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**Implementation Committee under the
Non-Compliance Procedure for the
Montreal Protocol
Sixty-fifth meeting**
Online, 16–18 November 2020

Report of the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol on the work of its sixty-fifth meeting

Introduction

1. The sixty-fifth meeting of the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol on Substances that Deplete the Ozone Layer was held online in three two-hour sessions on 16, 17 and 18 November 2020.

I. Opening of the meeting

2. The President of the Committee, Ms. Maryam Al-Dabbagh (Saudi Arabia), opened the meeting at 3 p.m. (Nairobi time (UTC + 3)) on Monday, 16 November 2020.

3. Ms. Megumi Seki, acting Executive Secretary, Ozone Secretariat, welcomed the members of the Committee and the representatives of the secretariat of the Multilateral Fund for the Implementation of the Montreal Protocol and its implementing agencies. She thanked the members of the Committee for participating online in their respective time zones. She said that, in addition to its regular items, the Committee would further consider the case of non-compliance by the Democratic People's Republic of Korea under Article 7 of the Protocol. In addition, a proposal by the European Union and Poland on process agents, which had been deferred from the sixty-fourth meeting of the Implementation Committee, would be considered. She concluded by wishing the Committee a successful meeting.

II. Adoption of the agenda and organization of work

A. Attendance

4. Representatives of the following Committee members attended the meeting: Australia, China, European Union, Guinea-Bissau, Nicaragua, Paraguay, Poland, Saudi Arabia, Turkey, Uganda.

5. The meeting was also attended by representatives of the secretariat of the Multilateral Fund and representatives of the following implementing agencies of the Fund: the United Nations Environment Programme (UNEP), the United Nations Industrial Development Organization (UNIDO) and the World Bank, and by the Vice-Chair of the Executive Committee of the Multilateral Fund.

6. The list of participants is set out in annex II to the present report.

B. Adoption of the agenda

7. The Committee adopted the following agenda on the basis of the provisional agenda (UNEP/OzL.Pro/ImpCom/65/R.1):

1. Opening of the meeting.
2. Adoption of the agenda and organization of work.
3. Presentation by the Secretariat on data and information submitted under Articles 7 and 9 of the Montreal Protocol and on related issues.
4. Presentation by the secretariat of the Multilateral Fund for the Implementation of the Montreal Protocol on relevant decisions of the Executive Committee of the Fund and on activities carried out by the implementing agencies to facilitate compliance by parties.
5. Follow-up on previous decisions of the parties and recommendations of the Implementation Committee on issues related to non-compliance:
 - (a) Existing plans of action to return to compliance: Ukraine (decision XXIV/18 and recommendation 64/3);
 - (b) Non-compliance with hydrochlorofluorocarbons production and consumption reduction obligations: Democratic People's Republic of Korea (recommendation 64/1).
6. Reporting of information on the use of controlled substances as process agents.¹
7. Other matters.
8. Adoption of the recommendations and the report of the meeting.
9. Closure of the meeting.

C. Organization of work

8. The Committee agreed to follow its usual procedures.

III. Presentation by the Secretariat on data and information submitted under Articles 7 and 9 of the Montreal Protocol and on related issues

9. The representative of the Secretariat gave a presentation summarizing the report of the Secretariat on the information provided by parties in accordance with Articles 7 and 9 of the Montreal Protocol (UNEP/OzL.Pro.32/6–UNEP/OzL.Pro/ImpCom/65/2). He explained that he would not repeat the information presented to the Committee at its sixty-fourth meeting, but would provide only updates and new information.

10. With regard to reporting pursuant to Article 9, one new submission had been received since the previous meeting of the Committee, from Lithuania. All submissions under Article 9 were available on the Secretariat's website.

11. With regard to reporting of data under Article 7, 193 parties that were required to report data for 2019 had done so. Over 100 of those had used the online reporting system. As at the current meeting, 5 parties were in non-compliance with their obligations to report data for 2019 under Article 7 – Dominica, Mali, Saint Kitts and Nevis, San Marino and Yemen. Regarding the new reporting obligations under the Kigali Amendment to the Montreal Protocol, two parties – the Democratic People's Republic of Korea and Ethiopia – that had submitted their regular Article 7 data for ozone-depleting substances had not included data for hydrofluorocarbons (HFCs) for 2019, and one party – Andorra – was in non-compliance with its obligation to report HFC baseline data.

