



United Nations Environment Programme



Distr.
GENERAL

UNEP/OzL.Pro.4/10
28 July 1992

ORIGINAL: ENGLISH

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

Copenhagen, 23-25 November 1992

NOTE BY THE EXECUTIVE DIRECTOR ON FURTHER ADJUSTMENTS AND AMENDMENT TO THE MONTREAL PROTOCOL

1. The adjustments and amendment proposed by the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer were considered by the sixth meeting of the Open-ended Working Group. These were consolidated in the report (UNEP/OzL.Pro/4/2) of the Legal Drafting Group. Some amendments which were suggested too late for consideration by the Legal Drafting Group were annexed to the report of the sixth meeting of the Open-ended Working Group (UNEP/OzL.Pro/WG.1/6/5). The proposed adjustments and amendment were communicated to all Governments on 4 May 1992. The discussions of the seventh meeting of the Open-ended Working Group led to the withdrawal of the amendments proposed by some delegations (UNEP/OzL.Pro/WG.1/7/4). There were no other recommendations by the seventh meeting regarding the proposed adjustments and amendment.

2. The Executive Director held informal consultations with experts from many delegations attending the seventh meeting. Based on these informal consultations, the Executive Director recommends the following with respect to the proposed further adjustments and amendment to the Montreal Protocol. Parties may wish to consider the recommendations and take appropriate decisions.

A. *General understandings*

3. The reference to any year in the recommendations refers to the first of January of that year.

4. The allowances granted in Article 2 to Parties not operating under paragraph 1 of Article 5 to increase production to meet the basic domestic needs of Parties operating under paragraph 1 of Article 5 will be retained for all controlled substances as follows:

- 3 - 10 percent allowance during the intermediate phase-out period;
- 15 per cent in and after the final phase-out year.

5. The time-lag of ten years allowed to Parties operating under Article 5, paragraph 1 will continue.

6. For each group of substances discussed in the present Note, excepting Halons, essential uses, if any, shall be provided for, based on the approval of the sixth meeting of the Parties in 1994 for such essential uses (please also refer to paragraph 17).

B. *Adjustments*

7. *CFCs (Annex A, Group I) and other Fully Halogenated CFCs (Annex B, Group I)*

- 100% phase-out of production and consumption by 1996;
- 75% reduction in production and consumption by 1994.

8. *Halons (Annex A, Group II)*

- 100% phase-out of production and consumption by 1994.

The report of the Halons Technical Options Committee, communicated to all the Governments in March 1992 estimates that existing banks of Halons would be adequate for many years, with recycling. According to the recommendation in paragraph 15(b) below, the import and export of recycled and used controlled substances should not be taken into account for calculating consumption except for calculating the base year consumption under Article 5, paragraph 1. Therefore, with recycling and appropriate information exchange for an international Halon banking system, as recommended in paragraph 18 below, a phase-out by 1994 is feasible. Further, since the use of recycled substances is not restricted for any use, there is no need to define essential uses for Halons.

9. *Carbon Tetrachloride (Annex B, Group II)*

- 100% phase-out of production and consumption by 1996;
- 85% phase-out of production and consumption by 1995.

10. *Methyl Chloroform (Annex B, Group III)*

- 100% phase-out of production and consumption by 1996;
- 50% phase-out of production and consumption by 1994.

C. *Amendment*

11. *HCFCs (Annex C) and HBFC*

(Recommendations will be made later)

12. *Methyl Bromide*

- List as a controlled substance in the Fourth Meeting;
- 1992 as the base year;
- Freeze production and consumption by 1995 at the 1992 level;
- 25% phase-out of production and consumption by 2000 with exemption for quarantine fumigation uses;
- Detailed study and report by Scientific and Technology and Economic Assessment Panels by, at the latest, 31 March 1994;
- Consideration by the Open-ended Working Group in 1994;

/...

- Further *decisions* and control measures by the sixth meeting of the Parties in 1994, based on the results of the studies by the Panels and the recommendations of the Working Group.

