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**Eighth meeting of the Conference of the Parties to the
Vienna Convention for the Protection of the Ozone Layer**

**Twentieth Meeting of the Parties to the
Montreal Protocol on Substances that
Deplete the Ozone Layer**

Doha, 16–20 November 2008

**Item 6 of the provisional agenda
of the high-level segment***

**Report of the co-chairs of the preparatory segment and
consideration of the decisions recommended for
adoption at the eighth meeting of the Conference of the
Parties to the Vienna Convention and the Twentieth
Meeting of the Parties to the Montreal Protocol**

**Proposals, proposed adjustments to the Montreal Protocol,
draft decisions and reports of the co-chairs of the contact
groups on campaign production and essential uses,
destruction and stocks of ozone-depleting substances and
replenishment of the Multilateral Fund for the
Implementation of the Montreal Protocol**

1. In order to facilitate the work of the eighth meeting of the Conference of the Parties to the Vienna Convention and the Twentieth Meeting of the Parties to the Montreal Protocol, the Secretariat has prepared the present document, which contains three chapters.
2. Chapter I contains proposals, proposed adjustments to the Montreal Protocol and draft decisions that were submitted by Parties and considered by the Open-ended Working Group of the Parties to the Montreal Protocol at its twenty-eighth meeting. The Open-ended Working Group did not reach consensus on these proposals and draft decisions but did agree that they should be considered by the Twentieth Meeting of the Parties. Chapter I also contains two

* UNEP/OzL.Conv.8/1-UNEP/OzL.Pro.20/1

alternative draft decisions on extending the fixed-exchange-rate mechanism used by Parties paying their contributions to the Multilateral Fund for the Implementation of the Montreal Protocol in their national currencies: one would extend the mechanism to the next replenishment of the Fund while the other would extend it to all future replenishments. These draft decisions were prepared by the Secretariat at the request of the Parties.

3. Chapter II contains draft decisions, prepared by the Secretariat, pertaining to administrative matters related to the Vienna Convention and the Montreal Protocol. The Parties to the Vienna Convention and the Montreal Protocol have historically adopted such decisions at their annual meetings.

4. Chapter III contains the summaries of the co-chairs of the contact groups established by the Open-ended Working Group at its twenty-eighth meeting on campaign production and essential uses, on destruction and stocks of ozone-depleting substances and on replenishment of the Multilateral Fund.

5. It should be noted that any changes from prior versions of the draft decisions or proposed adjustments or amendments set out in chapters I and II of the present document have been made solely to correct errors as requested by those making the proposals; with the exception of minor formatting such as paragraph and footnote numbering, none of the submissions included in these chapters have been edited by the Secretariat since their preparation for the twenty-eighth meeting of the Open-ended Working Group. The reports of the co-chairs of the contact groups in chapter III are likewise presented without editing by the Secretariat.

6. The Secretariat expects that it will produce one or more addendums to the present document to include additional proposed decisions that may be submitted by the Parties prior to the Twentieth Meeting of the Parties.

I. Proposals, proposed adjustments and draft decisions considered at the twenty-eighth meeting of the Open-ended Working Group

A. Proposal on the destruction of ozone-depleting substance banks (submitted by Argentina)

1. Proposal

7. The Government of the Republic of Argentina proposes that Parties to the Montreal Protocol take action to meet the need to destroy ozone-depleting substance (ODS) banks¹ in member countries and recommends the following:

- (a) Determination of measures and means to ensure destruction of ODS banks by all Parties. In countries operating under paragraph 1 of Article 5, such measures must be supported by financial and technical assistance through the Multilateral Fund;
- (b) Extension of the above to encompass destruction of surplus ODS intended for essential-use exemptions and not used when justified, when imported as raw material for production of ODS, or because of an anticipated phase-out;
- (c) Approval of a decision at the Twentieth Meeting of the Parties that contemplates the adoption of the necessary modifications of or amendments to the Montreal Protocol.

2. Basis

8. The last 20 years of global efforts to reduce ODS and restore the ozone layer are one of the great successes of international environmental cooperation. In spite of the collective progress made in this respect, however, the potential for eventual release of a major quantity of ODS stored in banks poses a significant threat to stratospheric ozone and could reverse much of the

¹ Banks are the total amount of substances contained in existing equipment, chemical stockpiles, foams and other products not yet released into the atmosphere.

progress made towards ozone recovery. These banks are contained mostly in refrigerators,² stationary and mobile air conditioners, thermal insulating foam and stockpiles of new or recovered ODS.