12. On the matter of cases of non-compliance or possible non-compliance with the control measures for the consumption and production of controlled substances under the Protocol, the matter of the Democratic People's Republic of Korea would be considered at the meeting under agenda item 5 (b). The compliance status of Andorra could not be assessed until it had reported its HFC baseline data. Japan's situation of possible non-compliance with control measures for the consumption and

¹ Proposal by the European Union and Poland.

production of HFCs for 2019 had been resolved. Some other cases of possible non-compliance were pending clarification by the parties concerned. The representative of the Secretariat also pointed out that the column headings for tables 3 and 4 in the report by the Secretariat (UNEP/OzL.Pro.32/6–UNEP/OzL.Pro/ImpCom/65/2) should allude to carbon dioxide equivalent (CO₂-eq) as well as to ODP-tonnes.

13. As for reporting pursuant to decisions XVIII/17 and XXII/20 of excess production and consumption of ozone-depleting substances attributable to stockpiling, Germany, Spain and the European Union had reported such excess production for 2019. All the parties had confirmed that they had in place the necessary measures to prevent the diversion of those substances to unauthorized uses, as required by paragraph 3 of decision XXII/20.

14. With regard to the reporting of process agent uses (decisions X/14 and XXI/3), only four parties (China, the European Union, Israel and the United States of America) still reported the use of ozone-depleting substances as process agents. All four parties had reported for 2019 on their process agent uses. The matter of the use of controlled substances as process agents would be further discussed at the meeting under agenda item 6.

15. Finally, on the matter of the reporting of zero quantities pursuant to decisions XXIV/14 and XXIX/18, by which parties had been requested to specify zero quantities with zeros – instead of leaving blank cells – on their Article 7 data reporting forms, all the parties that had left cells blank had now confirmed that zeros had been intended.

16. Following the presentation, the representative of the Secretariat responded to a number of questions. In response to a query about the units used for reporting of emissions from process agent uses, he confirmed that most parties reported in the preferred unit of metric tons, while one party continued to report in ODP-tonnes. If so requested by the Committee, the Secretariat would seek clarification, as relevant, regarding the data submitted by individual parties in relation to process agent uses. Responding to a query on the reason for some parties continuing to leave blank cells, he said that the Secretariat had only sought clarification from the parties, and had not sought reasons for the omission.

17. In response to a query about cases of excess production or consumption attributable to stockpiling in the European Union and its member States in accordance with decisions XVIII/17 and XXII/20, the representative of the Secretariat said that, pursuant to paragraph 4 of Article 7 of the Protocol, the European Union reported on consumption in aggregated form for all its member States, while production information was provided by each member State. However, since derivation of consumption included adding production, any excess production by European Union member States for a particular year would be reflected as excess consumption in the aggregated consumption for the European Union in that year.

18. The Committee agreed to forward for consideration by the Thirty-Second Meeting of the Parties the draft decision set out in section A of annex I to the present report.

Recommendation 65/1

IV. Presentation by the secretariat of the Multilateral Fund for the Implementation of the Montreal Protocol on relevant decisions of the Executive Committee of the Fund and on activities carried out by the implementing agencies to facilitate compliance by parties

19. The Chief Officer of the secretariat of the Multilateral Fund reported on relevant decisions of the Executive Committee of the Fund and on activities carried out by bilateral and implementing agencies, summarizing information provided in the annex to the note by the Secretariat on country programme data and prospects for compliance (UNEP/OzL.Pro/ImpCom/65/INF/R.2). He noted that the presentation would include updated information based on data reported in country programme reports and under Article 7 of the Montreal Protocol, the status of phase-out of hydrochlorofluorocarbons (HCFCs), HFC consumption in parties operating under paragraph 1 of Article 5 of the Protocol (Article 5 parties), matters related to the Kigali Amendment, and the impact of the coronavirus disease (COVID-19) pandemic.

