



**United Nations
Environment
Programme**



Distr.: General
2 August 2007

Original: English

**Nineteenth Meeting of the Parties
to the Montreal Protocol on
Substances that Deplete the Ozone Layer**
Montreal, 17–21 September 2007
Item 15 of the provisional agenda for the preparatory segment*

**Compliance and data reporting issues considered by the
Implementation Committee**

**Implementation Committee under the
Non-compliance procedure for the
Montreal Protocol
Thirty-ninth meeting**

Montreal, 12–14 September 2007
Items 3 and 6 of the provisional agenda**

**Report of the Secretariat on data under
Article 7 of the Montreal Protocol**

**Consideration of other non-compliance issues
arising out of the data report**

**Consolidated record of cases of stockpiling prepared in accordance
with decision XVIII/17 of the Eighteenth Meeting of the Parties**

Note by the Secretariat

1. The Secretariat has prepared the present note in accordance with decision XVIII/17 of the Eighteenth Meeting of the Parties. That decision noted that the Secretariat had reported that Parties which had exceeded the allowed level of production or consumption of a particular ozone-depleting substance in a given year had in some cases explained that their excess production or consumption represented one of the four following scenarios:

- (a) Ozone-depleting substance production in that year which had been stockpiled for domestic destruction or export for destruction in a future year;
- (b) Ozone-depleting substance production in that year which had been stockpiled for domestic feedstock use or export for that use in a future year;
- (c) Ozone-depleting substance production in that year which had been stockpiled for export to meet basic domestic needs of developing countries in a future year;
- (d) Ozone-depleting substances imported in that year which had been stockpiled for domestic feedstock use in a future year.

* UNEP/OzL.Pro.19/1.

** UNEP/OzL.Pro/ImpCom/39/1.

2. The decision requested the Secretariat to maintain a consolidated record of cases in which the Parties have explained that their situations are the consequence of scenarios (a), (b) or (c) and to include that record in the documentation prepared for the Implementation Committee, for information purposes only, as well as in the Secretariat's report on data submitted by the Parties in accordance with Article 7 of the Protocol. Scenario (d) was not included in the request as the decision noted that the Implementation Committee had concluded that that scenario was in conformity with the provisions of the Montreal Protocol and decisions of the Meetings of the Parties.

3. Decision XVIII/17 provides that the Twenty-first Meeting of the Parties will revisit this issue in the light of the information contained in the consolidated record and with a view to considering the need for further action.

4. Annex I to the present note contains the consolidated record, which has been prepared based on information received by the Secretariat prior to 2 August 2007. The record presents each of the three categories of stockpiling separately, with a summary of the information submitted with regard to each case of stockpiling. Annex II to the present note contains a copy of decision XVIII/17.

Annex I

Consolidated record of cases of stockpiling in accordance with decision XVIII/17 of the Eighteenth Meeting of the Parties

I. Ozone-depleting substance production in a given year which had been stockpiled for domestic destruction or export for destruction in a future year