13. *Obligations of Parties operating under Article 5, Paragraph 1*

(a) During the informal consultations, some Parties operating under Article 5, paragraph 1, supported by several others from the same group of countries, pressed their amendment to the effect that any further measures or amendment on the basis of the Amendment at the Second Meeting of the Parties in London shall not apply to them until after the review provided for in paragraph 8 of Article 5 has taken place and shall be based on the conclusions of that review. They mentioned the following in this connection:

- Their experience demonstrates that they are not able to use the ten-year grace period given to them, as the supply of controlled substances from developed countries dwindles soon after control measures come into effect, despite the provisions in the Protocol allowing developed countries to produce more to meet the needs of developing countries;
- Their country programmes are based on schedules of phase-out as applicable by the London adjustments and Amendment. Applying to them the proposed further adjustments and Amendment would mean a revision of their country programmes. If the conclusions of the review under Article 5, paragraph 8 lead to another revision of their schedules of phase-out, they have to revise their country programmes again. This would cause industrial disruption in their countries. Therefore, a single revision of their obligations, after the review under Article 5, paragraph 8, is desirable;
- Considering the status of contributions to the Interim Multilateral Fund for the Implementation of the Montreal Protocol to date and in view of the lack of experience so far regarding technology transfer, they would prefer to wait until the review before accepting further obligations;

(b) The Executive Director made the following points in this connection:

- Paragraph 4 of Article 5 deals with the situation of inadequate supplies of controlled substances. Further, consideration of the matter and a decision by the Fourth Meeting of the Parties on meeting the needs of the Parties operating under paragraph 1 of Article 5 for controlled substances, as proposed in paragraph 16 below, will remedy the situation;
- The date of entry into force of the adjustments will be around September 1993 and the date for the Amendment will be much later. The review carried out in 1994, under paragraph 8 of Article 5, will enable the Parties operating under paragraph 1 of Article 5 to revise their country programmes only once;
- The commitments by the Parties not operating under paragraph 1 of Article 5 regarding assistance to Parties operating under paragraph 1 of Article 5 are specified in writing in Articles 10 and 10A of the Protocol. Paragraph 5 of Article 5 recognizes the dependence of the discharge of obligations by the Parties operating under Article 5 upon the discharge of the commitments by the Parties not operating under Article 5. The review under paragraph 8 of Article 5 provides an opportunity for the Parties operating under Article 5 to present their case at the appropriate time.

/...

14. *Parties with "Economies in transition"*

During the informal consultations, some Parties not operating under paragraph 1 of Article 5 mentioned their current difficulties with respect to the implementation of control measures and contributions to the Interim Multilateral Fund.

15. In that connection, the Executive Director mentioned that there cannot be an exemption for any set of countries from the discharge of their obligations under the Protocol which they ratified. If there are no obligations, then there is no Protocol nor action on the ozone layer and in the opinion of the Executive Director that is unacceptable. Their temporary difficulties in contributing to the Multilateral Fund could be overcome by a decision of the Parties, based on an agreement by the Parties not operating under paragraph 1 of Article 5 to assume the financial burden of Parties which are unable to contribute. Any Party not operating under paragraph 1 of Article 5 could, if it needs technologies or financial assistance to implement the control measures, approach the Global Environment Facility (GEF). GEF, which is administered by UNDP, UNEP and the World Bank, considers ozone depletion as one of its core issues. GEF would render the necessary assistance, in consultation with the Executive Committee of the Multilateral Fund. *No amendment is necessary to deal with the situation of these Parties.*

15. *Recovery, reclamation and recycling and import and export of recycled and used controlled substances*

It is recommended that this issue be dealt with through the following decision by the Fourth Meeting of the Parties. *No amendment is necessary in this respect.* The Fourth Meeting of the Parties may note that the report of the Technical Advisory Committee on Destruction Technologies, communicated to the Parties in July 1992, is discussed in the Report of the Executive Director (UNEP/OzL.Pro.4/5).

