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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

POSSIBLE EFFECT OF THE BASEL CONVENTION ON THE EXPORT  
OF USED OZONE-DEPLETING SUBSTANCES, INCLUDING  
HALONS INTENDED FOR RECYCLING

*Note by the Secretariat\**

1. The adjustments to the Montreal Protocol adopted by the Fourth Meeting of the Parties resulted in an acceleration of the timetable for the phase-out of controlled substances listed in Annexes A and B of the Protocol. Halons will be phased out by 1 January 1994 and all the other substances in Annexes A and B by 1 January 1996. These phase-outs are subject to production and consumption exemptions either for essential uses to be approved by the Meetings of the Parties or to meet the basic domestic needs of the Parties operating under paragraph 1 of Article 5. The Amendment to the Protocol adopted by the Fourth Meeting listed hydrochlorofluorocarbons (HCFCs), hydrobromofluorocarbons (HBFCs) and methyl bromide as controlled substances. The Fourth Meeting of the Parties also made recovery, reclamation and recycling of controlled substances an essential part of the strategy to facilitate early phase-out of ozone-depleting substances in order to protect the ozone layer. Decision IV/24 states that import and export of recycled and used controlled substances should not be taken into account for calculating consumption, except when calculating the base year consumption under paragraph 1 of Article 5 of the Protocol, provided that data on such imports and exports are subject to reporting under Article 7.

2. The Basel Convention on the Control of Transboundary Movements of Hazardous Waste and their Disposal may have implications for import and export of used controlled substances listed in Annex I of the Basel Convention ("Categories of wastes to be controlled") under categories Y41 (halogenated organic solvents) and Y45 (organohalogen compounds other than those listed in other categories). The Ozone Secretariat has, therefore, requested the Basel Convention Secretariat to clarify whether used ozone-depleting substances are regulated wastes under the Basel Convention. The Technical Working Group of the Basel Convention at its fourth session, held from 2 to 4, 1993, issued the attached note on the classification of the ozone-depleting substances as hazardous wastes in accordance with the Basel Convention Definition. The note indicated that certain used controlled substances "exhibit Hazardous Characteristics described in Annex III to the Convention such as toxicity (H11) and ecotoxicity (H12)".

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\* Prepared in accordance with a request by the Open-ended Working Group of the Parties to the Protocol at its ninth meeting (see UNEP/OzL.Pro/WG.1/7, para. 113).

3. Paragraph 5 of Article 4 of the Basel Convention bans exports and imports of wastes classified as hazardous between Parties and non-Parties to the Convention.

4. Notwithstanding the ban on trade with non-Parties to the Basel Convention, there is no ban on trade among Parties, trade among non-Parties or trade between a Party to the Basel Convention and a non-Party in accordance with Article 11 of the Convention. Article 11 of the Basel Convention provides, *inter alia*, that:

"... The provisions of this Convention shall not affect transboundary movements which take place pursuant to [bilateral, multilateral or regional] agreements [regarding transboundary movement of hazardous wastes] provided that such agreements are compatible with the environmentally sound management of hazardous wastes ..."

5. The Basel Secretariat informed the Ozone Secretariat that it has received notification of nine agreements under Article 11:

(a) Decision of the Council of the Organization for Economic Cooperation and Development on the Control of Transfrontier Movements of Wastes Destined for Recovery Operations;

(b) Central American Agreement (Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama);

(c) Austria-Germany Agreement;

(d) Canada-United States Agreement;

(e) Finland-Germany Agreement;

(f) Finland-Ireland Agreement;

(g) Mexico-United States Agreement;

(h) Romania-Germany Agreement; and

(i) Switzerland-Germany Agreement.

6. There are a number of Parties to the Montreal Protocol which are not Parties to the Basel Convention. Parties to the Montreal Protocol may wish to determine who their trading partners in used controlled substances are likely to be in order to determine whether the provisions of the Basel Convention would affect their planned trade. Where either a Party to the Montreal Protocol or their trade partners are not Parties to the Basel Convention, they might consider ratifying the Convention or entering into an Article 11 arrangement among themselves concerning environmentally sound trade in used controlled substances.

*Annex*

NOTE ON THE TECHNICAL WORKING GROUP OF THE BASEL CONVENTION  
ON THE CLASSIFICATION OF THE OZONE DEPLETING SUBSTANCES  
AS HAZARDOUS WASTES IN ACCORDANCE WITH THE  
BASEL CONVENTION DEFINITION

Halogenated organic solvents wastes correspond to Category Y41 Halogenated organic solvents of Annex I to the Basel Convention. These wastes exhibit Hazardous Characteristics described in Annex III to the Convention such as toxicity (H11) and ecotoxicity (H12).

Wastes having as constituents halogenated hydrocarbons (e.g. CFCs) and subject to transboundary movements (as described in Articles 6 and 7 of the Convention) are generally subject to control under the Basel Convention subject to relevant national tests (per note in Annex III).

The following categories of wastes can, *inter alia*, include or contain halogenated organic solvents as listed in Annex I to the Basel Convention:

- Y4 Wastes from the production, formulation and use of biocides and phythopharmaceuticals. Note: CFC-based aerosol products including pesticides;
- Y6 Wastes from the production, formulation and use of organic solvents;
- Y12 Wastes from production, formulation and use of inks, dyes, pigments, paints, lacquers, varnish;
- Y13 Wastes from production, formulation and use of resins, latex, plasticizers, glues/adhesives;
- Y17 Wastes resulting from surface treatment of metals and plastics  
Note: small amounts of residues of CFC-113 and 1,1,1 trichloroethane could remain on Printed Circuit Boards (in electronic cleaning applications).

It should be noted that:

(a) Ozone-depleting substances that are subject to transboundary movements could be considered hazardous wastes by the Basel Convention according to the definitions provided in Article 1 (Scope) of this Convention;

(b) Pursuant to Article 4, paragraph 5, a Party to the Basel Convention shall not permit hazardous wastes or other wastes to be exported to a non-Party or to be imported from a non-Party. Notwithstanding the provisions of Article 4, paragraph 5, Parties may enter into bilateral, multilateral or regional agreements or arrangements regarding transboundary movements of hazardous wastes or other wastes with non-Parties provided that such agreements or arrangements do not derogate from the environmentally sound management of hazardous wastes and other wastes as required by the Basel Convention;

(c) A number of Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer are not Party to the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

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