommendation was adopted by the Group of Experts as a provisional text for discussion in capitals:

In the light of the situation mentioned above, some manufacturers of controlled substances in countries Parties to the Protocol may wish to use the provision for production to be increased by up to 10 per cent to meet the basic domestic needs of Article 5, paragraph 1 countries. Before they do so, they must obtain confirmation from

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the Article 5, paragraph 1 country that such production is for basic domestic needs, and they must obtain approval from their national Government certifying that controlled substances can be produced within the national limit including the 10 per cent allowance. The Government of the exporting country must submit the chemical name, quantity and destination to the Secretariat as part of the required reporting, indicating that the shipment is for the basic domestic needs of Article 5, paragraph 1 countries." (See paragraph 14 (i) of the report of the meeting.)

Action to be taken by the Parties:

56. To consider the above recommendation with a view to adopting it as one of the recommended means to facilitate the utilization of 10 per cent (or in some cases 15 per cent) of allowable production increase for the purpose of satisfying the basic domestic needs of Article 5, paragraph 1 countries.

Confidentiality of data with regard to data on production, imports and exports

Recommendations:

57. "The Group of Experts recommended that the production data for each substance should be reported as public data where possible, while not compromising existing confidentiality agreements under national law or undertakings given by Governments as a condition of receiving corporate data." (See paragraph 17 of the report of the meeting.)
58. "The Group of Experts requested the Secretariat to ask whether producers of controlled substances would be willing to report export and destination data to a third party accounting firm that could combine and report trade data in such a way as to serve the management needs of parties in their efforts to protect the environment while protecting the confidentiality of corporate data. Such data might be particularly useful in determining imports to developing countries." (See paragraph 18 of the report of the meeting.)

Status of actions by the Secretariat:

59. In its letter of 30 April 1991, the Secretariat has incorporated the question of whether the producers of controlled substances would be willing to report export and destination data to a third party accounting firm that could combine and report trade data in such a way as to serve the management needs of Parties.

Actions to be taken by the Parties:

60. To note the recommendation regarding the reporting of production data for each substance as public data where possible.

Reporting formats under the amendment to the Protocol

Recommendations:

61. "The Group of Experts suggested the following improvements to the

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reporting formats which were provided to the meeting  
(UNEP/OzL.Pro/WG.2/1/3/Add.1, Annex II):

- (a) Each format should be accompanied by the stipulation that the data should be reported by weight and not multiplied by the ozone-depletion potential (ODP);
- (b) Reminders should appear on the formats that isomers should be included on each reporting;
- (c) The columns on amounts recycled and reused should be struck out;
- (d) Instructions and definitions should be included with each package of formats;
- (e) A reference number should be assigned to each form;
- (f) The formats should include reporting entries for the name, quantity and destination of controlled substances produced as part of the 10 per cent allowable increase for the purpose of satisfying the basic domestic needs of the countries operating under Article 5, paragraph 1." (See paragraph 20 of the report of the meeting.)

Status of actions by the Secretariat:

62. The Secretariat has revised the formats in accordance with the above suggestions of the Group and the revised formats are attached to this note as Annex I. A sheet on instructions and definitions will be prepared by the Secretariat. When the Amendment enters into force, these formats will be dispatched to the Parties with the letters requesting data under the Amendment to the Montreal Protocol.

Actions to be taken by the Parties:

63. The Parties may wish to consider the revised formats and suggest any further improvements they may deem necessary.

Formats for reporting data under the Vienna Convention

Recommendations:

64. "In accordance with decision 2 of the First Meeting of the Conference of the Parties to the Vienna Convention, formats were designed by the Secretariat (UNEP/OzL.Pro/WG.2/1/3/Add.1, Annex I) for biennial reporting of information as required by Annex II of the Vienna Convention. The formats were presented to the Group for comments and advice.

"The Group of Experts felt that they were too extensive and detailed; it would be very difficult to collect data in accordance with the formats, and some data might serve no useful purpose. The Group recommended that the formats be substantially simplified and corrected so as to be more descriptive in nature. It was suggested that scientists and policy makers should confirm the usefulness of the data before they were collected." (See paragraph 22 of the report of the meeting.)

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"The Group of Experts noted that the issue would be more appropriately discussed within the context of the Vienna Convention, for example during the preparatory meeting for the second meeting of the Conference of the Parties to the Vienna Convention, rather than by a body set up under the Montreal Protocol. The Group also noted that a Science Research Managers' Meeting under the Vienna Convention was scheduled to be held in March 1991." (See paragraph 23 of the report of the meeting.)