Draft Decision

The Fourth Meeting of the Parties to the Montreal Protocol decides:

(a) To annul Decision 12H of the First Meeting of the Parties, which reads "Imports and exports of bulk used controlled substances should be treated and recorded in the same manner as virgin controlled substances and included in the calculation of a Party's consumption limits";

(b) Not to take into account, for calculating consumption, the import and export of recycled and used controlled substances, except when calculating the base year consumption under Article 5, paragraph 1, subject to reporting under Article 7;

(c) To urge all the Parties actively to encourage recovery, reclamation and recycling of controlled substances with a view to maintaining and servicing existing equipment, to allow for an earlier phase-out of production and to meet the basic domestic needs of the Parties operating under paragraph 1 of Article 5, during their grace and phase-out period;

(d) To urge the Parties to adopt appropriate policies for export of the recycled and used substances to Parties operating under paragraph 1 of Article 5, so as to avoid any adverse impact on the industries of the importing Parties either through excessive supply at low prices which may introduce new unnecessary uses or harm the local industries, or through inadequate supply which may harm the user industries;

/...

(e) To request the Scientific Assessment Panel to study and report, by 31 March 1994 at the latest, through the Secretariat, on the impact on the ozone layer of continued use of recycled controlled substances and to request the Open-ended Working Group of the Parties to consider the report and to submit their recommendations to the sixth meeting of the Parties;

(f) To request the Technology and Economic Assessment Panel to review and report, by 31 March 1994 at the latest, through the Secretariat on: (i) the technologies for recovery, reclamation, recycling and leakage control; (ii) the quantities available for economically feasible recycling and the demand for recycled substances in developed and developing-country Parties; (iii) the scope for meeting the basic domestic needs of the Parties operating under paragraph 1 of Article 5 through recycled substances; and (iv) other relevant issues and to recommend policies with respect to recovery, reclamation and recycling, keeping in mind the effective implementation of the Montreal Protocol;

(g) To request the Open-ended Working Group of the Parties to the Protocol to consider the reports of the Scientific Assessment Panel and the Technology and Economic Assessment Panel and submit their recommendations to the sixth meeting of the Parties in 1994.

Summary

- Annul decision 12H of the First Meeting of the Parties;
- Not take into account the imports and exports of recycled substances for calculating consumption, except for the base year under paragraph 1 of Article 5;
- Encourage recovery, reclamation and recycling;
- Export policies not to harm Parties operating under Article 5;
- Report, by 31 March 1994, by the Scientific Assessment Panel;
- Report, by 31 March 1994, by the Technology and Economic Assessment Panel;
- Consideration by the Open-ended Working Group and decisions by the sixth meeting of the Parties in 1994.

17. Meeting the basic domestic needs of the Parties operating under paragraph 1 of Article 5 during the grace and phase-out period

The Open-ended Working Group requested the Executive Committee of the Interim Multilateral Fund to estimate the quantities of controlled substances required by countries operating under Paragraph 1 of Article 5 during their grace and phase-out periods, the extent to which the need could be met by existing production facilities and by recycling in countries operating under paragraph 1 of Article 5 and the methods of meeting such demands in full, and to report through the Secretariat to the Fourth Meeting of the Parties. It also decided to recommend to the Fourth Meeting that such a process of estimation should be carried out on an ongoing basis (UNEP/OzL.Pro/WG.1/7/4, paragraph 84).

18. Essential uses

The seventh meeting of the Open-ended Working Group adopted the recommendations of a subcommittee appointed by them to consider the issue of essential uses (UNEP/OzL.Pro/WG.1/7/4). The following decision is therefore recommended to the Fourth Meeting of the Parties.

/...

Draft Decision

The Fourth Meeting of the Parties decides:

