

**Implementation Committee under the
Non-Compliance Procedure for the
Montreal Protocol
Fifty-first meeting**
Bangkok, 18 and 19 October 2013
Agenda items 5–9

Final recommendations

I. Conclusions to be noted in the meeting report not in the form of formal recommendations

A. Israel

The Committee therefore noted with appreciation the submission by Israel of all outstanding process-agent data for 2010 and 2011, in compliance with decisions X/14 and XXI/3 and recommendation 50/10.

B. Kazakhstan

In the absence of any submission by Kazakhstan of a plan of action, as requested in recommendation 50/11, for the Committee's consideration at its fifty-first meeting, the draft decision adopted at the Committee's fiftieth meeting, as contained in section [] of annex [] to the present report, will be forwarded for consideration by the Twenty-Fifth Meeting of the Parties.

II. Formal recommendations

A. Existing plans of action to return to compliance: Ecuador

The Committee therefore agreed to note with appreciation that Ecuador had reported its data on consumption of ozone-depleting substances for 2012, which showed that the party was in compliance with its commitment recorded in decision XX/16 to limit its consumption of methyl bromide to no greater than 52.8 ODP-tonnes in that year.

Recommendation 51/1

B. Other recommendations and decisions on compliance: Azerbaijan

The Committee therefore agreed:

Noting with concern that Azerbaijan had reported consumption of 7.63 ODP-tonnes of the Annex C, group I, controlled substances (hydrochlorofluorocarbons) in 2011, in excess of the Protocol's requirement to limit consumption of those substances to no greater than 3.7 ODP-tonnes in that year,

Noting Azerbaijan's explanation for its reported excess hydrochlorofluorocarbon consumption in 2011,

Noting also Azerbaijan's submission of a plan of action for returning to compliance with the Protocol's control measures for hydrochlorofluorocarbons,

Noting with appreciation the party's intention to implement regulatory, administrative and technical measures to ensure compliance with the Protocol's hydrochlorofluorocarbon consumption control measures,

- (a) To confirm that Azerbaijan's submission of ozone-depleting-substance data for 2012 showed that the party was in compliance with its hydrochlorofluorocarbon consumption obligations under the control measures of the Protocol;
- (b) To monitor closely the party's progress with regard to the implementation of its obligations under the Protocol;
- (c) To forward for consideration by the Twenty-Fifth Meeting of the Parties the draft decision contained in section [] of annex [] to the present report.

Recommendation 51/2

C. Recommendation regarding parties that submitted information according to the methodology set out in decision XV/19 and satisfied the Committee that their requests have merit: the Congo and Guinea-Bissau

The Committee therefore agreed:

Noting with appreciation the information submitted by the Congo and Guinea-Bissau in support of their requests for the revision of their baseline consumption data for the Annex C, group I, controlled substances (hydrochlorofluorocarbons) for the year 2009,

Recalling decision XV/19, which set out the methodology to be used to review requests for the revision of baseline data,

Noting with appreciation the efforts made by the above parties to satisfy the information requirements of decision XV/19, in particular their efforts to verify the accuracy of their proposed new baseline data through national surveys of hydrochlorofluorocarbon use carried out with the assistance of the implementing agencies and funding from the Multilateral Fund for the Implementation of the Montreal Protocol,

To include the parties in the draft decision contained in section A of annex I to the report of the fiftieth meeting of the Committee,¹ which would approve their requests for the revision of their baseline consumption data for hydrochlorofluorocarbons, and to set out the draft decision as so revised in section [] of annex [] to the present report.

Recommendation 51/3

D. Request for revision of baseline data: Mozambique

The Committee therefore agreed:

Recalling decision XV/19, which set out the methodology to be used to review requests for the revision of baseline data,

Recalling also recommendation 50/6, by which Mozambique had been requested to clarify some of its submitted information and provide additional documentation in support of its request to revise its consumption data for the baseline year 2009 for the Annex C, group I, controlled substances (hydrochlorofluorocarbons),

Noting the clarification and additional documentation provided by Mozambique between April 2013 and September 2013,

Noting, however, that the Committee considered that additional documentation to be insufficient to allow it to approve the changes requested by the party,

(a) To request Mozambique to provide data that clarify how the figure of 143.6 metric tonnes of hydrochlorofluorocarbons for the year 2009 was calculated from the 2010 survey data and to include the methodology and any associated documentation to support that calculation;

(b) To urge Mozambique to work closely with relevant implementing agencies to provide the requested information as soon as possible, and preferably no later than 31 March 2014, for consideration by the Committee at its fifty-second meeting.

Recommendation 51/4

¹ UNEP/OzL.Pro/ImpCom/50/4.

E. Data reporting and non-compliance with annual data reporting for 2012

The Committee therefore agreed:

To forward for consideration by the Twenty-Fifth Meeting of the Parties the draft decision contained in section [] of annex [] to the present report, which would, among other things, record and note with appreciation the number of parties that had reported ozone-depleting-substance data for the year 2012 and list the parties that were in non-compliance with their data-reporting obligations under the Montreal Protocol.