Record no.	Summary of circumstances
1	<p>Data: reported production of carbon tetrachloride (CTC) in the amount of 132 ODP-tonnes in 2002, 94.6 ODP-tonnes in 2003 and 67.4 ODP-tonnes in 2006.</p> <p>Montreal Protocol control measures: Parties not operating under Article 5 of the Protocol to maintain total phase-out of CTC in 2002, 2003 and 2006 except to the extent of production for approved essential uses or allowed by the basic domestic needs provisions of the Protocol.</p> <p>Explanation submitted by Party: the CTC was produced as an “undesired by-product of tetrachloroethylene production” and destroyed as soon as a sufficient quantity of waste liquid from the production of epichlorohydrine became available to make an appropriately proportioned mixture. Destruction of the CTC in a mixture, rather than pure form, was necessary because of the chemical properties of the CTC by-product. The production of the waste liquid did not always synchronize with the production of the CTC by-product. Consequently, the CTC by-product would sometimes be stockpiled for destruction in a future year.</p>
2	<p>Data: reported production of 2.0 ODP-tonnes of Annex B, Group I, substances (other CFCs) in 2004.</p> <p>Montreal Protocol control measures: Parties not operating under Article 5 of the Protocol to maintain total phase-out of the substances in 2004, except to the extent of production for approved essential uses or allowed by the basic domestic needs provisions of the Protocol.</p> <p>Explanation submitted by Party: the other CFCs were produced as a by-product of the Party’s CFC-11 and CFC-12 manufacture. In accordance with national regulations, the CFC-11 and CFC-12 producer captured the other CFCs’ by-product emissions. The producer had established an arrangement whereby the captured by-product was exported to another Party for destruction. Owing to the small amount of by-product captured in 2004, however, it was stockpiled in that year for export for destruction in 2005 to minimize transport and destruction costs. In previous years, stockpiling of by-product in one year for destruction in a following year had been necessary because of the limited capacity of the destruction facility.</p>
3	<p>Data: reported consumption of 3.0 ODP-tonnes of Annex B, group I, substances (other CFCs) in 2002.</p> <p>Montreal Protocol control measures: Parties not operating under Article 5 of the Protocol to maintain total phase-out of other CFCs in 2004, except to the extent of consumption for approved essential uses.</p> <p>Explanation submitted by Party: the Party explained that the other CFCs at issue represented an increase in stocks held by the Party’s producers. In response, the Secretariat advised that, in the light of this explanation, it would record in the data report presented to the Meeting of the Parties that the 3.0 ODP-tonnes were intended for destruction, feedstock use or export in a future year.</p>

II. Ozone-depleting substance production in a given year which had been stockpiled for domestic feedstock use or export for that use in a future year

Record no.	Summary of circumstances
1	<p>Data: reported production of 118.8 ODP-tonnes of Annex A, Group I, substances (CFCs) in 2003.</p> <p>Montreal Protocol control measures: Parties not operating under Article 5 of the Protocol to maintain total phase-out of CFCs in 2003, except to the extent of production for approved essential uses or allowed by the basic domestic needs provisions of the Protocol.</p> <p>Explanation submitted by Party: the substance was produced for export for feedstock purposes. It was produced on a campaign basis, owing to the small number of customers and quantities involved. At the end of each year the customers would indicate their requirements for the following year and the Party would accordingly produce the total amount requested before the end of the year. A particular customer, however, would sometimes experience circumstances that required all or part of its CFC shipment to be postponed until the following year. Consequently, some or all of the Party's total CFC production would be stockpiled for export for feedstock purposes in a future year.</p>
2	<p>Data: reported consumption and production of 40.37 ODP-tonnes of CTC in 2003.</p> <p>Montreal Protocol control measures: Parties not operating under Article 5 of the Protocol to maintain total phase-out of CTC in 2003, except to the extent of production and consumption for approved essential uses or allowed by the basic domestic needs production provisions of the Protocol.</p> <p>Explanation submitted by Party: the CTC was a by-product of a continuous production process. The CTC by-product was both exported and used domestically for feedstock purposes. As the process that created the CTC by-product was continuous, the Party would always have a quantity of CTC remaining at the end of each year which could not be put to its intended feedstock use until the following year.</p>
3	<p>Data: reported consumption of 1,841.8 ODP-tonnes and production of 2,451.3 ODP-tonnes of CTC in 2005.</p> <p>Montreal Protocol control measures: Parties operating under Article 5 of the Protocol to reduce consumption and production of CTC in 2005 to levels no greater than 15 per cent of their baseline levels.</p> <p>Explanation submitted by Party: the CTC was produced in 2005 for domestic feedstock use in 2006.</p>

III. Ozone-depleting substance production in a given year which had been stockpiled for export to meet basic domestic needs of developing countries in a future year