Note:

65. The issue of reporting information required by decision 2 of the First Meeting of the Conference of the Parties to the Vienna Convention was discussed by the First Meeting of the Ozone Research Managers' Meeting held in Geneva on 13-15 March 1991. Their report, which is under preparation, will be available at the Third Meeting of Parties to the Montreal Protocol. The Conference of the Parties to the Vienna Convention will consider this issue.

Decision II/10: Data of Developing Countries

- To ask the Secretariat to determine from the data available to it the exact quantities of the controlled substances required by developing countries operating under paragraph 1 of Article 5 and the possible sources of supply to assist developed countries to authorize their companies to produce the additional amounts needed within the percentages authorized by Article 2 and Articles 2 A to 2 E of the Protocol;
- To request the Secretariat to publish in its annual report on data an updated list of developing countries which, on the basis of complete data submissions, are considered to be operating under paragraph 1 of Article 5. The Secretariat shall also publish a list of developing countries that, having submitted incomplete or estimated data, appear to qualify as Parties operating under paragraph 1 of Article 5. In accordance with the provisions of Article 5 of the Protocol, no Party will be eligible for paragraph 1 of Article 5 treatment until it submits complete data to the Secretariat establishing that its annual calculated per capita level of consumption is below 0.3 kg.

Status of implementation:

66. With regard to the request to determine from the data available to the Secretariat the exact quantities of the controlled substances required by developing countries operating under paragraph 1 of Article 5, both the fifth meeting of the Open-Ended Working Group on trade issues and the first meeting of the Ad Hoc Group of Experts on the Reporting of Data noted that the Technology Review Panel had been requested to include in its work programme an analysis of the quantities of controlled substances required by Parties operating under paragraph 1 of Article 5 for their basic domestic needs, both at present and in the future, and the likely availability of such substances. Both Groups also noted that the Panel would be assisted in that task by country-specific case studies to be carried out under the Interim Multilateral Fund. The Groups also concluded that pending the completion of that work, no further action by the Ozone Secretariat was needed.

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67. The First Meeting of the Bureau of Montreal Protocol recognized the importance of the provision of consultants to assist Governments that are having difficulties in reporting the required data and decided that such consultancy services be provided within the approved budget. The Secretariat has by its letter of 28 March 1991 requested the Chief Officer of the Interim Multilateral Ozone Fund to take the necessary steps to give effect to the recommendation of the Ad Hoc Group of Experts that in the country studies carried out under the Interim Multilateral Ozone Fund, a special effort should be made to involve local experts and authorities in order to facilitate further reporting during subsequent years.

68. With regard to the list of Parties operating under paragraph 1 of Article 5, the Secretariat has included the list in the Report of the Secretariat on Data reported by the Parties in accordance with Article 7 of the Protocol. This report will be presented under agenda item 8.

Decision II/11: Destruction Technologies

- To establish an ad hoc technical advisory committee on destruction technologies and to appoint its Chairperson, who shall appoint in consultation with the Secretariat up to nine other members on the basis of nomination by Parties. The members shall be experts on destruction technologies and selected with due reference to equitable geographical distribution;
- The committee shall analyze destruction technologies and assess their efficiency and environmental acceptability and develop approval criteria and measurements. The committee shall report regularly to meetings of the Parties.

Status of implementation:

69. By its letter of 27 September 1990, Parties were requested by the Secretariat to nominate experts who could serve as members of Ad Hoc Technical Advisory Committee on Destruction Technologies.

70. To date, the following Parties have responded to the request to nominate suitable candidates to serve as members of the Committee so that in accordance with the decision of the meeting, the Chairperson, in consultation with the Secretariat could appoint nine members from nominations submitted by Governments with due reference to equitable geographical distribution. Australia, Canada, China, Federal Republic of Germany, Indonesia, Japan, Jordan, Morocco, Netherlands, Oman, Panama, Singapore, Sweden, Switzerland, Thailand, Togo, U.K., USA, USSR, Yugoslavia, Zaire and Zimbabwe. Pursuant to this decision, the Parties appointed Canada as Chair of the Committee. The Government of Canada has nominated a Chairperson.