- (a) That use should qualify as "essential" only if
- it is necessary for the health, safety or well-being (encompassing cultural and intellectual aspects) of society;
 - there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health and that are consistent with regulatory regimes;
- if (b) That production, if any, for essential uses should be permitted only
- all economically feasible steps have been taken to minimize the essential use and any associated emission of the controlled substance; and
 - the controlled substance is not available in sufficient quantity and quality from existing stocks of banked or recycled controlled substances, also bearing in mind the developing countries' need for controlled substances;
- (c) That production for essential use, if any, will be in addition to production to supply the basic domestic needs of the Parties operating under Article 5, paragraph 1, prior to the phase-out of the controlled substances in those countries;
- (d) To request each of the Parties to nominate, in accordance with the criteria approved in (a) above, any use it considers "essential", to the Secretariat before 30 June 1993 and subsequently at least 12 months prior to each meeting of the Parties which is to decide on this issue;
- (e) To request the Technology and Economic Assessment Panel to develop, in accordance with the criteria in (a) above, recommendations on the nominations, after consultations with experts as necessary, regarding
- the essential use (substance, quantity, quality, expected duration of essential use, duration of production or import necessary to meet such essential use);
 - economically feasible use and emission controls for the proposed essential use;
 - sources of already produced controlled substances for the proposed essential use (quantity, quality, timing); and
 - steps necessary to ensure that alternatives and substitutes are available as soon as possible for the proposed essential use;
- (f) To request the Technology and Economic Assessment Panel to take into account the environmental acceptability, health effects, economic feasibility, availability, and regulatory status of alternatives and substitutes while making its recommendations;

/...

(g) To request the Technology and Economic Assessment Panel to submit its report, through the Secretariat, by 31 March 1994 at the latest and subsequently at least 3 months before the meeting of the Parties in which a decision is to be taken. The subsequent reports will also consider which previously qualified essential uses should no longer qualify as essential;

(h) To request the Open-ended Working Group of the Parties to consider the report of the Technology and Economic Assessment Panel and make its recommendations to the Fourth Meeting of the Parties.

Summary

- Criteria for essential uses and for production for such essential uses to be decided by the Fourth Meeting of the Parties in 1992;
- "Essential uses" to be specified by the meeting of Parties in 1994 and reviewed by subsequent meetings of Parties as and when necessary;
- Parties to nominate "essential uses" by 30 June 1993 to the Secretariat and subsequently at least one year before a meeting of the Parties in which a decision is to be taken;
- The Technology and Economic Assessment Panel will give its recommendations on these nominations by 31 March 1994 and subsequently at least 3 months before the meetings of the Parties in which a decision is to be taken;
- The Open-ended Working Group will consider the recommendations and recommend to the sixth meeting of the Parties in 1994 which will take a decision.

19. *Essential uses, Recovery, Reclamation and Recycling and International Bank Management for Halons*

Paragraph 4 of Article 2B of the Protocol reads:

"By 1 January 1993, the Parties shall adopt a decision identifying essential uses, if any, for the purposes of paragraphs 2 and 3 of this Article. Such decision shall be reviewed by the Parties at their subsequent meetings".

20. Based on the informal consultations and on the draft conclusions of the Informal Halon Working Team on International Halon Bank Management, the Executive Director recommends the following decision to be adopted by the Fourth Meeting of the Parties.

Draft Decision

The Fourth Meeting of the Parties decides:

- (a) That, in view of the availability of a large bank of Halons in the world and of the adequacy of this bank to meet all the essential uses, there is no need to identify specific essential uses for the purposes of paragraphs 2 and 3 of Article 2B;
- (b) To urge all the Parties to encourage recovery, reclamation and recycling of Halons to meet all the requirements of all the Parties, particularly of those operating under paragraph 1 of Article 5 after the phase-out of production and consumption of Halons in 1994 and to comply with technical standards and specifications for the recycled Halons;

/...

(c) To urge all the Parties to provide information as frequently as necessary regarding the sources of available recycled halons for international transfer and their prices to UNEP and to promote transfers to countries with needs;

(d) To request UNEP to serve as an information clearing-house on all Halon-related information received from the Parties, as a part of its functions as an implementing agency for the clearing-house financed by the Multilateral Fund;

(e) To request the Technology and Economic Assessment Panel to advise UNEP as necessary, with the assistance of the Halons Technical Options Committee, in the implementation of this decision and to provide a report, through the Secretariat and by 31 March 1994, on the implementation of this decision;

(f) To request the Open-ended Working Group to consider the report of the Technology and Economic Assessment Panel and submit its recommendations to the sixth meeting of the Parties in 1994.