20. Regarding HCFC consumption by Article 5 parties, based on Article 7 data reports submitted to the Ozone Secretariat, the level of HCFCs consumed was over 22,900 ODP-tonnes, representing 64 per cent of the HCFC consumption baseline. HCFC-141b, HCFC-142b and HCFC-22 represented over 90 per cent of the total consumption phased out.

21. He noted that the secretariat of the Multilateral Fund always checked country programme data reports submitted to it against the Article 7 data reports submitted to the Ozone Secretariat, and followed up on any discrepancies. Most such discrepancies had been rectified or clarified, and further clarification was being sought on any outstanding issues.

22. Regarding the status of HCFC phase-out as at the eighty-fifth meeting of the Executive Committee, stage I of HCFC phase-out management plans had been approved for 144 countries, and stage II had been approved for 41 countries. Total funding of \$1.1 billion had been approved in principle for those activities, of which \$868.8 million had been disbursed. A total of 99 Article 5 parties had committed themselves in their phase-out management plans to achieving compliance with the 2020 target, and 25 had compliance targets up to 2025. A total of 16 low-volume-consuming countries had committed themselves to completely phasing out HCFCs between 2020 and 2035. Stage I of the HCFC phase-out management plan for the Syrian Arab Republic would be considered by the Executive Committee at its eighty-sixth meeting. In the light of the continuing COVID-19 pandemic, an intersessional approval process had been established for reports and project proposals that were to have been considered at the eighty-fifth and eighty-sixth meetings of the Executive Committee.

23. Regarding the activities that had been funded, most of the foam manufacturing enterprises and a large portion of the refrigeration and air-conditioning manufacturing enterprises were under conversion. The majority of the conversions related to low-global-warming-potential alternatives, although a number of countries faced challenges with regard to the availability and market uptake of alternative technologies on the local market. Latest reported total HCFC consumption (22,904 ODP-tonnes) was 36 per cent below the consumption baseline for compliance. The cumulative amount of HCFCs to be phased out in the consumption sector upon the completion of stages I and II of the HCFC phase-out management plans was 20,211 ODP-tonnes (61.9 per cent of the starting point). Stage I of the HCFC production phase-out management plan for China had been completed, and stage II would be reconsidered by the Executive Committee at its eighty-sixth meeting. As at the eighty-fifth meeting of the Executive Committee, reporting by Article 5 parties on the status of funding of their stage I and stage II phase-out management plans showed that approved projects would phase out almost 100 per cent of HCFC-141b, 64 per cent of HCFC-142b and nearly 43 per cent of HCFC-22, and that nearly 62 per cent of all HCFCs would be addressed when all projects had been fully implemented.

24. During the intersessional approval process for the eighty-sixth meeting, the Executive Committee would consider a number of matters, including stage II of HCFC phase-out management plans for 34 countries; stage III of HCFC phase-out management plans for three countries; tranches of approved HCFC phase-out management plans for 27 countries; renewals of institutional-strengthening projects in 24 countries; preparation for stage II and stage III of HCFC phase-out management plans for six countries; preparation for stage III of HCFC phase-out management plans for three countries; preparation for verification reports for 16 low-volume-consuming countries; implementing agency costs; and a virtual meeting of the subgroup on the production sector.

25. HFC consumption had been reported for the first time in country programme data reports. A total of 81 Article 5 parties had reported their 2019 data for HFC consumption; the aggregated HCFC compliance baseline for those countries represented 15 per cent of the aggregated baseline for all Article 5 parties. Although the situation might change as more countries reported, currently HFC-134a, R-404A, R-507A and R-410A accounted for around 90 per cent of reported HFC consumption.

26. On matters relating to the Kigali Amendment, the continuing COVID-19 pandemic had slowed the development of the planned guidelines, policies and reports. It was to be hoped that the Executive Committee would be able to meet in March 2021 to discuss those matters. Of particular priority was the review of institutional strengthening projects, including funding levels, in view of the proposal for parallel implementation of HCFC phase-out and HFC phase-down during the period 2020–2030. The cost-effectiveness of approved investment projects, the mobilization of additional financial resources for maintaining or enhancing energy efficiency when replacing HFCs and projects related to the control of HFC-23 by-product emissions were other matters requiring urgent attention.