Decision II/12: Customs Co-operation Council

- To agree with the recommendations adopted by the Customs Co-operation Council that all member administrations take actions to reflect the adopted subheadings in their national statistical

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nomenclatures as soon as possible, and to ask the Secretariat to inform the Council that the Parties, having determined that

additional subheadings for individual chemicals controlled by the Montreal Protocol would be useful in their efforts to protect the ozone layer, request the assistance of the Council in this regard.

Status of implementation:

71. By his letter dated 17 October 1990, addressed to the Director, Nomenclature and Classification, Customs Co-operation Council, Rue de l'Industrie 26-38, B-1040, Bruxelles (Belgique), the Executive Director sought the assistance of the Council once again in considering the adoption to sub-headings of each individual substance controlled by the Montreal Protocol and the Amendment to the Protocol.

72. At the first meeting of the Ad Hoc Working Group of Experts on Reporting of Data (6-7 December 1990), the Working Group recommended that substances listed in Annex B and C of its report should be taken into account by the Customs Co-operation Council in its revision of the Harmonized Commodity System (UNEP/OzL.Pro/WG.2/1/4). The above recommendation, once endorsed by the Meeting of Parties, will be referred to the Customs Co-operation Council.

73. In accordance with the decision taken at the First Meeting of the Bureau of the Montreal Protocol, the Customs Co-operation Council has been requested to provide assistance requested by the Meeting of Parties on an urgent basis.

Decision II/13: Assessment Panels

- To request the Technology Review Panel to assess, in accordance with Article 6, the earliest technically feasible dates and the costs for reductions and total phase-out of 1,1,1-trichloroethane (methyl chloroform) and to report its findings in time for consideration by the preparatory meeting to the Fourth Meeting of the Parties with a view to their consideration at that Fourth Meeting;
- To request the Secretariat to convene members of each of the four assessment panels established by the First Meeting of the Parties to review new information and to consider its inclusion in supplementary reports in time for consideration by the Fourth Meeting of the Parties, subject to a review of their mandate in the context of Article 2, paragraph 9, at the Third Meeting of the Parties;
- To request the Technology Review Panel to include in its work:
  - (a) An evaluation of the need for transitional substances in specific applications;
  - (b) An analysis of the quantity of controlled substances required by Parties operating under paragraph 1 of Article 5 for their basic domestic needs, both at present and in the future, and the likely availability of such supplies; and

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- (c) A comparison of the toxicity, flammability, energy efficiency implications and other environmental and safety considerations of chemical substitutes, along with an analysis of the likely availability of substitutes for medical uses;
- To request the Scientific Assessment Panel to include in its work:
    - (a) An evaluation of the ozone-depletion potential, other possible ozone layer impacts, and global warming potential of chemical substitutes (e.g. HCFCs and HFCs) for controlled substances;
    - (b) An evaluation of the likely ozone-depletion potential of "other halons" that might be produced in significant quantities; and
    - (c) An analysis of the anticipated impact on the ozone layer of the revised control measures reflecting the changes adopted at the Second Meeting of the Parties taking into account the current level of global participation;
  - To instruct the scientific Assessment Panel to prepare estimated data on the impacts on the ozone layer of engine emissions from high-altitude aircraft, heavy rockets and space shuttles;
  - To undertake efforts to encourage broad participation in all assessment panels by experts from developing countries;

Status of implementation:

74. All Governments were requested by the letter of the Secretariat dated 25 September 1990 to nominate experts for the Panels by 30 November 1990. Several nominations have been received from Governments in response to this request and have been communicated to the Chairpersons of the three Assessment Panels. The structure of the Panels, workplans and the timetable have been drawn up by Dr. R. Watson of the United States National Aeronautics and Space Administration (NASA), who chaired the Science Panel for the first assessment process, in consultation with UNEP. Dr. Watson, the overall co-ordinator of the second assessment process and the Chairperson of the Science Panel, has communicated the workplans and the timetable to the Chairpersons of the other two Panels: (a) Environmental Effects and (b) Technology and Economics (the Technology Panel and the Economics Panel having been merged to form one Panel).

75. The first organizational meetings of the Technology and Economics Panel were held from 17-18 January 1991 in Washington D.C. and the first organizational meeting of the Science Panel from 8-9 April, also in Washington D.C. If further adjustments and amendments to the Montreal Protocol are to be adopted at the Fourth Meeting of the Parties in 1992, the draft supplementary reports of the Panels should be ready by October 1991, so that any proposals for adjustments and amendments could be circulated to the Parties six months before the Fourth Meeting of the Parties (see Article 9 of the Vienna

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Convention, which concerns Amendment of the Convention and Protocols).

