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

Nairobi, 6-7 October 1994

### REPORT OF THE EXECUTIVE DIRECTOR TO THE SIXTH MEETING OF THE PARTIES

#### INTRODUCTION

1. The present report reviews the status of the implementation of the Montreal Protocol and the actions taken to implement the decisions of the Fifth Meeting of the Parties to the Montreal Protocol and presents proposals for further action by the Sixth Meeting of the Parties to the Montreal Protocol, 6-7 October 1994, in Nairobi.

#### A. IMPLEMENTATION OF THE DECISIONS OF THE FIFTH MEETING

2. A report on the status of the implementation of the decisions of the Fifth Meeting is annexed to the present report. As a result of the implementation of the provisions of the Protocol and of the decisions of the Meetings of the Parties, the Sixth Meeting of the Parties will have, inter alia, the following matters before it for its consideration and decision.

#### B. STATUS OF RATIFICATION

3. Since the Fifth Meeting of the Parties, seven countries have ratified the Vienna Convention for the Protection of the Ozone Layer, 10 countries have ratified the Montreal Protocol and 16 the London Amendment to the Montreal Protocol, bringing the total number of Parties to the Vienna Convention to 139, the Montreal Protocol to 138 and the London Amendment to 89. The Copenhagen Amendment, approved by the Fourth Meeting of the Parties, entered into force on 16 June 1994. As on 13 July 1994, 28 Parties had ratified the Copenhagen Amendment. Universal participation is necessary to ensure the protection of the ozone layer.

4. Proposal for action. The Sixth Meeting of the Parties may urge all the countries which have not yet done so to ratify, approve or accede to the Vienna Convention, the Montreal Protocol and its Amendments.

#### C. IMPLEMENTATION MATTERS

##### 1. Implementation of the Protocol by the Parties

5. The report of the Secretariat on information provided by the Parties in accordance with Articles 4, 7 and 9 of the Protocol (UNEP/OzL.Pro.6/5) and the report of the Implementation Committee (UNEP/OzL.Pro/ImpCom/8/3) on its eighth meeting have been communicated to Governments and all the relevant organizations. These reports are being considered under item 4 of the provisional agenda for the Meeting. The reports reveal that the implementation of the Protocol by those Parties that have reported data is

very satisfactory and, in most cases, well exceeds the requirements of the Protocol. It is regretted, however, that not all Parties are reporting or reporting in time. This detracts from the otherwise excellent response of the Parties to the concerns about ozone depletion.

6. Proposal for action. The Sixth Meeting of the Parties may wish to note with satisfaction the implementation of the provisions of the Protocol by the Parties which have so far reported data. The Meeting may also wish to note that it is a legal obligation of each Party to report data in time and it may urge all Parties to do so, requesting all Parties to comply with the provisions of Articles 7 and 9.

## 2. Membership of the Implementation Committee

7. According to the non-compliance procedure, approved by the Fourth Meeting of the Parties in decision IV/5, the Implementation Committee consists of 10 Parties elected for two years, based on equitable geographic distribution. Outgoing Parties may be re-elected for one consecutive term. Uganda has already served on the Committee for two consecutive terms and is therefore not eligible for re-election. In decision V/2, the Fifth Meeting of the Parties held in November 1993 confirmed the positions of Argentina, Austria, Bulgaria, the Republic of Korea and Uganda for one further year and selected Burkina Faso, Chile, Jordan, the Netherlands and the Russian Federation for a two-year period.

8. Proposal for action. The Sixth Meeting may wish to select new members of the Implementation Committee to replace Argentina, Austria, Bulgaria, the Republic of Korea and Uganda and to confirm the membership of Burkina Faso, Chile, Jordan, the Netherlands and the Russian Federation for one further year.

## 3. Application of trade measures under Article 4 to non-Parties to the London Amendment

9. Decision V/3 permits relaxation of the provisions concerning control of trade with non-Parties, prescribed by Article 4 of the Protocol, for non-Parties to the London Amendment which report their data to the Secretariat before 31 March 1994 with respect to their compliance with Articles 2, 2A to 2E and 4 of the Protocol. Poland and Turkey have submitted data in accordance with this decision and are both in compliance with the Protocol. Malta and Jordan ratified the London Amendment before 31 March 1994 and have since become Parties to the London Amendment. The trade controls no longer apply to Malta and Jordan in view of the entry into force of the London Amendment for those countries. In accordance with the decision, the data submitted have been communicated to all the Parties and has been placed before the meeting of the Implementation Committee.

