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FOURTH MEETING OF THE OPEN-ENDED
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SOME LANGUAGE FOR CONSIDERATION BY THE PARTIES
REGARDING TRANSFER OF TECHNOLOGY AND SPECIAL
SITUATION OF DEVELOPING COUNTRIES

Proposal by the Executive Director

(A) Article 10 ter: Transfer of Technology

Each Party shall take every practicable step, consistent with the programmes supported by the financial mechanism, to ensure:

- a. that the best available, environmentally safe substitutes and related technologies are expeditiously transferred to Parties operating under paragraph 1 of Article 5, and
- b. that the transfers referred to in subparagraph a occur under fair and most favourable conditions.

(B) Article 5: Special situation of developing countries

Article 5 of the Protocol shall be replaced by the following paragraphs:

1. Any Party that is a developing country and whose annual calculated level of consumption of the controlled substances in Annex A is less than 0.3 kilograms per capita on the date of the entry into force of the Protocol for it or any time thereafter until 1 January 1999 shall in order to meet its basic domestic needs be entitled to delay for ten years its compliance with the schedule of the control measures set out in Articles 2A - 2E.
2. However, any Party operating under paragraph 1 of this Article shall not exceed an annual calculated level of consumption of the controlled substances in Annex A of 0.3 kilograms per capita or an annual calculated level of consumption of the controlled substances of Annex B of 0.2 kilograms per capita.

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3. When implementing the control measures set out in Article 2A - 2E, any Party operating under paragraph 1 of this Article shall be entitled to use:
 - a. for controlled substances under Annex A, either the average of its annual calculated level of consumption for the period 1995 to 1997 inclusive or a calculated level of consumption of 0.3 kilograms per capita, whichever is the lower, as the basis for its compliance with the control measures;
 - b. for controlled substances under Annex B, the average of its annual calculated level of consumption for the period 1998 to 2000 inclusive or a calculated level of consumption of 0.2 kilograms per capita, whichever is the lower, as the basis for its compliance with the control measures.
4. If a Party operating under paragraph 1 of Article 5, at any time before the control measures obligations in Article 2A - 2E became applicable for such Party, finds itself unable to obtain an adequate supply of controlled substances, it may notify the Secretariat. The Secretariat shall forthwith transmit such notification to the Parties, which shall consider the matter at the next regular Meeting, and decide upon appropriate action to be taken.
5. The [capability to fulfil] [fulfilment of] the obligations of the Parties operating under paragraph 1 of Article 5 to comply with the control measures set out in Article 2A - 2E will [be subject to] [depend upon] the effective implementation of the financial co-operation as provided by Article 10 bis and transfer technology as provided by Article 10 ter.
6. Any Party operating under Article 5 paragraph 1 may, at any time, notify the Secretariat in writing that, having taken all practicable steps it is unable to implement any or all of the obligations laid down in Articles 2A - 2E due to the inadequate implementation of Articles 10 bis and 10 ter. The Secretariat shall forthwith submit the notification to the Parties, which shall consider the matter at the next regular Meeting, giving due recognition to paragraph 5 above and shall decide upon appropriate action to be taken.
7. During the period between notification and the Meeting of the Parties at which the appropriate steps referred to in paragraph 6 above are to be decided, or for a further period, if the Meeting of the Parties so decides, the non-compliance procedures referred to in Article 8 shall not be invoked against the notifying Party.
8. A Meeting of the Parties shall review the situation of the Parties operating under paragraph 1 of Article 5, including the availability of financial co-operation and transfer of technology to them, at any year before the control measures obligations in Article 2A - 2E become applicable to such Parties and adopt such further revisions that may be deemed necessary regarding the schedule for the control measures applicable to these Parties.
9. Decisions of the Parties referred to in paragraphs 4, 6 and 7 above shall be taken according to the same procedure applied to decision-making under Article 10 bis.