76. The reports of the three Assessment Panels are currently being prepared by the lead authors and are expected to be finalized in October 1991. This would include the summaries of the reports of the three Assessment Panels. Thereafter, the chairs of all three panels and approximately six scientists drawn from the different geographic groupings are expected to meet in early November to write the synthesis report that the Chairs expect to present to UNEP by December 1991. This time-table will enable the reports to be printed and distributed to Governments by early January 1992. Every effort will be made to advance these dates to allow discussion of the results of the Assessments by the Open-Ended Working Group of the Parties. If further amendments to the Protocol appear necessary, they will have to be circulated at least six months before the Fourth Meeting of the Parties.

77. So far, funding is inadequate for the second assessment process, including financial support for the experts to attend the meetings of the panels, printing of the reports, and translation of the reports if required. Excluding the cost of translation, which amounts to \$90,000, the necessary funding is estimated as approximately \$350,000 (\$90,000 for the cost of participation by developing country experts in the Science Panel's meetings; \$90,000 for such costs in the Technology and Economics Panel's meetings; \$70,000 for these costs in respect of the meetings of the Environmental Effects Panel's meetings; and \$100,000 for the printing of the reports.)

78. The Bureau of the Montreal Protocol at its First Meeting, held in Nairobi on 14 March 1991, decided that the participation of experts from developing countries at panel meetings and meetings of their sub-committee should be encouraged and that financial assistance should be provided for their participation.

Decision II/14: Workplans required by Articles 9 and 10 of the Protocol

- To request the Executive Committee under the Financial Mechanism and the Secretariat to take into account in their work the recommendations on workplans required by Articles 9 and 10 of the Protocol, as adopted by the third session of the First Meeting of the Open-Ended Working Group of the Parties to the Protocol.

Status of implementation:

79. In accordance with the recommendation of the Open-Ended Working Group on Workplans required by Articles 9 and 10 of the Protocol, two regional workshops have been held: one in Penang, Malaysia, from 20-23 February 1990 and one in conjunction with the World Environment Day in Mexico City from 1-4 June 1990. A third regional workshop is being planned for Africa.

80. Following the recommendation of the Open-Ended Working Group on Workplans, the Secretariat is in the process of compiling a list of appropriate experts who can be called upon to undertake consultancies when needed, especially by developing countries, particularly for providing technical assistance to comply with the Protocol. The experts will include those who participated in the Assessment Panels, the UNEP consultants and others nominated by Governments.

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81. In accordance with the recommendation of the Open-Ended Working Group on Workplans, a study on retrofitting aerosol technology has been completed by consultant and is being reviewed by other experts in the field. Similar studies should be conducted in the other areas in which controlled substances are used, plans for which will be presented for financing from the Interim Multilateral Fund.

82. The recommendations of the Open-Ended Working Group on Workplans (September 1989) have been taken into account in the preparation of UNEP's workplan for 1991 and related budget. (Please see in this connection the work programme for 1991 and its budget presented in the Report of the Executive Committee, UNEP/OzL.Pro.3/4.)

Decision II/15: Extension of the Mandate of the Open-Ended Working Group

- To continue the work of the Open-Ended Working Group of the Parties and to extend its mandate to consider, if necessary and in particular, the following topics:
  - (a) Further elaboration of any remaining details of the various components of the Financial Mechanism;
  - (b) Identification of the most appropriate modalities for the transfer of technologies designed for the protection of the ozone layer;
  - (c) Co-operation with Parties that are developing countries for the implementation of the Protocol; and
  - (d) Problems arising under the trade provisions of the Protocol, in respect of both trade between Parties and trade with non-parties, including issues related to free-trade zones; and to make recommendations to the Third Meeting of the Parties;

Status of implementation:

83. Pursuant to the above decision, the fifth meeting of the Open-Ended Working Group of Parties was convened in Nairobi from 3-5 December 1990 to consider "problems arising under the trade provisions of the Protocol, in respect of both trade between Parties and trade with non-parties, including issues related to free-trade zones."

84. The Working Group considered the current status of the implementation of Article 4 of the Montreal Protocol, as well as the planned national activities under Article 4 of the Protocol. They formulated a preliminary proposal in accordance with Article 4, paragraph 3, of the Protocol for further discussion at the next meeting of the Working Group. On the substantive matters, the Working Group considered other issues, including those related to the General Agreement on Tariffs and Trade (GATT), the supply of controlled substances to developing countries, industrial rationalization, technology transfer and intellectual property, free trade agreements between countries, free trade issues within particular countries and trans-shipment.