27. Finally, regarding the impact of the COVID-19 pandemic on the activities of the Multilateral Fund, agencies had reported challenges in the implementation of project components due to COVID-19-related restrictions. Agencies and national ozone units had established protocols by which they could continue with certain activities online, including offering technical support and assistance, project planning, reporting and consultations, training programmes for customs officials and

technicians, and verification of targets of HCFC phase-out management plans. Nevertheless, several enabling activities for HFC phase-down and HFC-related investment projects had been delayed.

28. Following the presentation, the Chief Officer of the Multilateral Fund responded to issues raised. In response to a query about discrepancies between the Article 7 consumption data reported by the Ozone Secretariat and the country programme data reported by the secretariat of the Multilateral Fund, the Chief Officer said that country programme data related to the distribution of consumption of controlled substances in different sectors in a particular year, which did not always correspond to the import of controlled substances in that year. Discrepancies could also arise when consumption of stockpiled substances was reported in the country programme data report for a particular year, or when destruction of ozone-depleting substances was reported in the country programme data report but not under Article 7 reporting. A number of discrepancies were also due to reporting errors. Matters of discrepancy were reported to and investigated by the implementing agencies, and in most instances the matter was resolved or further monitored. The matter would be addressed in the document on the country programme data and prospects for compliance, which was being prepared for consideration by the Executive Committee at its eighty-sixth meeting.

29. The Committee took note of the information presented.

V. Follow-up on previous decisions of the parties and recommendations of the Implementation Committee on issues related to non-compliance

A. Existing plans of action to return to compliance: Ukraine (decision XXIV/18 and recommendation 64/3)

30. Introducing the item, the representative of the Secretariat recalled that, by its recommendation 64/3, the Implementation Committee had requested Ukraine to report to the Secretariat its data for 2019, in accordance with paragraph 3 of Article 7 of the Protocol, preferably no later than 15 September 2020, in order for the Implementation Committee to assess at its sixty-fifth meeting the status of compliance by Ukraine with its commitments, as set out in decision XXIV/18. Under its plan of action in that decision, Ukraine had committed to HCFC consumption for 2019 of no greater than 16.42 ODP-tonnes. Actual consumption for that year, as reported by Ukraine in its data reporting under Article 7, was 11.49 ODP-tonnes. The party was therefore in compliance with its commitment for 2019.

31. The Committee therefore agreed to note with appreciation the submission by Ukraine of its Article 7 data for 2019, which indicated that it was in compliance both with the control measures of the Protocol and with its commitment for 2019, as set out in the plan of action recorded in decision XXIV/18.

B. Non-compliance with hydrochlorofluorocarbons production and consumption reduction obligations: Democratic People's Republic of Korea (recommendation 64/1)

32. The representative of the Secretariat presented an update of the non-compliance of the Democratic People's Republic of Korea with its HCFC production and consumption reduction obligations under the Protocol, which had been discussed by the Implementation Committee at its sixty-fourth meeting. By its recommendation 64/1, the Committee had requested the Democratic People's Republic of Korea, as a matter of urgency, to submit to the Implementation Committee a plan of action with time-specific benchmarks to ensure a prompt return to compliance, and had invited the party, if necessary, to send a representative to the Committee's sixty-fifth meeting. Article 7 data submitted by the party on consumption and production of HCFCs for 2019 had indicated the party to be in non-compliance with its obligations under the Protocol.

33. The Democratic People's Republic of Korea had duly submitted its plan of action for the period 2021–2023. The plan of action included a proposed reduction of HCFC consumption and production over the period in order to meet its obligations under the Protocol, and the establishment of various supportive policy and programme measures, including a ban on the import of HCFC-141b after the completion of stage I of its HCFC phase-out management plan; a ban on new installation of industrial refrigeration equipment using HCFCs, subject to the approval and implementation of stage II of the HCFC phase-out management plan; a ban on the import of HCFC-based equipment, subject to the approval and implementation of stage II of the HCFC phase-out management plan; a ban on the

production of HCFC-22 and the production of HCFC-based equipment after the conversion of HCFC-22 production lines; compulsory certification and licensing of refrigeration servicing workshops and technicians to handle HCFC-based equipment; and implementation of a mandatory licensing system after completion of the training of refrigeration technicians and deployment of recovery and recycling machines.