Record no.	Summary of circumstances
1	<p>Data: reported consumption of 0.8 ODP-tonnes of Annex A, Group I, substances (CFCs), and 214.2 ODP-tonnes of methyl chloroform in 1999.</p> <p>Montreal Protocol control measures: Parties not operating under Article 5 of the Protocol to maintain total phase-out of CFCs and methyl chloroform in 1999, except to the extent of consumption for approved essential uses.</p> <p>Explanation submitted by Party:* the CFCs and methyl chloroform were produced in 1999 for export to meet the basic domestic needs of Parties operating under Article 5 in a future year.</p>
2	<p>Data: reported consumption of 287.8 ODP-tonnes of methyl chloroform in 2000.</p> <p>Montreal Protocol control measures: Parties not operating under Article 5 of the Protocol to maintain total phase-out of methyl chloroform in 2000, except to the extent of consumption for approved essential uses.</p> <p>Explanation submitted by Party:* the methyl chloroform was produced in 2000 for export to meet the basic domestic needs of Parties operating under Article 5 in a future year.</p>
3	<p>Data: reported production of 0.5331 ODP-tonnes of methyl chloroform and 1,986.2 ODP-tonnes of methyl bromide in 2004.</p> <p>Montreal Protocol control measures: Parties not operating under Article 5 of the Protocol to maintain total phase-out of methyl chloroform in 2004, except to the extent of production for approved essential uses or allowed by the basic domestic needs provisions of the Protocol. Parties not operating under Article 5 to reduce consumption and production of methyl bromide to no greater than 30 per cent of their methyl bromide baseline, except to the extent of production allowed by the basic domestic needs production provisions of the Protocol.</p> <p>Explanation submitted by Party: both substances were produced in 2004 to meet the basic domestic needs of Parties operating under Article 5 but were stockpiled rather than exported for that purpose in 2004 as a consequence of the timing of associated commercial arrangements. It was the Party's understanding that the companies concerned produced the quantities at issue in the latter months of the calendar year, and could not complete the commercial arrangements to export the substances until after the last day in that year. The Party further advised that it limited the total amount of ozone-depleting substances that could be produced for basic domestic needs for each calendar year, without requiring that such substances be actually exported during that year, on the grounds that to do otherwise would be excessively restrictive of commercial trade. Companies that produced the ozone-depleting substances were required to maintain strict record_keeping to demonstrate that the quantities produced for basic domestic needs were ultimately exported for that purpose, and significant penalties were attached to the contravention of that requirement.</p>

* These explanations were derived from the data reports submitted by the Party concerned in accordance with Article 7 of the Protocol and recorded in the annual data report of the Ozone Secretariat to the Meeting of the Parties. To date, the Parties concerned have not submitted an alternative explanation to the Secretariat.

Annex II

Decision XVIII/17 of the Eighteenth Meeting of the Parties: Treatment of stockpiled ozone-depleting substances relative to compliance

1. To note that the Secretariat has reported that Parties which had exceeded the allowed level of production or consumption of a particular ozone-depleting substance in a given year have in some cases explained that their excess production or consumption represented one of the four following scenarios:

(a) Ozone-depleting substance production in that year which had been stockpiled for domestic destruction or export for destruction in a future year;

(b) Ozone-depleting substance production in that year which had been stockpiled for domestic feedstock use or export for that use in a future year;

(c) Ozone-depleting substance production in that year which had been stockpiled for export to meet basic domestic needs of developing countries in a future year;

(d) Ozone-depleting substances imported in that year which had been stockpiled for domestic feedstock use in a future year;

2. To recall that the Implementation Committee under the Non-compliance Procedure of the Montreal Protocol had concluded that scenario (d) was, in any event, in conformity with the provisions of the Montreal Protocol and decisions of the Meetings of the Parties;

3. To request the Secretariat to maintain a consolidated record of the cases in which the Parties have explained that their situations are the consequence of scenarios (a), (b) or (c), and incorporate that record in the documentation of the Implementation Committee, for information purposes only, as well as in the Secretariat's report on data submitted by the Parties in accordance with Article 7 of the Protocol;

4. To recognize that new scenarios not covered by paragraph 1 will be addressed by the Implementation Committee in accordance with the non-compliance procedure of the Protocol and the established practice thereunder;

5. To agree to revisit this issue at the Twenty-first Meeting of the Parties, in the light of the information gathered in accordance with paragraph 3 of the present decision, with a view to considering the need for further action.