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85. The recommendations of the Open-Ended Working Group of the Parties, the status of the action taken by the Secretariat and the actions to be taken by the Parties in regard to each of the recommendations is set out below:

Recommendations of the Open-Ended  
Working Group

Recommendation regarding status of implementation of Article 4 of the  
Montreal Protocol and planned national activities under Article 4 of the  
Protocol

86. "The Working Group strongly urged the Parties that had not done so to implement that provision expeditiously and report on its implementation to the Secretariat." (See paragraph 6 of the report of the meeting.)

"The Working Group urged Parties to make available to the Secretariat and to other Parties any information they had on the implementation of those provisions of the Protocol." (See paragraph 8 of the report of that meeting.)

Actions to be taken by the Parties:

87. Report to the Secretariat on the implementation of Article 4. (The Secretariat has requested the Parties to provide this information in its letter of 30 April 1991.)

Recommendation regarding development of the list of products containing  
controlled substances

88. (a) On the discussion (by the Subgroup of the Working Group) of the issue of whether or not it is desirable to restrict products intended to contain CFCs and halons but shipped to market uncharged.

"It was concluded that such a restriction would certainly require modification of the Protocol. Therefore, products shipped uncharged and not containing CFCs or halons would not be restricted." (See paragraph 10 (f) of the report of the meeting.)

(b) A preliminary list of products containing CFCs or halons was drawn up by the Working Group for consideration in capitals and at the next meeting of the Working Group.

"The Working Group requested the Secretariat to circulate it as a proposed annex to the Montreal Protocol in accordance with Article 10 of the Vienna Convention for the Protection of the Ozone Layer. The Working Group noted that that would not prevent further discussion and amendment of the list prior to or at the Third Meeting of the Parties." (See paragraph 11 of the report of the meeting.)

Status of action by the Secretariat:

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89. The Secretariat circulated the report of the meeting containing the preliminary list as an annex (cover letters dated 17 December 1990). This list was circulated six months before the Third Meeting of the Parties to the Montreal Protocol to enable the Parties to adopt the list as an annex to the Protocol at that Meeting should they so wish. The adoption of the list will follow the procedure laid down in Article 10 of the Vienna Convention for the Protection of the Ozone Layer.

90. The Bureau of the Second Meeting of the Parties to the Montreal Protocol met in Nairobi on 14 March 1991 and decided, *inter alia*, to place the report of the Fifth Meeting of the Open-Ended Working Group before the preparatory meeting for the Third Meeting of the Parties for further consideration and also that the Secretariat would inform the Parties in advance that the matters raised in the report would be taken up at the preparatory meeting and the Third Meeting of the Parties. In accordance with the decision of the Bureau, the Secretariat incorporated the information in its letter of 30 April 1991 on the implementation of Article 4.

Actions to be taken by the Parties:

91. On 88 (a) above, the Parties may wish to note the conclusion and consider making a clarification under Article 4 of the Montreal Protocol on the issue.

92. On 88 (b) above, to consider the preliminary list with a view to possible adoption of the list as an annex to the Protocol at the Third Meeting of the Parties. The list will be considered further at the preparatory meeting for the Third Meeting of the Parties and the Third Meeting of the Parties.

Recommendation regarding problems arising from the provisions in Article 4

93. (a) "The Working Group requested the Secretariat to seek information from the Parties on their efforts to implement Article 4, paragraphs 5 and 6 and any difficulties they faced in implementing those paragraphs." (See paragraph 12 of the report of the meeting.)

(b) "Several delegates urged the Secretariat to establish a procedure for prompt notification of the status of ratification of the Montreal Protocol and its Amendment to all Parties." (See paragraph 13 of the report of the meeting.)

Status of actions by the Secretariat:

94. In its letter of 30 April 1991, the Secretariat requested the Parties to report to the Secretariat on their efforts to implement Article 4, paragraphs 5 and 6 and any difficulties they faced in implementing those paragraphs.