10. Proposal for action. The Sixth Meeting of the Parties may wish to note the action taken.

## 4. Status of certain Parties vis à vis Article 5 of the Protocol

11. At its tenth meeting, the Open-ended Working Group, in accordance with the mandate given by the Fifth Meeting of the Parties in Decision V/4, analysed the operation of Article 5 of the Protocol with regard to the classification and re-classification of those developing countries to which the Article applies. The Working Group developed the following principles regarding treatment of classified and reclassified developing country Parties: (UNEP/OzL.Pro/WG.I/10/6, Paragraph 64):

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1. The Secretariat should continue to classify, in absence of complete data, developing countries temporarily as operating or not operating under Article 5 based on the information available to the Secretariat, subject to the conditions that:

(a) The Secretariat encourages these Parties to approach the Executive Committee and the Implementation Committee for assistance in establishing accurate data;

(b) A country may only be classified temporarily as operating under Article 5 for a period of two years applicable from the time of adoption of this decision. After this period, Article 5 status can no longer be extended without data reporting as required by the Protocol unless the country has sought the assistance of the Executive Committee and the Implementation Committee;

(c) A developing country temporarily classified as operating under Article 5 would lose the status if it does not report data as required by the Protocol within one year of the approval of its country programme and its institutional strengthening by the Executive Committee.

2. The Executive Committee will consider projects from Parties temporarily classified as operating under Article 5. The projects approved when such temporary classification is operative will continue to be funded even if the countries subsequently are reclassified as not operating under Article 5 on receipt of data. However, no project will be sanctioned during a period during which the country is classified as not operating under Article 5.

3. Parties may be allowed to correct their data in the interest of accuracy for a given year but no change of classification will be permitted for that year pertaining to which the data has been corrected. Any such corrections should be accompanied by an explanatory note to facilitate the work of the Implementation Committee.

4. Regarding developing country Parties which are initially classified as not operating under Article 5 and then reclassified, any outstanding contribution to the Multilateral Fund will be disregarded, only for the years in which they are reclassified as operating under Article 5. Any Party reclassified as operating under Article 5 will be allowed to utilize the remainder of the 10-years grace period, but is encouraged not to do so.

5. Any Party initially classified as non-Article 5 but reclassified subsequently as operating under Article 5 shall [not] be requested to contribute to the Multilateral Fund [and will not be eligible for assistance from the Fund.] This will not apply if the initial classification of the Party as non-Article 5 made in the absence of complete data, is subsequently proved to be wrong on the basis of complete data.

12. Proposal for action. The Sixth Meeting of the Parties may wish to consider these principles and arrive at an appropriate decision.

5. Situation of the country Parties with economies in transition

13. During the tenth meeting of the Open-ended Working Group of the Parties to the Protocol the representatives of Parties with economies in transition made a strong plea for assistance in implementing the provisions of the Protocol. They also requested special status for their countries,

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on the lines of that given to developing countries under Article 5 of the Protocol. They mentioned that, owing to the economic crisis in their countries, they may not be able to implement the provisions of the Protocol.

14. The Secretariat wishes to bring to the notice of the Sixth Meeting the instrument for the establishment of the restructured Global Environment Facility (GEF), which is operating as a mechanism for providing new and additional grant and concessional funding to meet the agreed incremental costs of measures to achieve agreed global environmental benefits in four focal areas, including ozone layer depletion. This instrument was approved by the participants in March 1994 and 110 countries have so far notified their participation in GEF. A country shall be eligible for a GEF grant if it is eligible to borrow from the World Bank or if it is an eligible recipient of United Nations Development Programme (UNDP) technical assistance through its country's indicative planning figure. Since, as specified by meetings of the Parties to the Montreal Protocol, the developing countries operating under Article 5, paragraph 1, are already covered by the Multilateral Ozone Fund of the Protocol, GEF assistance can be given to the other country Parties which meet its criteria. Many of the countries with economies in transition may qualify for GEF assistance.

15. Proposal for action. The Sixth Meeting of the Parties may wish to discuss the issues raised. It may wish to welcome the establishment of the restructured GEF and request GEF to assist the country Parties with economies in transition to implement the provisions of the Montreal Protocol on terms and conditions not more favourable than those accorded to the developing countries under the provisions of the Protocol. GEF may be requested to consider a cooperative arrangement with the Meeting of the Parties to the Montreal Protocol, including reciprocal arrangements for representation in meetings, in conformity with the relevant provisions of the Montreal Protocol. Such arrangements may perhaps include procedures for determining jointly the aggregate GEF funding requirements of the Parties not eligible for funding from the Multilateral Ozone Fund. The Secretariat may be authorized to discuss the matter further with the GEF Secretariat and the Open-ended Working Group may be authorized to consider and approve the cooperative arrangements.