Recommendation 51/5

F. Establishment of licensing systems

The Committee therefore agreed:

(a) To forward for consideration by the Twenty-Fifth Meeting of the Parties the draft decision contained in section [] of annex [] to the present report, which would, among other things, request Botswana and South Sudan to establish a licensing system and to submit to the Secretariat, no later than 31 March 2014, information on the status of that system, for consideration by the Committee and the Meeting of the Parties in 2014;

(b) To review the status of licensing systems at its fifty-second meeting.

Recommendation 51/6

Annex

Draft decisions

The Twenty-Fifth Meeting of the Parties decides:

A. Draft decision XXV/-: Non-compliance with the Montreal Protocol by Azerbaijan

Noting that Azerbaijan ratified the Montreal Protocol on Substances that Deplete the Ozone Layer, the London Amendment and the Copenhagen Amendment on 12 June 1996, the Montreal Amendment on 28 September 2000 and the Beijing Amendment on 31 August 2012, and is classified as a party not operating under paragraph 1 of Article 5 of the Protocol,

Noting also that the Global Environment Facility approved [\$xxx] to enable Azerbaijan to achieve compliance with the Protocol,

Noting further that Azerbaijan had reported annual consumption for the controlled substances in Annex C, group I (hydrochlorofluorocarbons), for 2011 of 7.63 ODP-tonnes, which exceeds the party's maximum allowable consumption of 3.7 ODP-tonnes for those controlled substances for that year, and was therefore in non-compliance with the consumption control measures under the Protocol for hydrochlorofluorocarbons,

Noting Azerbaijan's submission of a plan of action for returning to compliance with the Protocol's control measures for hydrochlorofluorocarbons,

Noting also that the party's submission of ozone-depleting-substance data for 2012 showed that Azerbaijan was in compliance with its hydrochlorofluorocarbon consumption obligations under the control measures of the Protocol,

1. That no further action is necessary, in view of the party's return to compliance with the hydrochlorofluorocarbon phase-out in 2012 and its implementation of regulatory, administrative and technical measures to ensure compliance with Protocol's control measures for hydrochlorofluorocarbons;
2. To urge Azerbaijan to work with the relevant implementing agencies to implement its plan of action for the consumption of hydrochlorofluorocarbons;
3. To monitor closely the party's progress with regard to the implementation of its obligations under the Montreal Protocol;

B. Draft decision XXV/-: Requests for the revision of baseline data by the Congo, the Democratic Republic of the Congo, Guinea-Bissau and Saint Lucia

Noting that, in accordance with decision XIII/15, by which the Thirteenth Meeting of the Parties decided that parties requesting the revision of reported baseline data should present such requests to the Implementation Committee, which in turn would work with the Secretariat and the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol to confirm the justification for the changes and present them to the Meeting of the Parties for approval,

Noting also that decision XV/19 sets out the methodology for the submission of such requests,

1. That the Congo, the Democratic Republic of the Congo, Guinea-Bissau and Saint Lucia have presented sufficient information, in accordance with decision XV/19, to justify their requests for the revision of their consumption data for hydrochlorofluorocarbons for 2009, 2010 or both, which are part of the baseline for parties operating under paragraph 1 of Article 5;
2. To approve the requests of the parties listed in the preceding paragraph and to revise their baseline hydrochlorofluorocarbon consumption data for the respective years as indicated in the following table:

Party	Previous hydrochlorofluorocarbon data (ODP-tonnes)		New hydrochlorofluorocarbon data (ODP-tonnes)	
	2009	2010	2009	2010
1. Congo	7.1	–	9.68	–
2. Democratic Republic of the Congo	85.7	–	55.82	–
3. Guinea-Bissau	0	–	2.75	–
4. Saint Lucia	0.4	0	1.37	0.81

C. Draft decision XXV/-: Data and information provided by the parties in accordance with Article 7 of the Montreal Protocol

Noting with appreciation that [182] parties of the 197 that should have reported data for 2012 have done so and that 114 of those parties reported their data by 30 June 2013 in accordance with decision XV/15,

Noting that 164 of those parties reported their data by 30 September 2013 as required under Article 7 of the Montreal Protocol,

Noting with concern, however, that the following parties have not reported their data for 2012: [the Central African Republic, Eritrea, Gabon, Israel, Jordan, Kazakhstan, Kuwait, Latvia, Liechtenstein, Saint Kitts and Nevis, South Sudan, Switzerland, the Syrian Arab Republic, Uzbekistan and Yemen],

Noting that failure to report their data for 2012 in accordance with Article 7 places those parties in non-compliance with their data-reporting obligations under the Montreal Protocol until such time as the Secretariat receives their outstanding data,

Noting also that a lack of timely data reporting by parties impedes effective monitoring and assessment of parties' compliance with their obligations under the Montreal Protocol,

Noting further 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,

1. To urge the parties listed in the present decision, where appropriate, to work closely with the implementing agencies to report the required data to the Secretariat as a matter of urgency;
2. To request the Implementation Committee to review the situation of those parties at its fifty-second meeting;
3. To encourage parties to continue to report consumption and production data as soon as figures are available, and preferably by 30 June each year, as agreed in decision XV/15.

