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

Bangkok, 17-19 November 1993

THE REPORTING OF DATA BY THE PARTIES TO THE MONTREAL
PROTOCOL ON SUBSTANCES THAT DEplete THE OZONE LAYER

Report of the Secretariat

Addendum

INFORMATION ON THE IMPLEMENTATION OF ARTICLE 4, PARAGRAPH 3
OF THE MONTREAL PROTOCOL (BANNING IMPORT FROM NON-PARTIES
OF PRODUCTS CONTAINING CONTROLLED SUBSTANCES IN
ANNEX A OF THE PROTOCOL)

1. Following the entry into force on 27 May 1992 of Annex D to the Protocol (A list of products containing controlled substances specified in Annex A), every Party should have banned, in accordance with Article 4 paragraph 3 of the Protocol, the import from non-Parties of products listed under the Annex within one year. The following information on the implementation of that ban has been received from Parties.
2. *Australia.* The Ozone Protection Act, 1989, implements the provisions of the Montreal Protocol. Section 44 of the Act prohibits the import of specified products containing controlled substances from non-Parties. Violation of this provision carries penalties of 10,000 Australian dollars (\$A) in the case of a person and \$A50,000 in case of a company. The items in Annex D of the Protocol have been declared products to which Section 44 of the Act applies, with effect from 27 May 1993.
3. *Bulgaria.* The competent Bulgarian authorities do not permit import and re-export of ozone-depleting substances from and to countries which are non-Parties to the Montreal Protocol.
4. *Canada* is revising its regulations on ozone-layer depleting substances to prohibit the importation from States that are not party to the London Amendment to the Montreal Protocol. The amendments to the regulations are expected to be in place in the fall of 1993.
5. *Denmark.* European Economic Community (EEC) regulation No.594/91 as amended by EEC regulation No.3952/92 bans import of products listed in Annex D to the Protocol from non-Parties.
6. *Finland.* By Council of State decision 442/93, which entered into force on 27 May 1993, the import of products listed in Annex D and containing substances controlled by Annex A of the Protocol has been banned.
7. *Ghana.* The Government is in the process of enacting the necessary legislation to ensure compliance with the Article.

8. *Iceland*. As of 5 August 1993, there was no enforcement of Article 4 (control of trade with non-Parties) of the Protocol. Regulations are, however, being prepared and it is expected that they will be in force later in 1993. Regulation No.268/1993, which deals with phasing-out ozone-depleting substances entered into force on 1 August 1993. With respect to Article 4, paragraph 3, of the Protocol, there is a general ban on trade in the substances listed in Group I of Annex A with few exemptions. With respect to Annex D of the Protocol, the situation with regard to trade in CFCs and products containing CFCs for use in the listed products is as follows:

(a) *Automobile and truck air conditioning units*. Exemption until 1 January 1995. However, there is very little usage of vehicle air conditioning units in Iceland, due to moderate climate;

(b) *Domestic and commercial refrigeration and air conditioning/heat pump equipment*. Exemption until 1 January 1995;

(c) *Aerosol products, except medical aerosols*. Banned since 1989;

(d) *Portable fire extinguishers*. Banned from 1 August 1994;

(e) *Insulation boards, panels and pipe covers*. Exemption until 1 January 1994;

(f) *Pre-polymers*. Exemption until 1 January 1994.

9. *Jamaica* does not import products listed in Annex D from non-Parties to the Protocol.

10. *Japan*. Under the Import Trade Control Order, the import of products listed in Annex D to the Protocol from any State not party to the Protocol as on and after 27 May 1993 is subject to control without exception, by the Minister of International Trade and Industry. Such import may only be permitted when it is confirmed that the products do not contain controlled substances in Annex A, and importers are required to submit certificates to this effect to the Minister. Where necessary, the competent authorities can demand submission of reports by the importers and undertake on-the-spot inspection of the products in question. Illegal importers of such products, if convicted, are liable to imprisonment.

11. *Jordan* does not import products listed in Annex D from non-Parties to the Protocol.

12. *Kenya* expects to implement the Annex through the country programme covering all the ozone depleting substances. The ban on products in items 1 and 2 of the Annex shall be implemented from October 1993 through financing by a United Nations Industrial Development Organization (UNIDO) project to phase out ozone-depleting substances in the refrigeration and air-conditioning sector.

13. *Malaysia*. The proposed legislation against importation of products listed in Annex D from non-Parties is being studied by the relevant authority.

14. *Netherlands* is implementing article 20 of the national decree on substances that deplete the ozone layer. Under the article, the importation from any State not party to the Protocol of products listed by the European Commission according to article 6 of the Council regulation 594/91/EEC is banned.

15. *New Zealand*. The Ozone Layer Protection (Import Prohibition) Order 1993 implements paragraph 3 of Article 4 of the Montreal Protocol. The Order prohibits the importation of the goods specified in Annex D of the Montreal Protocol from non-Party countries. The Order lists both the prohibited goods and the countries that were non-Parties as at 1 April 1993. An Amendment Bill has been introduced to the New Zealand Parliament intended to remove the need to list countries in legislation to which the trade restrictions apply. Instead, the decision as to whether a country is

a Party or not will be made by the Minister of Foreign Affairs. This amendment will avoid the need to update the legislation constantly.

16. *Norway* has banned the import of the products from any State not party to the Protocol unless the State fulfils the requirement described in paragraph 8 of Article 4.

17. *Philippines*. Some of the listed products are manufactured locally while the rest are imported from Parties to the Montreal Protocol. The phase-out schedule for ozone-depleting substances and equipment containing controlled substances as approved by the Executive Committee of the Multilateral Fund runs from 1993 to 1996.

18. *Poland*. The draft Parliamentary Act to restrict trade with non-Parties to the Protocol could not be passed by the Parliament in time due to the dissolution of the Parliament for the elections in September 1993. Other legal procedures are being explored to ban the import of products containing controlled substances from non-Parties to the Protocol.

19. *Slovenia* has not banned the import of the products but the draft regulation containing all the necessary rules will enter into force in October 1993.

20. *Sweden*, by 1 January 1993, had banned the import of all the products listed in Annex D to the Protocol from any State not party to the Protocol if they are containing controlled substances specified in Annex A. These measures started on 1 January 1991, well in advance of the entry into force of Annex D. A copy of the legislation banning trade in Annex D products with non-Parties has been communicated to the Secretariat.

21. *Thailand* complies with the Annex but has sought clarification from the Secretariat on the definition of "pre-polymers" (item 6 of Annex D).

22. *Turkey*. Detailed studies to determine the amounts of imported products and the countries from which they are imported are under way. The necessary measures shall be put in place upon completion of the study.

23. *United States of America*. On 18 March 1993, the United States Environmental Protection Agency issued a rule-making package designed to inform the regulated community of the impending ban, and delineate rules governing its implementation. Specifically, the rule-making package called for a ban on the importation of Annex D products bearing Annex A chemicals from States which were not party to the Montreal Protocol. Each "controlled product" imported would be a separate violation of United States law. The burden for ensuring compliance with the law could be on the importer who would be held liable for such importation. The United States Customs Service will assist in the implementation of the law. To ease implementation of this ban, a non-inclusive list of harmonized tariff schedule classifications for items that may fall within one of the six Annex D product categories has been provided.