#### D. MULTILATERAL FUND FOR THE IMPLEMENTATION OF THE MONTREAL PROTOCOL

##### 1. Review under Paragraph 8 of Article 5 of the Protocol

16. The report of the Chair of the Executive Committee of the Multilateral Fund has been communicated to Governments as document UNEP/OzL.Pro.6/6. The Executive Committee of the Multilateral Fund approved the terms of reference of the review at its twelfth meeting in March 1994. The report of the review is due for submission to the Ozone Secretariat in December 1994 after which it will be circulated to all Parties for their comments before it is submitted for consideration by the Seventh Meeting of the Parties.

17. Proposal for action. The Sixth Meeting of the Parties may wish to take note of this ongoing review.

##### 2. Review to meet the requirements of Section II, Paragraph 4 of Decision IV/18

18. The tenth meeting of the Open-ended Working Group approved, as decided in Decision V/12 by the Fifth Meeting of the Parties to the Protocol, the terms of reference of the study on the financial mechanism and the modalities for the evaluation of the study and approved a budget of

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US\$ 450,000 for carrying out the study. The report of the Open-ended Working Group has been communicated to all Governments in document UNEP/OzL.Pro/WG.I/10/6. In view of its urgency, it was agreed by the Working Group that the cost of this study first be met by a loan from the Multilateral Fund and the question finally decided by the Sixth Meeting of the Parties to the Montreal Protocol. The Ozone Secretariat had not suggested any financial provision in the budget of the Secretariat for 1994 or 1995 for the review since it had recommended that the review be managed by the Executive Committee in view of the many common elements with the review which is being carried out by the Executive Committee. The report of the review is due for submission to the Secretariat by February 1995 after which it will be considered by the Open-ended Working Group and the Seventh Meeting of the Parties.

19. Proposal for action. The Sixth Meeting of the Parties may wish to take note of the ongoing review and approve the budget of US\$ 450,000 included in the 1994 and 1995 budgets of the Ozone Secretariat. The Meeting may decide whether this amount should be collected into the Trust Fund for the Montreal Protocol and repaid to the Multilateral Fund or whether it is appropriate for the Multilateral Fund to finance this study.

### 3. Membership of the Executive Committee

20. By decision V/9, paragraph 4, the Fifth Meeting of the Parties endorsed the selection of Australia, Denmark, France, Japan, Norway, Poland and the United States of America as members of the Executive Committee representing Parties not operating under paragraph 1 of Article 5 and the selection of Algeria, Argentina, Brazil, Cameroon, India, Malaysia and Venezuela as members representing the Parties operating under paragraph 1 of Article 5, for one year. It also endorsed the selection of Malaysia as Chair and Australia as Vice-Chair. In accordance with the terms of reference of the Executive Committee approved by the Fourth Meeting of the Parties (UNEP/OzL.Pro.4/15, annex X), the Executive Committee is to consist of seven members each from the groups of Parties operating under Article 5, paragraph 1 and Parties not so operating. Each group is to elect its Executive Committee members and the members of the Executive Committee have to be formally endorsed by the Meeting of the Parties. The Chairman and the Vice-Chairman have to be selected from 14 Executive Committee members. The office of Chairman is subject to rotation, on an annual basis, between the Parties operating under paragraph 1 of Article 5 and the Parties not so operating. The group of Parties entitled to the chairmanship is to select the Chairman from among its members of the Executive Committee. The Vice-Chairman is to be selected by the other group from within its number.

21. Proposal for action. The group of Parties not operating under Article 5, paragraph 1, may select the members representing them in the Executive Committee for the next year and also the Chairman of the Executive Committee for the next year. The group of the Parties operating under Article 5, paragraph 1 may also select their seven representatives in the Executive Committee and the Vice-Chairman for the next year. The Sixth Meeting may wish to endorse these selections.

## E. TECHNOLOGY AND ECONOMIC ASSESSMENT

### 1. Report of the Technology and Economic Assessment Panel

22. The report of the Technology and Economic Assessment Panel on the issues referred to it by the Fourth and Fifth Meetings of the Parties was circulated to all the Governments in English (the language in which it was prepared) in April 1994. The executive summary of this report has been circulated as document UNEP/OzL.Pro/WG.I/10/3. This report covers the following issues:

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- (a) Essential use nominations for halons for 1995;
- (b) Essential use nominations for other controlled substances for 1996 and beyond;
- (c) Alternatives to HCFCs;
- (d) Recovery and recycling;
- (e) Halon banking;
- (f) Inadvertent emissions;
- (g) Problems of definitions for control of methyl bromide;
- (h) List of products containing controlled substances from Annex B.