34. The party stated that the achievement of the targets for 2021 would depend on the completion of the following activities under stage I of the HCFC phase-out management plan: delivery of recovery and recycling machines; training of customs officers and refrigeration servicing technicians; and conversion of two HCFC-141b-based polyurethane foam production facilities. The party further stated that the reduction targets for 2022 and 2023 could be attained upon approval of the funding for stage II of the HCFC phase-out management plan, which would enable the completion of the conversion and the closure of an HCFC-22 production facility, and conversion of an HCFC-22-based refrigeration equipment manufacturing facility.

35. UNIDO, as the lead implementing agency for the implementation of the HCFC phase-out management plan in the Democratic People's Republic of Korea, had in 2019 submitted to the Security Council of the United Nations a new exemption request for an updated list of the equipment to be imported into the country, which had been denied. UNIDO had not been able to proceed with the delivery of equipment needed for completion of stage I of the HCFC phase-out management plan; nor could it proceed with the submission of stage II of the HCFC phase-out management plan, as that would also require an exemption from the Security Council. UNIDO had informed the Democratic People's Republic of Korea that the implementation of several components of the plan of action would only be feasible if Security Council sanctions were lifted or an exemption was granted. UNEP OzonAction, as the implementing agency, had confirmed the feasibility of implementation of the non-investment component of the plan of action presented by the party, but had raised a similar concern to that of UNIDO regarding the difficulty of transferring project funds to the Democratic People's Republic of Korea while the sanctions remained in place.

36. A draft recommendation on the matter was placed before the Committee for its consideration. Several members of the Committee suggested amendments to the text of the draft recommendation.

37. On the procedural aspects of the matter, the Secretariat's Chief of Legal Affairs and Compliance said that it was the practice of the Implementation Committee to share with a party that was in non-compliance the text of the draft recommendation related to the issue of its non-compliance. Following consideration of the information submitted by the party concerned, including its plan of action for a return to compliance, the Committee would finalize the recommendation and inform the party of what had been decided, before submission of the draft decision to the Thirty-Second Meeting of the Parties for its consideration. He drew attention to decision XIV/37, on the interaction between the Executive Committee and the Implementation Committee, in which it was noted that in no case should any Implementation Committee action be construed as directly requiring the Executive Committee to take any specific action regarding the funding of any specific project. In drafting any recommendation, the Committee could only act within its mandate, and was not able to override the decisions taken by other bodies, for example the sanctions imposed upon the Democratic People's Republic of Korea by the Security Council.

38. The representative of the Democratic People's Republic of Korea attended the second session of the meeting, on 17 November 2020, online. Speaking on behalf of the National Coordinating Committee for the Environment, he said that the Government of the Democratic People's Republic of Korea had consistently tried to fully implement its obligations under the Montreal Protocol. The party had successfully implemented stage I of its HCFC phase-out management plan, as approved by the Executive Committee of the Multilateral Fund, in collaboration with UNIDO and UNEP. However, the suspension of the delivery of alternative polyurethane foam equipment had hampered the party's efforts to meet its HCFC reduction targets. A national action plan for return to compliance had been submitted to the Implementation Committee. The representative also gave an update on national activities under the Kigali Amendment.

39. The representative of the Democratic People's Republic of Korea suggested amendments to the draft recommendation that was before the Implementation Committee. The amendments related to the dependence of the party's proposed action plan on the resumption of operation of the financial mechanism of the Montreal Protocol and its smooth implementation; active cooperation of the relevant implementing agencies with the party to ensure its return to compliance with its HCFC reduction targets; and exploration by the Ozone Secretariat of ways to provide international assistance to the Democratic People's Republic of Korea, in consideration of the cause of the party's non-compliance. He further asserted that the Democratic People's Republic of Korea was fully entitled to receive

international assistance for the implementation of its obligations under the Protocol, to which it remained committed, and that no individual country should be discriminated against for political reasons. Finally, he stated that if there were no resumption of international assistance in the near future, the Democratic People's Republic of Korea should be allowed, on an exceptional basis, to exceed the production and consumption limits for ozone-depleting substances during a stipulated transition period. The Government of the Democratic People's Republic of Korea remained committed to its obligations under the Vienna Convention and the Montreal Protocol and would continue to cooperate with UNEP, the Ozone Secretariat, UNIDO and other international partners to that end. Following his presentation, the representative of the Democratic People's Republic of Korea withdrew from the meeting.