9. Current emissions of ODS and their substitutes are determined largely by historic use patterns. For chlorofluorocarbons (CFCs) and hydrochlorofluorocarbons (HCFCs), a significant contribution, both now and in the future, comes from their respective banks. There are no regulations to restrict these CFC and HCFC emissions, whether under the Montreal Protocol or the United Nations Framework Convention on Climate Change and its Kyoto Protocol, although some countries do have effective national policies for this purpose.

10. Destruction of all banks in end-of-life refrigeration and air-conditioning equipment as of 2008 could accelerate by two years the estimated return to 1980 values of effective equivalent stratospheric chlorine, thereby speeding up the recovery of the ozone layer.³ According to the Technology and Economic Assessment Panel, “end-of-life measures [across all sectors] are consistent and significant contributors to savings in terms of both ozone and climate, with cumulative savings of around 300,000 ODP tonnes and about 6 billion tonnes CO₂-eq.” from 2011 to 2050.⁴

11. Without action, most of these banks will be released into the atmosphere by 2015, by which time emissions from CFC banks alone could equal approximately 6.0–7.4 billion tons of carbon dioxide equivalent between 2002 and 2015. Cost-effective technology exists to prevent most of these emissions that otherwise will perish by leakage.⁵

12. The actions necessary to prevent CFC and HCFC emissions from banks can also reduce emissions of hydrofluorocarbons, further protecting the climate. Steps to destroy banks will therefore pay a double dividend for ozone and climate protection.

3. Necessary components of the decision taken by Parties at the Twentieth Meeting of the Parties

(a) Financing for ODS bank destruction in Parties operating under paragraph 1 of Article 5

13. Destruction of ODS banks in developing countries would benefit from financing through the Multilateral Fund and, if necessary, supplementary sources committed to greenhouse gas reductions. The history of decisions resulting from meetings of the Parties demonstrates that promoting destruction of ODS banks and assisting in their destruction in countries operating under paragraph 1 of Article 5 has long been considered to be a concern warranting the allocation of significant resources, not only within the purview of the Montreal Protocol.⁶ Multilateral Fund financing could begin immediately with pilot projects. This can be achieved

2 See UNEP, IPCC/TEAP, Special Report: Safeguarding the Ozone Layer and the Global Climate System: Issues Related to Hydrofluorocarbons and Perfluorocarbons, Technical Summary (2005), at 53 (“With a typical 20-year lifespan, refrigerator end-of-life retirement and disposal occurs at a frequency of about 5% of the installed base each year. This means approximately 75 million refrigerators containing 100 g per unit, or a total of 7500 tonnes of refrigerant, are disposed of annually.”)

3 See Supplement to the IPCC/TEAP Report (Nov. 2005), at x [hereinafter TEAP Supplement].

4 TEAP, Response to Decision XVIII/12, Report of the Task Force on HCFC Issues (with Particular Focus on the Impact of the Clean Development Mechanism) and Emissions Reductions Benefits Arising from Earlier HCFC Phase-Out and Other Practical Measures, (August 2007), at 12, available at http://ozone.unep.org/Assessment_Panels/TEAP/Reports/TEAP_Reports/TEAP-TaskForce-HCFC-Aug2007.pdf [hereinafter TEAP Response]. The tables here reference only CFCs and HCFCs. Banks of CFCs, HCFCs, HFCs, and PFCs were estimated at about 21 GtCO₂-eq. in 2002. IPCC/TEAP, Special Report: Safeguarding the Ozone Layer and the Global Climate System: Issues Related to Hydrofluorocarbons and Perfluorocarbons, Summary for Policymakers (2005), at 9 (“In 2002, CFC, HCFC, and HFC banks were about 16, 4, and 1 GtCO₂-eq. (direct GWP weighted) respectively. In 2015, the banks are about 8, 5, and 5 GtCO₂-eq. respectively, in the BAU scenario.”) [hereinafter IPCC/TEAP Summary for Policymakers]. TEAP Supplement, *supra* note 2, at 15 (“The large scale destruction of banks is not included in the BAU scenario.”)