95. The Bureau of the Second Meeting of the Parties to the Montreal Protocol, at its first meeting, also addressed the issue of procedure for notification of the status of ratification of the Montreal Protocol and its Amendment to all Parties and requested the Secretariat to issue a monthly bulletin to Parties and non-parties informing them of the status of ratification of the Vienna Convention, the Montreal Protocol and the Amendment. The Secretariat sent the first of such bulletins with covering letter dated 13 May 1991.

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Actions to be taken by the Parties:

96. To report to the Secretariat on their efforts to implement Article 4, paragraphs 5 and 6, as well as any difficulties faced in implementing those paragraphs.

Recommendation regarding issues related to the General Agreement on Tariffs and Trade

97. "The Working Group concluded that there appeared to be no conflict between GATT rules and Article 4, paragraphs 1, 1 bis, 2, 2 bis and 5 to 8 and other articles of the Montreal Protocol. The Working Group further concluded that no specific conflict between GATT rules and Article 4, paragraphs 3, 3 bis, 4 and 4 bis could be identified. However, the implementation of those provisions might raise specific problems. Hence consideration of the implementation of those provisions should be undertaken with that possibility in mind." (See paragraph 14 of the report of the meeting.)

Actions to be taken by the Parties:

98. To note that difficulties may arise when implementing Article 4, especially in relation to GATT and to undertake the implementation with that possibility in mind.

Recommendation regarding issues of industrial rationalization

99. (a) "The Working Group noted that only a few developing countries had reported complete data on their production, imports and exports of controlled substances, and considered that as an interim measure producer Parties should be allowed to increase their production by up to 10 per cent of their 1986 calculated level of production so as to satisfy the basic domestic needs of those countries temporarily categorized by the Secretariat as operating under Article 5, paragraph 1." (See paragraph 18 of the report of the meeting.)
- (b) "However, to prevent such an arrangement from acting as a disincentive to the reporting of complete data, it should be based on the condition that any developing country benefiting from the arrangement should inform the Ozone Secretariat of any difficulties it faced in reporting complete data, so that suitable measures could be taken to rectify the situation. That interim arrangement should be reviewed by the Parties at their third meeting." (See paragraph 19 of the report of the meeting.)

Actions to be taken by the Parties:

100. To consider the above recommendations with a view to endorsing the interim measure suggested by the Working Group.

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Recommendation regarding free trade agreements between countries

101. (a) "The Working Group was not aware of any particular difficulties with regard to bilateral or regional free trade agreements in implementing Article 4. However, it encouraged any Parties that were experiencing or might experience conflicts between their obligations under the Montreal Protocol and their obligations under bilateral or regional trade agreements to seek to resolve those difficulties through negotiation and discussion. In that context the Working Group noted the relevant provisions of the Vienna Convention on the Law of Treaties." (See paragraph 21 of the report of the meeting.)

Actions to be taken by the Parties:

102. Any Parties that were experiencing or might experience conflicts between their obligations under the Montreal Protocol and their obligations under bilateral or regional trade agreements to seek to resolve those difficulties through negotiation and discussion.

Recommendation regarding free-trade zones within particular countries

103. "The Working Group concluded that no particular difficulties with regard to the interpretation of the Montreal Protocol appeared to arise regarding free-trade zones within a country, since such zones were under the jurisdiction of that country. It was the opinion of the Working Group that the existence of free-trade zones did not absolve Parties from complying with the Protocol. The Working Group was not aware of any specific examples of difficulties, but there might be problems relating to the reporting of data. The Working Group encouraged the Ad Hoc Group of Experts on the Reporting of the Data to address this issue." (See paragraph 22 of the report of the meeting.)

Note:

104. The Ad Hoc Group of Experts on the Reporting of Data considered the issue. (See paragraphs 50 and 51 above.)

Recommendation regarding trans-shipment

105. (a) "With regard to the trans-shipment of controlled substances, the Working Group requested the Parties to consider the problems, if any, of compliance with the Protocol caused by trans-shipment." (See paragraph 23 of the report of the meeting.)
- (b) "The Working Group also requested the Ad Hoc Group of Experts on the Reporting of Data to consider the issue of trans-shipment, and in particular to examine the relevance of the issue, the documentation available and possibilities for improving trans-shipment documentation, if necessary." (See paragraph 24 of the report of the meeting.)