40. In the ensuing discussion, several members of the Committee noted that there was some concordance between the proposals of the Democratic People's Republic of Korea and amendments to the draft recommendation proposed by members of the Committee; however, several of the party's proposals lay outside the mandate of the Committee. One member said that the measures proposed in the final draft of the recommendation should be implementable by the party concerned, and should allow some flexibility for adjustment in the event of a change in the circumstances related to the party's non-compliance. She also suggested the addition of a preambular paragraph noting the relevant resolutions of the Security Council on the Democratic People's Republic of Korea.

41. The Chief of Legal Affairs and Compliance noted the relevance to the matter of the non-compliance procedure of the Montreal Protocol, specifically paragraph 10, in which it was stated that where a party that was not a member of the Implementation Committee, was identified in a submission setting out one or more parties' reservations regarding another party's implementation of its obligations under the Protocol, or itself made such a submission, it was entitled to participate in the consideration by the Committee of that submission, and paragraph 11, in which it was stated that no party involved in a matter under consideration by the Implementation Committee was to take part in the elaboration and adoption of recommendations on that matter to be included in the report of the Committee. He also clarified that recommendations related to non-compliance generally included commitments that were measurable and enabled monitoring, for example consumption and production reduction targets, rather than commitments that were more difficult to ascertain and monitor, such as the introduction of policy measures. He also stated that it was the practice of the Secretariat to regularly bring to the attention of the Implementation Committee all information of relevance to the implementation of recommendations that had been adopted by the Committee.

42. During further discussion of the text of the draft recommendation, the representative of Australia said that, in the spirit of compromise, she would accept the preambular paragraph "Noting also the relevant resolutions of the United Nations Security Council on the Democratic People's Republic of Korea", although she asked for it to be indicated in the report of the meeting that she disagreed with the inclusion of that paragraph.

43. The Committee agreed to forward for consideration by the Thirty-Second Meeting of the Parties the draft decision set out in section B of annex I to the present report.

Recommendation 65/2

VI. Reporting of information on the use of controlled substances as process agents²

44. The representative of the European Union introduced a proposal by the European Union and Poland for a draft recommendation on the reporting of information on the use of controlled substances as process agents. He noted that the current practice of the Secretariat was not to review reported data on the use of process agents. That practice did not enable the Implementation Committee to assess compliance with reporting requirements, or deviations of the reported data from the thresholds for make-up or consumption and maximum emission values, as set out in table B of decision XXXI/6. While acknowledging the commercially sensitive nature of the data submitted, the Implementation Committee should be informed whether, in the annual reports submitted by parties, all data were submitted as required in the relevant decisions of the meetings of the parties, and whether there were any deviations from the thresholds established by the parties.

45. In the ensuing discussion, one member agreed that some oversight was needed on how decisions X/14 and subsequent decisions on the matter of process agent uses were implemented by parties, noting that under agenda item 3 of the current meeting the Implementation Committee had

² Proposal by the European Union and Poland.

requested the Secretariat to seek clarification from parties regarding their reporting, especially in the case of one party that reported in ODP-tonnes rather than metric tons. In formulating the draft recommendation, a balance was required between the need to provide parties with sufficient information to assess compliance and the need to recognize the commercial sensitivity of the information gathered. She affirmed that, pursuant to paragraph 3 of decision X/14, the data of relevance to compliance were the emission levels, as presented in the right-hand column of table B of decision X/14 and its updates, rather than the make-up or consumption. The member proposing the draft recommendation responded that determination of whether emissions were “insignificant” required an overview of the quantities involved in the process, namely the make-up or consumption. Those data were therefore also of relevance to compliance and could be alluded to in the draft recommendation.

46. Following further discussion, the Committee agreed to forward for consideration by the Thirty-Second Meeting of the Parties the draft decision set out in section C of annex I to the present report.