5 After 2015, ODS banks in foams will surpass all other banked sources combined in ODS emissions in terms of both ozone depleting potential and global warming potential.

6 Examples of decisions relating to ODS bank destruction include decisions IV/11, para. 7; IV/12, para. 2; IV/24, para. 4; VII/31; XVII/17 and XVII/18, para. 1.

by adding at the end of the indicative list of incremental costs (annex VIII to the report of the Fourth Meeting of the Parties, contained in document UNEP/OzL.Pro.4/15) as “(d) cost of destruction of substances contained in existing equipment, chemical stockpiles, foams and other products not yet released to the atmosphere, of surplus, contaminated and superfluous ODS.”

(b) Incentives to all Parties for ODS bank destruction

14. Destruction of appropriate quantities of ODS could be made a condition for essential- or critical-use exemptions by amending decision IV/25 on essential uses.⁷

15. This provision could apply immediately to Parties not operating under paragraph 1 of Article 5. For Parties operating under that provision, however, it could apply following a five-year time lag, beginning from the year in which essential- or critical-use exemptions enter into force for Parties operating under paragraph 1 of Article 5.

(c) Destruction of surplus ODS after essential-use exemption for all Parties terminates

16. This can be achieved by amending Articles 2, 2A to 2H and Article 5.

B. Draft decision on application of the Montreal Protocol’s trade provisions to HCFCs (submitted by Australia)

The Twentieth Meeting of the Parties decides,

Recalling Decision XV/3 which clarifies the definition of States not party to this Protocol for the purposes of obligations of Parties to the Copenhagen and Beijing Amendments to the Montreal Protocol with respect to control measures on hydrochlorofluorocarbons (HCFCs),

Noting Decision XIX/6 of the Nineteenth Meeting of the Parties to accelerate the phase out of HCFCs including the establishment of the new freeze date of 1 January 2013 for Article 5 Parties,

Acknowledging that the accelerated phase-out of HCFCs as determined by Decision XIX/6 brings forward control measures for HCFCs for Parties operating under paragraph 1 of Article 5 of the Protocol from 2016 to 2013,

1. To annul paragraph 1(a) of decision XV/3 which reads

“the term “State not party” to this Protocol” in Article 4, paragraph 9 does not apply to those states operating under Article 5, paragraph 1, of the Protocol until 1 January 2016 when, in accordance with the Copenhagen and Beijing Amendments, hydrochlorofluorocarbon production and consumption control measures will be in effect for States that operate under Article 5, paragraph 1, of the Protocol;”

and substitute with;

“the term “state not party” to this protocol” in Article 4, paragraph 9 does not apply to those states operating under Article 5, paragraph 1, of the Protocol until 1 January 2013 when, in accordance with the Copenhagen and Beijing Amendments, hydrochlorofluorocarbon production and consumption control measures will be in effect for States that operate under Article 5, paragraph 1, of the Protocol;”

End.

⁷ See Sarma, K. Madhava, Strengthening the Montreal Protocol: The Step-by-step Approach of the Montreal Protocol, in *The Montreal Protocol: Celebrating 20 Years Of Environmental Progress* (ed. Kaniaru, Donald) 203-13, at 209. (Cameron May 2007).

C. Draft decision on actions by Parties to reduce stocks and emissions of ozone-depleting substances that are unwanted or stored in equipment and products (management of banks) (submitted by the European Community)

Noting that the Scientific Assessment of 2006 concluded that emissions of ozone-depleting substances (ODS) from banks were higher than from any other sector;⁸

Noting that TEAP studied jointly with the IPCC the inter-linkages between ozone and climate change and that TEAP's latest data⁹ indicate ODS emissions from equipment and products totalling about 1.6 million ODP-tonnes in the period 2002-2015, which also have a significant global warming potential of approximately 6.7 GtCO₂-eq, and that cost-effective measures could be taken to protect both the ozone layer and mitigate climate change;

Recognising the urgency of taking action at the earliest opportunity because large and preventable emissions of long-lived ODS that are also greenhouse gases are currently being released to the atmosphere, and the cost-benefit ratio of eliminating these emissions declines with time¹⁰;