This report was considered by the Open-ended Working Group at its tenth meeting and its recommendations are contained in document UNEP/OzL.Pro/WG.I/10/6 as follows.

23. Essential use nominations of halons for 1995: The Working Group agreed to recommend that the Sixth Meeting of the Parties should decide that no level of production or consumption is necessary to satisfy essential uses of halon in Parties not operating under paragraph 1 of Article 5 of the Protocol for the year 1995, since there are technically and economically feasible alternatives and substitutes for most applications, and since halon is available in sufficient quantity and quality from existing stocks of banked and recycled halon.

24. Essential use nominations for other controlled substances for 1996 and beyond: With regard to essential use nominations for all controlled substances other than halons, the Working Group agreed to recommend that the Sixth Meeting of the Parties should decide:

1. To note with appreciation the work done by the Technology and Economic Assessment Panel and its Technical Options Committees pursuant to decision IV/25 of the Fourth Meeting of the Parties;
2. That, for 1996 and subsequent years for Parties not operating under paragraph 1 of Article 5 of the Protocol, levels of production or consumption necessary to satisfy essential uses of CFCs and 1,1,1-trichloroethane for metered dose inhalers (MDIs) and the Space Shuttle are authorized as specified in annex II to the report of the Working Group, subject to annual review of quantities and biennial review of whether the use remains essential [and the possible further consideration of the MDI exemption referred to in paragraph 25 below];
3. That for 1996, 1997, [and 1998] for Parties not operating under paragraph 1 of Article 5 of the Protocol, production or consumption necessary to satisfy essential uses of ODSs for laboratory and analytical uses are authorized as specified in annex III to the report of the Working Group;
4. That Parties shall endeavour to minimize use and emissions by all practical steps. In the case of metered dose inhalers, these steps include education of physicians and patients about other treatment options and good-faith efforts to eliminate or recapture emissions from filling and testing, consistent with national laws and regulations.

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25. The Chairman of the Working Group noted that, at their Sixth Meeting, Parties would have an opportunity to review whether the scope of the essential use recommendations for MDIs should include treatment of non-asthma and non-chronic obstructive pulmonary diseases.

26. With regard to process agents, the Working Group decided to recommend that the Sixth Meeting of the Parties should decide:

Taking into account

That some Parties may have interpreted use of controlled substances, in some applications where they are used as process agents, as feedstock application;

That other Parties have interpreted similar applications as use and thereby subject to phase-out;

That the Technology and Economic Assessment Panel has been unable to recommend exemption, under the essential use criteria, to Parties submitting applications of such uses nominated in 1994;

That there is a pressing requirement for elaboration of the issue and need for appropriate action by all Parties;

1. To request the Technology and Economic Assessment Panel:
  - (a) To identify uses of controlled substances as chemical process agents;
  - (b) To estimate emissions of controlled substances when used as chemical process agents and the ultimate fate of such emissions and to evaluate emissions associated with the different control technologies and other process conditions under which chemical process agents are used;
  - (c) To evaluate alternative process agents or technologies or products available to replace controlled substances in such uses; and
  - (d) To submit its findings to the Open-ended Working Group of the Parties to the Montreal Protocol not later than March 1995, and to request the Open-ended Working Group to formulate recommendations, if any, for the consideration of the Parties at their Seventh Meeting.
- [2. That Parties, for an interim period of 1996 only, treat chemical process agents in a manner similar to feedstocks, as advanced by the Technology and Economic Assessment Panel, and take a final decision on such treatment at their Seventh Meeting.]

Alternatives to HCFCs:

27. With regard to the evaluation of alternatives to HCFCs, many representatives expressed views on the conclusions of the Technology and Economic Assessment Panel. Following the discussion of this item, the Working Group asked the Technology and Economic Assessment Panel to reconsider its evaluation on HCFCs in the light of comments made in the discussion and noted that further consideration of the Panel's conclusions could take place at the Sixth Meeting of the Parties.

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Recovery and recycling:

28. On recovery and recycling, some representatives expressed the need for all options such as recovery, recycling, retrofit and others to be properly evaluated and encouraged Parties to ensure that recycled substances were economical in comparison to newly produced controlled substances. It was also suggested that consideration should be given to a decision to establish more effective modalities to ensure that substances being imported or exported as used or recycled materials were indeed used or recycled.

Halon banking:

29. During the Working Group's consideration of the issue of the supply of halons to Parties operating under paragraph 1 of Article 5, various views on the supply of halons were expressed. The Chairman of the Working Group drew attention to the decision adopted by the Fifth Meeting of the Parties on the halon bank support system. He added, however, that the concerns of developing countries with regard to the supply of halons should be taken into account, hence the need for UNEP, the Industry and Environment Programme Activity Centre (IE/PAC) and the Technology and Economic Assessment Panel to keep the issue under constant review.