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Actions to be taken by the Parties:

106. To consider the problems, if any, of compliance with the Protocol caused by trans-shipment.

Note:

107. The Ad Hoc Group of Experts on the Reporting of Data considered the issue. (See paragraph 55 above.)

Other recommendations

109. "The Working Group requested the Secretariat to approach the Parties and remind them of their obligation to inform it of the measures adopted by them in implementation of the Protocol, especially Article 4. Further, the Working Group was interested to know of regulations which would restrict trade in certain products containing or made with controlled substances. The Secretariat was requested to carry out a survey to obtain such information and submit the results to the sixth meeting of the Working Group for consideration as a separate agenda item." (See paragraph 26 of the report of the meeting.)

Status of actions by the Secretariat:

110. In its letter of 30 April 1991 to the Parties, the Secretariat requested information on the implementation of the Protocol, especially Article 4, as well as information on any regulations that would restrict trade in certain products containing or made with controlled substances. The Secretariat would prepare a report based on the information for consideration by the Parties at the preparatory meeting for the Third Meeting of the Parties.

Decision II/16: Amendment of the Vienna Convention

- To recommend that the Parties to the Vienna Convention for the Protection of the Ozone Layer review, at the earliest opportunity, Article 9 of the Convention with a view to expediting the amendment procedure for protocols.

Status of implementation

110. The above recommendation was placed before the first meeting of the Bureau of the first Conference of Parties to the Vienna Convention, held in Geneva from 18-19 March 1991. The Bureau decided to request the Ad Hoc Working Group of Legal Experts to examine this matter with a view to presenting the informal draft to the Second Meeting of the Conference of Parties to the Vienna Convention to be held in June 1991 so that that meeting could decide on the further course of action to be taken to give effect to this decision. At its First Meeting held in Nairobi on 14 March, the Bureau of the Montreal Protocol had also reached a similar decision. The Chairperson of the Ad Hoc Group of Legal Experts has been informed by the Secretariat of the Bureau's decision. Its recommendations will be presented to the Meeting of the Parties in an addendum to this report.

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Decision II/17: Budget

- To adopt the system of rolling biennial budgets, and to approve a total revised budget of \$3,400,000 for 1990, a total revised budget for 1991 of \$2,423,000 and a total budget for 1992 of \$2,225,000. The details of the approved budgets are presented in Annex VI to the report on the work of the Second Meeting of the Parties.

Status of implementation:

111. Please see the report on the agenda item 9, the proposed revised budget for 1991 and budget for the biennium 1992-1993.

Decision II/18: Meetings of the Open-Ended Working Group

- To authorize the Secretariat to convene, if necessary, up to six meetings of the Open-Ended Working Group of the Parties prior to the Third Meeting of the Parties and to invite non-parties to participate in the deliberations of these meetings.

Status of implementation:

112. Since the London Meeting of Parties to the Montreal Protocol, two Meetings of the Open-Ended Working Group have been convened to deal with trade issues. The number of meetings of the Open-Ended Working Group is likely to be increased in the following years to deal with issues falling within the extended mandate of the Open-Ended Working Group. In accordance with the above decision, all Governments, both Parties and non-parties have been invited to participate in the deliberations of these meetings.

Decision II/19: Rules of Procedure for Meetings of the Parties

- To amend paragraph 1 of rule 21 of the rules of procedure, adopted at the First Meeting of the Parties, to include the following additional sentences:

"In electing its officers, the Meeting of the Parties shall have due regard to the principle of equitable geographical representation. The offices of President and Rapporteur of the Meeting of the Parties shall normally be subject to rotation among the five groups of States referred to in section I, paragraph 1, of General Assembly resolution 2997 (XXVII) of 15 December 1972, by which the United Nations Environment Programme was established."

Status of implementation:

113. The rules of procedure amended in accordance with the decision of Parties were issued in January 1991.

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114. At its First Meeting held on 14 March 1991, the Bureau of the Montreal Protocol took note of the need for further amendment to the rules of procedure concerning the President of the Meeting of Parties and, in this connection, decided to recommend to the Meeting of the Parties that they amend the rules of procedure as follows:

(a) Rule 23 - delete paragraph 2;

(b) Rule 24 - delete the words "other than a President" and substitute the words "of the Bureau".

Decision II/20: Third Meeting of the Parties

- To convene the Third Meeting of the Parties from 19-21 June 1991 in conjunction with and at the same venue as the Second Meeting of the Conference of the Parties to the Vienna Convention.

Status of implementation:

115. In accordance with the above decision, and since there were no invitations from Governments to host the meeting, the Third Meeting of the Parties to the Montreal Protocol has been scheduled for 19-21 June 1991 in Nairobi.

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