Recommendation 65/3

VII. Other matters

47. No other matters were considered.

VIII. Adoption of the recommendations and the report of the meeting

48. The Committee approved the recommendations set out in the present report and agreed to entrust the finalization and approval of the meeting report to the President and the Vice-President, the latter of whom also served as Rapporteur for the meeting, working in consultation with the Secretariat.

IX. Closure of the meeting

49. Following the customary exchange of courtesies, the President declared the meeting closed at 5.35 p.m. (Nairobi time (UTC + 3)) on Wednesday, 18 November 2020.

Annex I

Draft decisions approved by the Implementation Committee at its sixty-fifth meeting for consideration by the Meeting of the Parties

The Thirty-Second Meeting of the Parties decides:

A. Draft decision XXXII/[]: Data and information provided by the parties in accordance with Article 7 of the Montreal Protocol

1. To note that [194] parties of the 198 parties that should have reported data for 2019 have done so, and that 176 of those parties had reported their data by 30 September 2020 as required under paragraph 3 of Article 7 of the Montreal Protocol on Substances that Deplete the Ozone Layer;

2. To note with appreciation that 108 of those parties had reported their data by 30 June 2020, in accordance with the encouragement in decision XV/15, and that reporting by 30 June each year greatly facilitates the work of the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol in assisting parties operating under paragraph 1 of Article 5 of the Protocol to comply with the Protocol's control measures;

3. [To note with concern that [four] parties, namely [Dominica, Mali, San Marino and Yemen], have not reported their 2019 data as required under paragraph 3 of Article 7 of the Montreal Protocol, and that this places them in non-compliance with their data reporting obligations under the Montreal Protocol until such time as the Secretariat receives their outstanding data;]

4. [Also to note with concern that one party, namely the Democratic People's Republic of Korea, that became a party to the Kigali Amendment to the Montreal Protocol in 2019 and is thus required to submit data on Annex F substances (hydrofluorocarbons (HFCs)) for 2019, submitted data for other controlled substances but not for HFCs as required under paragraph 3 of Article 7 of the Montreal Protocol, and that this places it in non-compliance with its data reporting obligations under the Montreal Protocol until such time as the Secretariat receives its outstanding HFC data;]

5. [To also note with concern that one party, namely Andorra, that became a party to the Kigali Amendment in 2019 and should have submitted baseline data for Annex F substances (hydrofluorocarbons (HFCs)) has not done so as required under paragraph 2 of Article 7 of the Montreal Protocol, and that this places it in non-compliance with its data reporting obligations under the Montreal Protocol until such time as the Secretariat receives its outstanding baseline data for HFCs;]

6. To note that a lack of timely data reporting by parties impedes the effective monitoring and assessment of parties' compliance with their obligations under the Montreal Protocol;

7. To urge the parties listed in paragraphs 3, 4 and 5 of the present decision to report the required data to the Secretariat as quickly as possible;

8. To request the Implementation Committee to review the situation of those parties at its sixty-sixth meeting;

9. To encourage parties to continue to report consumption and production data as soon as the figures are available, and preferably by 30 June each year, as agreed in decision XV/15.

B. Draft decision XXXII/[]: Democratic People's Republic of Korea

Noting that the Democratic People's Republic of Korea ratified the Montreal Protocol on Substances that Deplete the Ozone Layer on 24 January 1995, the London and Copenhagen amendments to the Protocol on 17 June 1999, the Montreal and Beijing amendments on 13 December 2001, and the Kigali Amendment on 21 September 2017, and is classified as a party operating under paragraph 1 of Article 5 of the Protocol,

Noting also that the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol has approved \$23,569,025 from the Multilateral Fund for the Implementation of the Montreal Protocol in accordance with Article 10 of the Protocol to enable the Democratic People's Republic of Korea to achieve compliance with the Protocol,

Noting further that the annual consumption of 72.27 ODP-tonnes of the controlled substances in Annex C, group I (hydrochlorofluorocarbons (HCFCs)) in 2019 by the Democratic People's Republic of Korea exceeds the party's maximum allowable consumption of 70.2 ODP-tonnes for controlled substances for that year and that the party was therefore in non-compliance with consumption control measures under the Protocol for HCFCs,