Inadvertent emissions:

30. In considering the issue of the estimated total emissions resulting from trace impurities, emission during product manufacture and handling losses, the Working Group encouraged countries to give urgent attention to the problem and to make efforts to minimize such emissions.

Problems of definitions for control of methyl bromide:

31. In order to provide guidance in the implementation of Article 2H, the Working Group recommended that the Sixth Meeting of the Parties should consider providing the following definitions of "quarantine" and "pre-shipment" treatments:

[Quarantine treatments, with respect to methyl bromide, are treatments to prevent the introduction, establishment and/or spread of quarantine pests (including diseases), or to ensure their official control, where:

- Official control is that performed by, or authorized by a national plant, animal or environmental protection, or health authority.
- Quarantine pests are pests of potential importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled.]

[Pre-shipment treatments are those treatments applied to goods in trade (and their means or conveyance) [immediately] prior to dispatch.]

[When applying quarantine or pre-shipment treatment, Parties are urged to apply non-ozone-depleting technologies where possible. Where methyl bromide is used Parties are urged to minimize emissions and use of methyl bromide through containment and recovery and recycling methodologies to the extent possible.]



32. The Working Group also agreed on a bracketed proposal on methyl bromide as a part of a draft proposal on the mandate of the Assessment Panels (see paragraph 35 below).

List of products containing controlled substances from Annex B:

33. The Working Group recommended that the Sixth Meeting of the Parties should decide that, in view of the tightening of the phase-out schedule for Annex B substances from 1 January 2000 to 1 January 1996, that the elaboration of the list called for in Article 4, paragraph 3 bis, of the Montreal Protocol would be of little practical consequence and that the work entailed in drawing up and adopting such a list would be disproportionate to the benefits, if any, to the ozone layer.

34. Proposal for action. The Sixth Meeting may wish to take appropriate decisions on the recommendations of the Open-ended Working Group.

2. Other issues discussed by the Tenth Meeting of the Open-ended Working Group of the Parties to the Montreal Protocol

35. At its tenth meeting, the Working Group agreed to include the following draft proposal on the mandate of the Assessment Panels, with the text placed in square brackets:

[To request the Assessment Panels - as an inclusion in their ongoing work - to evaluate, without prejudice to Article 5 of the Montreal Protocol, the technical and economic feasibility and environmental, scientific and economic implications for non-Article 5 countries, as well as Article 5 countries, of:

(a) An earlier phase-out of HCFCs; in doing so the Technology and Economic Assessment Panel is also requested to consider the ODS substitution potential brought by the available not-in-kind alternatives and alternative technologies. In assessing this matter the Technology and Economic Assessment Panel should consider the implications of the use of available alternatives to HCFCs, including factors such as energy efficiency, global warming impact, potential flammability, and toxicity;

(b) More stringent control measures for methyl bromide, in time for consideration by the Open-ended Working Group at its eleventh meeting, bearing in mind the contents of Annexes V, VI and VII of the report of the Fifth Meeting of the Parties (UNEP/OzL.Pro.5/12);

(c) In considering these matters, the Scientific Assessment Panel shall consider the atmospheric chlorine loadings and the impact on ozone depletion.]

36. Proposal for action. The Sixth Meeting may wish to consider this proposal and take an appropriate decision.

F. SCIENTIFIC ASSESSMENT

Report of the Scientific Assessment Panel

37. The report of the Scientific Assessment Panel on the impact on the ozone layer of continued use of recycled controlled substances was circulated to all the Governments in document UNEP/OzL.Pro/WG.I/10/4. The report pointed out that, for any CFC, halon or methyl bromide to cause damage to the ozone layer, it must first be released into the atmosphere. Consequently, recycled compounds which were not released would have no impact on ozone depletion, while any that were, accidentally or

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deliberately, would cause such depletion. The Panel's study compared the impact of destroying CFCs with that of recycling and reusing them, in which case they would ultimately be released into the atmosphere. The comparison was based on the global production of CFC-11 and CFC-12 for various applications, assuming a four-year average lifetime for the release of those CFCs from such applications and the complete recapture and destruction of all the gases stored in 1994. The calculations showed that the difference between the total effective atmospheric chlorine in the two scenarios was less than 0.65 per cent. The report concluded that the impact on the ozone layer of the continued use of recycled controlled substances was minimal. The conclusions of the Panel were considered by the tenth meeting of the Open-ended Working Group, and its observations appear in the report of the Working Group, document UNEP/OzL.Pro/WG.I/6, in paragraphs 76-86.