Recalling the general obligations described in Article 2 of the Vienna Convention which state that, *inter alia*, the Parties shall "... adopt appropriate legislative or administrative measures and co-operate in harmonising appropriate policies to control, limit, reduce or prevent human activities should it be found that these activities have or are likely to have adverse effects from modification or likely modification of the ozone layer";

Recalling that Decision IV/24 urges Parties to take all practicable measures to prevent releases of controlled substances and Decision VII/12 recommends that non-Article 5 Parties should limit the emissions of halons to a minimum by, *inter alia*, considering the decommissioning of halon systems which are not critical;

Noting the desire of a number of Article 5 Parties to destroy unwanted stocks of ODS, and the environmental benefits of preventing ODS emissions from banks at the earliest opportunity; and the related ongoing assessment conducted by the Executive Committee of the Multi-Lateral Fund;

Noting that a number of Parties have submitted proposals for possible decisions, adjustments, or amendments and acknowledging the need for careful consideration of actions on banks and their implication for achieving a full ODS phase-out allowing for the timely recovery of the ozone layer;

Noting that many Parties have adopted legislation which prohibits ODS venting, requires measures against leakage and ODS recovery and destruction, but emissions continue as enforcement of legislation is uneven and best practices have not been developed and widely implemented;

Mindful of the need to curb illegal trade in ODS recovered from equipment and shipped as virgin ODS or ODS-containing mixtures;

⁸ The other major area identified by the Scientific Assessment was an earlier phase-out of HCFCs. The parties took action on HCFCs at MOP-19, but have not yet addressed the area of ODS banks.

⁹ TEAP (2005) Supplement to the IPCC/TEAP Report estimated that ODS banks were around 3.7 million ODP-tonnes in 2002 and will be around 2.1 million in 2015. This indicates emissions of about 1.6 million ODP-tonnes in the period 2002-2015.

¹⁰ Extrapolating TEAP's (2005) estimates for 2002 and 2015, we estimate that emissions from banks are currently around 180,000 ODP-tonnes per year (1,657 Mt CO₂-eq. per year). In 2015 the annual emissions from banks will be about half the level they were in 2002.

The Parties decide that:

1. Non-Article 5(1) Parties shall further improve implementation of national and regional legislation and other measures that prevent the venting, leakage or emission of ODS by ensuring:

(a) Proper recovery of ODS from equipment containing ODS, during servicing, use and at end-of-life, where possible in applications such as refrigeration, air conditioning, heat pumps, fire protection, solvents and process agents;

(b) The use of best practices and performance standards when preventing ODS emissions at the end of the ODS life cycle, whether by recovery, recycling, reclamation, reuse as feedstock or destruction;

2. Parties are encouraged to combat illegal trade in ODS recovered from equipment and shipped as virgin ODS or ODS-containing mixtures, if appropriate by applying measures listed in Decision XIX/12;

3. Parties are encouraged to start developing national or regional strategies for the management of banks. The strategies could include for each sector, *inter alia* issues listed in Annex A of the present decision. Parties are invited to submit their strategies and subsequent updates to the Ozone Secretariat as soon as possible. The strategies will be placed on the Ozone Secretariat website, which will be updated regularly;

4. To request TEAP to provide a report by [MOP20] [1 April 2009] consolidating all available data on ODS banks and summarizing this information, identifying the sectors where recovery of ODS is technically and economically feasible notably in Article 5 Parties and the associated cost benefit considerations taking into account both ozone and climate cost-benefit considerations;

5. To request the Ozone Secretariat in co-operation with TEAP to organize a workshop immediately prior to [MOP20] [OEWG29] to facilitate Parties to analyse the TEAP report referred to in paragraph 4 above and other relevant information, to share good practices and to facilitate subsequent deliberations on meaningful actions that could be included in the strategies referred to in paragraph 3;

6. Parties and other relevant bodies are invited to submit through the Executive Committee their findings and suggestions in time for the Executive Committee to report to [OEWG29] for cost effective funding options, including public and private sources and voluntary mechanisms, for destruction demonstration projects of ODS recovery in key sectors.

7. Parties will consider again the issue of banks at the twenty first meeting of the Parties to identify any need for decisions necessary to address the issue of ODS emissions from banks and to adopt cost-effective measures necessary to protect the ozone layer that also have benefits for the global climate.

