November 3, 2026

LETTER OF EXPLANATION
On the Participation of Central Asian States in the Eastern European Group under the Montreal Protocol on Substances that Deplete the Ozone Layer

The views expressed in this letter are shared and supported by the following parties to the Montreal Protocol on Substances that Deplete the Ozone Layer:
Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan

The Central Asian States have taken note of the Letter of Explanation dated 12 October 2026 concerning the membership of the Eastern European Group (EEG) within the framework of the Montreal Protocol.

While acknowledging the position expressed in that letter, the Central Asian States consider that several legal questions require further examination, particularly concerning the interpretation of the applicable institutional arrangements, the legal significance of established practice, and the consequences of the longstanding acceptance of Central Asian participation by other members of the Eastern European Group.

1. Established Institutional Practice and Subsequent Practice under International Law

Since gaining independence in 1991, the Central Asian States have participated in the work of the Eastern European Group within the framework of the Montreal Protocol, including regional consultations, nominations, and elections to its governing and subsidiary bodies.

For more than three decades, this participation has formed part of the established institutional practice of the Montreal Protocol. Importantly, according to the historical practice known to the Central Asian States, such participation was not formally challenged by other members of the Eastern European Group until the recent discussions.

On the contrary, Central Asian States participated in regional processes with the knowledge and acceptance of other members of the Group. Their participation was not limited to isolated nominations but extended to regular consultations and institutional decision-making arrangements.

Under international law, established practice is relevant to the interpretation of treaty provisions and the application of institutional rules.

Article 31(3)(b) of the Vienna Convention on the Law of Treaties requires account to be taken of subsequent practice in the application of a treaty where that practice establishes the agreement of the parties regarding its interpretation[1].

The International Law Commission, in its 2018 Conclusions on Subsequent Agreements and Subsequent Practice in Relation to the Interpretation of Treaties, further clarified that subsequent practice may provide objective evidence of the parties' common understanding of the applicable treaty provisions[2].

---

[1] Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331, art 31(3)(b).

[2] International Law Commission, 'Draft Conclusions on Subsequent Agreements and Subsequent Practice in Relation to the Interpretation of Treaties, with Commentaries' (2018) UN Doc A/73/10, conclusion 10(2).

In particular, Conclusion 10 recognizes that "silence on the part of one or more parties may constitute acceptance of the subsequent practice when the circumstances call for some reaction"[3].

Accordingly, the Central Asian States consider that their longstanding participation, together with the repeated acceptance of that participation by other members of the Eastern European Group, constitutes relevant evidence for determining the interpretation and application of regional participation arrangements under the Montreal Protocol.

The letter of 12 October 2026 acknowledges that Central Asian States have previously been nominated by the Eastern European Group. However, the legal significance of these nominations cannot be assessed in isolation from the broader and continuous institutional practice within which they occurred.

We therefore respectfully disagree with the conclusion that such participation has no bearing on the established institutional arrangements.

2. Acquiescence and the Legal Consequences of the Absence of Objections

Under international law, acquiescence may arise from a State's silence or inaction where circumstances call for an objection, as recognized by the International Court of Justice in Fisheries (United Kingdom v Norway) (1951), Temple of Preah Vihear (Cambodia v Thailand) (1962), Gulf of Maine (Canada v United States) (1984), and Sovereignty over Pedra Branca (Malaysia v Singapore) (2008)[4]. These judgments demonstrate that longstanding and consistent practice, combined with the knowledge of other States and their failure to raise timely objections, may constitute evidence of tacit acceptance with legal consequences.

For more than three decades, Central Asian States have participated in the Eastern European Group's consultations and nomination procedures with the knowledge and active involvement of other members, without formal objections. Such consistent and accepted practice provides substantial grounds for invoking acquiescence, while estoppel may also be relevant where reliance and resulting prejudice can be established. Subsequent objections cannot, by themselves, negate the legal significance of this practice, which must be assessed in accordance with the principles of good faith and acquiescence and the applicable institutional rules.

3. Distinction between United Nations Regional Groups and Institutional Arrangements under the Montreal Protocol

The Central Asian States acknowledge the United Nations Secretariat's regional-group classification. However, this classification is administrative in nature and does not, in itself, constitute a legally binding determination of regional-group membership under the Vienna Convention and the Montreal Protocol.

While the classification may serve as useful guidance, its application within the Montreal Protocol framework must be assessed in light of the relevant treaty provisions, institutional rules, decisions of the Parties, and established practice. Accordingly, the longstanding participation of Central Asian States in the Eastern European Group should be duly considered rather than relying exclusively on the United Nations classification.

---

[3] ibid.

[4] Fisheries (United Kingdom v Norway) (Judgment) [1951] ICJ Rep 116, 138–139; Case concerning the Temple of Preah Vihear (Cambodia v Thailand) (Merits) [1962] ICJ Rep 6, 23; Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America) (Judgment) [1984] ICJ Rep 246, para 130; Sovereignty over Pedra Branca/Pulau Batu Puteh, Middle Rocks and South Ledge (Malaysia/Singapore) (Judgment) [2008] ICJ Rep 12, paras 120–122.

4. Good Faith, Legal Certainty and Consistency of Institutional Practice

The principle of good faith, reflected in Articles 26 and 31(1) of the Vienna Convention on the Law of Treaties, requires due consideration of established institutional practice[5]. For over three decades, Central Asian States have participated in the Eastern European Group under arrangements consistently accepted by its members. Any departure from this practice must therefore rest on a clear legal basis and comply with applicable institutional procedures. Good faith and legal certainty require that longstanding arrangements not be altered through unilateral reinterpretation without adequately addressing their established legal and institutional significance.

5. Conclusions

On the basis of the foregoing considerations, the Central Asian States maintain that their longstanding participation in the Eastern European Group under the Montreal Protocol constitutes a relevant institutional practice that must be duly considered in accordance with international law.

The legal assessment of this practice must take into account not only the formal classification of United Nations regional groups but also the subsequent conduct of the Parties, the absence of timely objections, and the principles governing the interpretation and application of international agreements.

Accordingly, the Central Asian States consider that:

1. The established practice of Central Asian participation must be examined in accordance with the rules of treaty interpretation, including the relevance of subsequent practice under Article 31(3)(b) of the Vienna Convention on the Law of Treaties.
2. The longstanding acceptance of such participation, including the absence of formal objections over an extended period, must be assessed in light of the international law principle of acquiescence.
3. The United Nations regional-group list cannot, without further legal analysis, be regarded as conclusive regarding the distinct institutional arrangements applicable under the Montreal Protocol.
4. Any proposed modification of existing participation arrangements must be based on an identifiable legal authority and implemented through the procedures applicable under the relevant treaty framework.
5. Pending clarification and an agreed resolution of the matter by the competent Parties, the Central Asian States maintain their position that the longstanding practice of participation within the Eastern European Group should continue.
6. The Central Asian States remain prepared to engage in consultations aimed at resolving the matter in accordance with international law, the applicable institutional rules, and the established practice of the Montreal Protocol.

[5] Vienna Convention on the Law of Treaties (adopted 23 May 1969, entered into force 27 January 1980) 1155 UNTS 331, arts 26 and 31(1).