38. Proposal for action. The Sixth Meeting may wish to note the conclusions of the Scientific Assessment Panel on the issue.

G. PROVISION OF INFORMATION ON THE SUPPLY OF CONTROLLED SUBSTANCES TO PARTIES OPERATING UNDER PARAGRAPH 1 OF ARTICLE 5 OF THE MONTREAL PROTOCOL (DECISION V/25 AND PARAGRAPH 59 OF THE REPORT OF THE FIFTH MEETING OF THE PARTIES TO THE PROTOCOL)

39. This issue was considered by the tenth meeting of the Open-ended Working Group. Several representatives expressed the view that the provisions of decision V/25 were not really workable. Many representatives said that greater flexibility should be granted to developing countries in meeting the provisions of the decision. Several representatives said that they shared a concern regarding the pre-certification provisions of the decision and believed that post-certification procedures would be most workable.

40. The Chairman of the subgroup on decision V/25 subsequently introduced a draft proposal which had been prepared in response to the concerns of some Parties that the requirements placed on Article 5 Parties by the current version of the decision were excessively burdensome and constituted a barrier to free trade. Many countries welcomed the proposal as a good response to the concerns of the developing countries. Many of the developing countries, however, mentioned that their concerns regarding bureaucratic delays hampering trade necessary for them were still not fully alleviated, although they would not stand in the way of the adoption of the proposal by the Working Group.

41. Following a discussion of the draft proposal, the Working Group agreed to recommend the following draft decision for the consideration of the Sixth Meeting of the Parties:

In order to facilitate implementation of the Protocol's provisions concerning the supply of controlled substances to meet the basic domestic needs of Parties operating under Article 5, paragraph 1, the Parties decide to substitute the following for decision V/25:

1. In cognizance of the basic domestic needs provisions of Articles 2A to 2E and Article 5, [and decision I/12C\*] and for the purpose of the reporting requirements under Article 7, Parties will instruct companies exporting controlled substances from their countries to notify, within [30] [60] days after the time of export, the focal points of both the concerned Governments of the names of exporting and importing countries and the quantities exported [and the names of companies to which exported].

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2. [For each Party operating under Article 5 who imports or produces controlled substances under these provisions, the report required under Article 7 shall describe the steps undertaken to ensure that such imports and/or production have been used to satisfy its basic domestic needs.]

3. The Secretariat shall prepare and distribute to the Parties examples of letters that could be used by companies for the purposes described in paragraph 1 above [, and shall publish the data provided in paragraph 2 as part of its reports under Article 7].

[\* Decision I/12C states: "Basic domestic needs" referred to in Articles 2 and 5 of the Protocol should be understood as not to allow production of products containing controlled substances to expand for the purposes of supplying other countries.]

42. Proposal for action. The Sixth Meeting may wish to consider the recommendation of the Working Group and adopt an appropriate decision.

H. MODIFICATIONS IN THE INDICATIVE LIST OF CATEGORIES  
OF INCREMENTAL COSTS UNDER THE TERMS OF REFERENCE  
OF THE MULTILATERAL FUND

43. The Working Group considered a letter dated 9 May 1994 from the Deputy Secretary (Ozone) of the Ministry of Environment and Forests, Government of India, to the Coordinator of the Ozone Secretariat, UNEP, regarding a proposal by India on modifications to the indicative list of categories of incremental costs under the Montreal Protocol, contained in document UNEP/OzL.Pro/WG.I/10/5.

44. The proposal was introduced by the representative of India who said that it was also being submitted on behalf of Malaysia. He said that the proposal had been put forward to rectify deficiencies in the indicative list, which, despite its name, had tended to become an immutable, final list. The purpose of the proposal was to include, as an incremental cost, the cost of establishing new facilities or expanding existing facilities for the purposes covered in the indicative list in order to meet expanded demand, as permitted by the Protocol. The proposal was in the interest of protecting the ozone layer and, in the long run, would lower the overall cost to the Multilateral Fund.

45. Many representatives supported the proposal, expressing the view that it took account of the development in certain sectors. Other representatives, however, while recognizing the pertinence of the issue, felt that it would be ill-advised to amend the indicative list in isolation. They believed that the issue should be taken up by the Executive Committee in conjunction with the report on the evaluation of the operation of the Financial Mechanism.

46. Following a short discussion, in which the Chairman of the Working Group concluded that the Working Group did not have a mandate from the Fifth Meeting of the Parties to make a recommendation to the Sixth Meeting of the Parties on the proposal, the Working Group agreed that the different views expressed should be brought to the attention of the Sixth Meeting of the Parties.