Annex A to draft decision XX/A

Indicative list of elements to be included in national or regional strategies for actions by Parties on the management of banks

- (a) Best available data on the current levels of banks, emissions and ODS recovery in the major life-stages of equipment and products (installation, use, servicing, end-of-life and other relevant information);
- (b) Action plans and proposed timetables to reduce and minimise emissions and recover ODS at each major life-stage including consideration of use bans;
- (c) Way of implementing best available technologies, best practices standards and associated performance indicators;

- (d) Activities on the introduction or improvement of incentives and procedures to ensure ODS recovery;
- (e) Identification of the entities that are legally responsible (physically, financially) for ODS recovery and destruction, and the entities responsible for enforcement;
- (f) Activities on early decommissioning of equipment/installations containing ODS, and the destruction of unneeded ODS, in sectors that are non-critical/non-essential and where zero-ODP/low-GWP alternatives exist;
- (g) Planned activities for training and certifying technicians in charge of the management of banks of ODS;
- (h) Other relevant elements.

D. Draft decision on actions by Parties to reduce methyl bromide use for quarantine and pre-shipment purposes and related emissions to protect the ozone layer and the safety of workers (submitted by the European Community, Mexico and Switzerland)

Recognising that methyl bromide use for quarantine and pre-shipment (QPS) purposes is a major use of an ozone-depleting substance that remains uncontrolled under the Montreal Protocol;

Reaffirming the commitment of all the Parties to the complete phase-out of methyl bromide;

Taking into account that methyl bromide is not only a potent-ozone depleting substance, but also a hazardous substance with potential serious human health impacts notably on workers in ports and warehouses;

Recalling Decisions VII/5 and XI/3 urging Parties to use alternatives to methyl bromide wherever possible, and to use recovery and recycling technology until alternatives are available;

Acknowledging the efforts made in several Parties to phase out, or reduce the use and emissions of methyl bromide for QPS purposes whether through adoption of alternatives or the use of recapture technologies;

Grateful for the joint efforts of the Ozone Secretariat and IPPC in reviewing alternatives to methyl bromide for phytosanitary purposes, particularly under ISPM-15;

Mindful that the QPS exemptions under the Montreal Protocol need to be implemented in ways that are consistent with the definitions of QPS use contained in the Montreal Protocol decisions;

Mindful that the use of methyl bromide for QPS purposes is still increasing in several regions of the world, and that there is no clear decreasing trend of global methyl bromide consumption for QPS that would minimise the associated impact on the ozone layer;

Recalling that Article 7 requires Parties to report on the annual amount of methyl bromide used for quarantine and pre-shipment applications;

Recalling Decision XI/13 urging Parties to implement procedures to monitor the uses of methyl bromide by commodity and quantity for QPS;

Recognising the need for better information by the Parties to analyse trends in QPS use and to further identify potential solutions to reduce global amounts of methyl bromide exempted for QPS applications under the Montreal Protocol;

The Parties decide:

1. To request the Ozone Secretariat to publish on the UNEP website data reported by the Parties under Article 7(3) on the use of methyl bromide for QPS;
2. To request the Parties that have not done so already to report data on the use of methyl bromide for QPS as required under Article 7(3) by April 2009, and to ask the Implementation Committee to consider the reporting of methyl bromide use for QPS treatment at its first meeting thereafter;
3. To request the Ozone Secretariat to continue liaising with the International Plant Protection Convention (IPPC) Secretariat, in accordance with Decisions XVII/15 and XVIII/14, to expedite the review process of alternatives to methyl bromide under ISPM-15;
4. To request TEAP to provide:
 - (a) A review of applications and volumes of methyl bromide consumption under the quarantine and pre-shipment exemption and their related emissions;
 - (b) An update of the existing 1999 list of regulations mandating the use of methyl bromide for QPS treatment;
 - (c) An extension of that list to include regulations promoting or banning the use of methyl bromide, and promoting or mandating the use of recapture technologies designed to reduce emissions;
 - (d) An updated assessment of the technical and economic availability of existing and potential alternative substances and technologies, and of methyl bromide recovery, containment and recycling technologies;
 - (e) An update of the existing 1999 list of QPS applications for which there are no alternatives available, assessing why alternatives are not technically or economically feasible;
 - (f) An overall assessment summarising the above referred information and any other relevant available data on methyl bromide for QPS;

and to submit its findings in time for consideration by OEWG 29.