D. Draft decision XXV/-: Status of the establishment of licensing systems under Article 4B of the Montreal Protocol

Noting that paragraph 3 of Article 4B of the Montreal Protocol requires each party, within three months of the date of introducing its system for licensing the import and export of new, used, recycled and reclaimed controlled substances in Annexes A, B, C and E to the Protocol, to report to the Secretariat on the establishment and operation of that system,

Noting with appreciation that [192] of the 194 parties to the Montreal Amendment to the Protocol have established import and export licensing systems for ozone-depleting substances as required by the Amendment and that they have provided disaggregated information on their licensing systems detailing which annexes and groups of substances under the Montreal Protocol are subject to those systems,

Noting, however, that Botswana and South Sudan, which became parties to the Montreal Amendment in 2013, have not yet established such systems,

Recognizing that licensing systems provide for the monitoring of imports and exports of ozone-depleting substances, prevent illegal trade and enable data collection,

Recognizing also that the successful phase-out of most ozone-depleting substances by parties is largely attributable to the establishment and implementation of licensing systems to control the import and export of ozone-depleting substances,

1. To request Botswana and South Sudan to establish an import and export licensing system for ozone-depleting substances consistent with Article 4B of the Protocol and to report to the Secretariat by 31 March 2014 on the establishment of that system;

2. To review periodically the status of the establishment of import and export licensing systems for ozone-depleting substances by all parties to the Protocol as called for in Article 4B of the Protocol.

[E. Placeholder decision on the application of paragraph 8 of Article 4 of the Montreal Protocol with regard to the Beijing Amendment to the Montreal Protocol]

Considering paragraph 8 of Article 4 of the Montreal Protocol, which reads:

“Notwithstanding the provisions of this Article, imports and exports referred to in paragraphs 1 to 4 ter of this Article may be permitted from, or to, any State not party to this Protocol, if that State is determined, by a meeting of the Parties, to be in full compliance with Article 2, Articles 2A to 2I and this Article, and have submitted data to that effect as specified in Article 7”,

Acknowledging that [country names] [have] [has] notified the Secretariat that [their] [its] ratification processes of the Beijing Amendment are under way and that [they] [it] will do [their] [its] utmost to complete the procedures as expeditiously as possible,

Expressing regret that, [their] [its] best efforts notwithstanding, [country names] will not be able to ratify the Beijing Amendment before the last day of the Twenty-Fifth Meeting of the Parties,

Noting that, although the Implementation Committee has not specifically considered the situation of [country names] in the context of paragraph 8 of Article 4 of the Montreal Protocol, the report of the Committee to the Twenty-Fifth Meeting of the Parties indicates that [all those parties are][it is] in full compliance with Articles 2, 2A to 2I and 4 of the Protocol, including its Beijing Amendment, and [have][has] submitted data to that effect as specified in Article 7,

1. That, on the basis of the data submitted under Article 7 of the Protocol, [country names] [are][is] in full compliance with Articles 2, 2A to 2I and 4 of the Protocol, including its Beijing Amendment;

2. That the exceptions provided for in paragraph 8 of Article 4 of the Protocol shall apply to [country names] from [26 October 2013];

3. That the determination in paragraph 1 of the present decision and the exceptions referred to in paragraph 2 of the present decision shall expire at the end of the Twenty-Sixth Meeting of the Parties;

4. That the term “State not party to this Protocol” in paragraph 9 of Article 4 applies to those States operating under paragraph 1 of Article 5 of the Protocol that have not agreed to be bound by Beijing Amendment and that are not listed in paragraph 2 of the present decision, unless such a State has by 31 March 2014:

(a) Notified the Secretariat that it intends to ratify, accede to or accept the Beijing Amendment as soon as possible;

(b) Certified that it is in full compliance with Articles 2, 2A to 2I and 4 of the Protocol, as amended by the Copenhagen Amendment;

(c) Submitted data under subparagraphs (a) and (b) above to the Secretariat, in which case that State shall fall outside the definition of a “State not party to this Protocol” until the conclusion of the Twenty-Sixth Meeting of the Parties and the information so submitted will be posted by the Secretariat on its website within a week of receipt;

5. That the term “State not party to this Protocol” includes all other States and regional economic integration organizations that have not agreed to be bound by the Beijing Amendment;

6. That any State that has not agreed to be bound by the Beijing Amendment and that seeks an exception as provided for in paragraph 8 of Article 4 of the Protocol beyond the Twenty-Sixth

Meeting of the Parties may do so by submitting a request to the Secretariat before the beginning of the meeting of the Implementation Committee that immediately precedes the Meeting of the Parties, that the Secretariat will notify the Committee of any such request, that the Committee will review relevant data submitted in accordance with Article 7 and develop a recommendation for consideration by the parties and that such requests seeking the exception provided for in paragraph 8 of Article 4 will be considered annually;]