47. Proposal for action. The Sixth Meeting of the Parties may wish to consider the matter and take an appropriate decision.

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I. CO-CHAIRS OF THE OPEN-ENDED WORKING GROUP OF THE  
PARTIES TO THE MONTREAL PROTOCOL

48. Decision III/11 of the Third Meeting of the Parties endorsed the selection of Mexico and the United Kingdom as co-Chairmen of the Open-ended Working Group without specifying the period of their tenure. These two countries chaired the sessions of the Open-ended Working Group at its sixth, seventh and eighth meetings. At the Fourth Meeting of the Parties to the Montreal Protocol, the meeting accepted Mr. John Carstensen, representative of Denmark, as Co-Chairman of the Open-ended Working Group to replace Mr. Steve Lee-Bapty of the United Kingdom, and endorsed the selection of Denmark and Mexico as Co-Chairman of the Open-ended Working Group of the Parties. They have chaired the ninth and tenth meeting of the Working Group.

49. Proposal for action. The Sixth Meeting may wish to consider the chairmanship for 1995.

J. TRUST FUND FOR THE MONTREAL PROTOCOL: FINANCIAL REPORT  
FOR 1993 AND BUDGETS FOR 1994, 1995 AND 1996

50. The financial report of the Trust Fund for the Montreal Protocol for 1993 has been circulated in document UNEP/OzL.Pro.6/3. The budgets for 1994, 1995 and 1996, along with explanatory notes, have been circulated in document UNEP/OzL.Pro.6/4. The budgets have been prepared taking into account the increased number of developing countries that are Parties and the cost of the review of the Financial Mechanism under Article 10 of the Protocol to be considered by the Seventh Meeting of the Parties. The status of contributions as at 30 September 1994 will be circulated during the Meeting. As can be seen, many Parties have not paid their contributions fully. The Secretariat cannot plan the Meetings of the Parties and their committees appropriately unless each Party pays its contributions promptly.

51. Proposal for action. The Sixth Meeting may wish to note the Financial report for 1993, approve the revised budgets for 1994 and 1995 and the proposed budget for 1996 and urge all the Parties to contribute their share in time.

Annex

IMPLEMENTATION OF THE DECISIONS ADOPTED BY THE FIFTH MEETING  
OF THE PARTIES TO THE MONTREAL PROTOCOL  
(BANGKOK, 17-19 NOVEMBER 1993)

Decision V/1. Amendments adopted by the Second Meeting  
of the Parties (London Amendment) and by the Fourth  
Meeting of the Parties (Copenhagen Amendment)

52. Action taken. As at 13 July 1994, 89 States had ratified the London Amendment to the Montreal Protocol. The Copenhagen Amendment to the Protocol, which entered into force on 16 June 1994, had been ratified by 28 Parties on the same date.

Decision V/2. Implementation Committee

53. Action taken. A meeting of the Implementation Committee was held in Nairobi on 4 July 1994 and the report of the Committee has been communicated to all Governments in document UNEP/OzL.Pro.ImpCom/8/3. The ninth meeting of the Implementation Committee will be held in Nairobi on 3 October 1994 concurrently with the Preparatory Meeting for the Seventh Meeting of the Parties.

Decision V/3. Application of trade measures under  
Article 4 to non-Parties to the London Amendment

54. Action taken. Poland and Turkey submitted data in accordance with this decision. Malta and Jordan ratified the London Amendment before 31 March 1994 and have since become Parties to the London Amendment to the Protocol.

Decision V/4. Classification of certain developing countries  
as not operating under Article 5 and reclassification of  
certain developing countries earlier classified as not  
operating under Article 5

55. Action taken. The recommendations of the Open-ended Working Group have been communicated to all Governments in document UNEP/OzL.Pro/WG.I/10/6.

Decision V/5. Revised format for reporting of  
data under Article 7

56. Action taken. The approved data formats were communicated to all Parties in February 1994.

Decision V/6. Data and information reporting

57. Action taken. As at 13 July 1994, only 59 Parties had reported data for 1992 as required by Article 7. Reminders were sent to all the non-reporting Parties in February and May 1994. At its eighth meeting, the Implementation Committee took note of that situation and discussed ways and means of improving the state of reporting with the representatives of the Multilateral Fund Secretariat and the implementing agencies of the Fund, i.e., UNDP, UNEP, the United Nations Industrial Development Organization (UNIDO) and the World Bank.

Decision V/7. Review of the functioning of the  
Financial Mechanism since 1 January 1991

58. Action taken. Noted.

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Decision V/8. Consideration of alternatives

59. Action taken. The report of the Technology and Economic Assessment Panel on this issue was communicated to all Governments in April 1994. The recommendations of the Open-ended Working Group on the issue were communicated to all Governments in document UNEP/OzL.Pro/WG.I/10/6.