Noting that the annual production of 26.95 ODP-tonnes of HCFCs in 2019 by the Democratic People's Republic of Korea exceeds the party's maximum allowable production of 24.8 ODP-tonnes for controlled substances for that year and that the party was therefore in non-compliance with production control measures under the Protocol for HCFCs,

Noting also the relevant resolutions of the United Nations Security Council on the Democratic People's Republic of Korea,

1. To note with appreciation the submission by the Democratic People's Republic of Korea of an explanation for its non-compliance and a plan of action to ensure its return to compliance with the Protocol's HCFC consumption control measures and production control measures in 2023;

2. To note that, under that plan of action, without prejudice to the operation of the financial mechanism of the Protocol, the Democratic People's Republic of Korea specifically commits itself to the following:

(a) Reducing its consumption of HCFCs from 72.27 ODP-tonnes in 2019 and 2020 to no greater than the following levels:

- (i) 58.00 ODP-tonnes in 2021;
- (ii) 58.00 ODP-tonnes in 2022;
- (iii) 33.20 ODP-tonnes in 2023;
- (iv) Levels allowed under the Montreal Protocol in 2024 and subsequent years;

(b) Reducing its production of HCFCs from 26.95 ODP-tonnes in 2019 and 2020 to no greater than the following levels:

- (i) 24.80 ODP-tonnes in 2021;
- (ii) 24.80 ODP-tonnes in 2022;
- (iii) 0 ODP-tonnes in 2023;
- (iv) Levels allowed under the Montreal Protocol in 2024 and subsequent years;

3. To urge the Democratic People's Republic of Korea to work with the relevant implementing agencies to explore options for the implementation of its plan of action to phase out the consumption and production of HCFCs subject to the application of the relevant United Nations Security Council resolutions;

4. To closely monitor the progress of the Democratic People's Republic of Korea with regard to the implementation of its plan of action and the phase-out of HCFCs. To the extent that the party is working towards and meeting specific Protocol control measures, it should continue to be treated in the same manner as a party in good standing. In that regard, the Democratic People's Republic of Korea should continue to be eligible to receive appropriate assistance to enable it to meet those commitments in accordance with item A of the indicative list of measures that may be taken by a Meeting of the Parties in respect of non-compliance with the Protocol, subject to the application of relevant United Nations Security Council resolutions;

5. To invite the Democratic People's Republic of Korea to establish additional national policies facilitating HCFC phase-out that may include, but are not limited to, bans on imports, on production or on new installations, and certification of refrigeration technicians and companies;

6. To caution the Democratic People's Republic of Korea, in accordance with item B of the indicative list of measures that may be taken by the Meeting of the Parties in respect of non-compliance, that, in the event that the Democratic People's Republic of Korea fails to return to compliance, the parties will consider measures consistent with item C of the indicative list of measures. Those measures may include the possibility of actions available under Article 4, such as ensuring that the supply of HCFCs that are the subject of non-compliance is ceased so that exporting parties do not contribute to a continuing situation of non-compliance.

C. Draft decision XXXII/[]: Reporting of information on the use of controlled substances as process agents

Recalling that the quantities of controlled substances produced or imported for use as process agents in plants and installations operating before 1 January 1999 should not be taken into account in the calculation of production and consumption provided that the conditions set out in decision X/14, as amended by decisions XV/7, XVII/6, XXI/3, XXII/8, XXIII/7 and XXXI/6, have been met,

Noting that the detailed data on the use of controlled substances as process agents submitted to the Secretariat may be commercially sensitive,

- (a) To request the Secretariat to review the annual reports submitted by parties that are allowed to use controlled substances as process agents;
- (b) Also to request the Secretariat to seek clarification from the parties if any deviations of the reported data from the maximum emission limits set out in table B of decision XXXI/6, or in any future decision of the parties by which table B may be further amended, are identified;
- (c) Further to request the Secretariat to bring to the attention of the Implementation Committee any deviations referred to in paragraph (b) of the present decision still remaining after clarification, without disclosing the reported data;
- (d) To request the Secretariat to inform the Implementation Committee if the reports contain data on make-up or consumption amounts.

Annex II

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