Decision V/9. Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol

60. Action taken. The status of contributions to the Multilateral Fund as at 30 September 1994 will be placed before the meeting of the Parties.

Decision V/10. Temporary difficulties encountered by Hungary, Bulgaria, Poland and other countries with economies in transition

61. Action taken. The report of the Executive Committee on temporary difficulties encountered by Hungary, Bulgaria, Poland and other countries with economies in transition is contained in document UNEP/OzL.Pro.6/6. The report has been considered by the thirteenth meeting of the Executive Committee.

Decision V/11. Review under paragraph 8 of Article 5 of the Protocol

62. Action taken. The review is under way and the results will be submitted to the Secretariat by 31 December 1994.

Decision V/12. Review under section II, paragraph 4, of decision IV/18 of the Fourth Meeting of the Parties to the Montreal Protocol

63. Action taken. The Open-ended Working Group adopted the terms of reference at its tenth meeting. The terms of reference are contained in Annex I to the report of the Open-ended Working Group, which has been communicated to all Governments in document UNEP/OzL.Pro/WG.I/10/6. The review will be undertaken in accordance with the decision of the Working Group and placed before the eleventh meeting of the Working Group to be held in March 1995.

Decision V/13. Assessment Panel reports

64. Action taken. Noted.

Decision V/14. Essential uses of halons

65. Action taken. Noted.

Decision V/15. International halon bank management

66. Action taken. Noted.

Decision V/16. Supply of halon to Parties operating under paragraph 1 of Article 5 of the Protocol

67. Action taken. The issue was considered by the tenth meeting of the Open-ended Working Group and its report communicated to all Governments in document UNEP/OzL.Pro/WG.I/10/6.

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Decision V/17. Feasibility of banning or restricting from States not party to the Montreal Protocol the import of products produced with, but not containing, controlled substances in Annex A, in accordance with paragraph 4 of Article 4 of the Protocol

68. Action taken. Noted.

Decision V/18. Timetable for the submission and consideration of essential use nominations

69. Action taken. All nominations for essential uses of ozone-depleting substances submitted to the Secretariat by 1 January 1994 were considered by the Technology and Economic Assessment Panel and its recommendations placed before the tenth meeting of the Open-ended Working Group.

Decision V/19. Control measures to be applicable to Parties operating under paragraph 1 of Article 5 of the Protocol with respect to the controlled substances in Group I of Annex C, Group II of Annex C, and Annex E

70. Action taken. Issues raised in this decision are under consideration by the Scientific and Technology and Economic Assessment Panels. The reports of the Panels will be submitted to the Secretariat by 30 November 1994.

Decision V/20. Extension of application of trade measures under Article 4 to controlled substances listed in Group I of Annex C and in Annex E

71. Action taken. The assessment is under way and the report of the Technology and Economic Assessment Panel is due for submission to the Secretariat by 30 November 1994.

Decision V/21. Budgets and financial matters

72. Action taken. The financial report on the Montreal Protocol Trust Fund for 1993 (UNEP/OzL.Pro.6/3) has been prepared and communicated to Parties in the same format as the revised budgets for 1994 and 1995 and the proposed budget for 1996.

Decision V/22. Bureau of the Fourth Meeting of the Parties to the Montreal Protocol

73. Action taken. Noted.

Decision V/23. Funding of methyl bromide projects by the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol

74. Action taken. The Executive Committee of the Multilateral Fund has so far approved one project.

Decision V/24. Trade in controlled substances and the Basel Convention on Transboundary Movement of Hazardous Wastes and their Disposal

75. Action taken. The matter is under consideration by the Technical Working Group of the Parties to the Basel Convention in liaison with the Ozone Secretariat.

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Decision V/25. Provision of information on the supply of controlled substances to Parties operating under Paragraph 1 of Article 5 of the Montreal Protocol

76. Action taken. The tenth meeting of the Open-ended Working Group considered this issue and recommended a decision to the Sixth Meeting of the Parties. The report of the Open-ended Working Group has been communicated to all Governments in document UNEP/OzL.Pro/WG.I/10/6.

Decision V/26. Destruction technologies

77. Action taken. Noted.

Decision V/27. Sixth Meeting of the Parties to the Montreal Protocol

78. Action taken. The Sixth Meeting of the Parties will be held in Nairobi on 6 and 7 October 1994.

Decision V/28. Seventh Meeting of the Parties to the Montreal Protocol

79. Action taken. Negotiations between the Secretariat and the Government of Austria are under way to finalize the dates of the meeting in Vienna in October 1995.

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