5. To encourage Parties with methyl bromide use for QPS to develop and implement strategies to replace and/or reduce methyl bromide use for QPS and to reduce emissions, in line with the recommendation for IPPC adopted at the third session of the Commission on Phytosanitary measures, and to provide a copy of these strategies to the Ozone Secretariat by March 2010, taking into account the decisions in the past that have required the Parties to take action;
6. To request the Ozone Secretariat, in co-operation with TEAP, the IPPC Secretariat, and other relevant bodies, to organise in the margins, during OEWG 29, an international workshop to demonstrate the availability of technically and economically feasible alternatives and technologies to reduce methyl bromide emissions, using the report referred to under paragraph 4 as an input;
7. To consider at MOP 21:
 - (a) Possible measures to ensure that reported QPS uses are consistent with the definitions of QPS in decisions VII/5 and XI/12;
 - (b) Possible options for reducing the use of methyl bromide for QPS, particularly adopting alternatives where available, promoting recapture where alternatives are not available, and freezing levels of use at a past baseline level;
 - (c) Establishing a list of agreed recapture technologies similar to the list of agreed destruction technologies;

8. To request MLF to fund a pilot project demonstrating the economic and technological feasibility of alternatives to methyl bromide for QPS treatments, in accordance with similar requests for funding described in “The Supplement¹¹ to the 2008 Replenishment Report”.

E. Proposal for adjustment on the destruction of ozone-depleting substances (submitted by the Federated States of Micronesia and Mauritius)

1. Preamble

17. Action now can avoid significant emissions of ozone depleting substances (ODSs), including CFCs and HCFCs, which also are greenhouse gases, that otherwise will be released from “ODS banks.” These “banks” are contained mostly in refrigerators, stationary and mobile air conditioners (AC), thermal insulating foam, and stockpiles of new or recovered ODSs. Destruction of all banks in refrigeration and AC equipment at the end-of-life as of 2008 could accelerate the estimated return of the Effective Equivalent Stratospheric Chlorine (EESC) to 1980 values by two years, thus advancing the recovery of the ozone layer.¹² Without action, most of these banks will be released into the atmosphere by 2015, by which time emissions from CFC banks alone could equal approximately 6.0 to 7.4 billion tons of carbon dioxide equivalent (GtCO₂-eq.) between 2002 and 2015 — significantly more than the emissions reductions initially sought by the Kyoto Protocol.¹³ Conservative calculations of the portion that can be recovered with low cost equal 25% or more of the reduction during the first commitment period of the Kyoto Protocol. According to TEAP, “End-of-life measures [across all sectors] are consistent and significant contributors to savings in terms of both ozone and climate, with cumulative savings of around 300,000 ODP tonnes and about 6 billion tonnes CO₂-eq.” from 2011 to 2050.¹⁴ Cost effective technology exists to prevent most of these emissions that otherwise will “perish” by leakage.¹⁵

18. Fast action to address these banks will produce a double dividend for climate and ozone protection. Additionally, the actions necessary to prevent these CFC and HCFC emissions from banks can also reduce emissions of HFCs – further protecting the climate.

11 Refer Supplement to the May 2005 TEAP Task Force Replenishment Report to see examples in Section 1.3. There are no specific requests for projects on MB-QPS in Decision XIX/10, which describes the Terms of Reference for the TEAP Replenishment Report due in 2008.

12 See *Supplement to the IPCC/TEAP Report* (Nov. 2005), at x [hereinafter TEAP Supplement].

13 TEAP Supplement, id. at Annex.

14 TEAP, Response to Decision XVIII/12, Report of the Task Force on HCFC Issues (with Particular Focus on the Impact of the Clean Development Mechanism) and Emissions Reductions Benefits Arising from Earlier HCFC Phase-Out and Other Practical Measures, (August 2007), at 12, available at http://ozone.unep.org/Assessment_Panels/TEAP/Reports/TEAP_Reports/TEAP-TaskForce-HCFC-Aug2007.pdf [hereinafter TEAP Response]. The tables here only reference CFCs and HCFCs. Banks of CFCs, HCFCs, HFCs, and PFCs were estimated at about 21 GtCO₂-eq. in 2002. IPCC/TEAP, Special Report: Safeguarding the Ozone Layer and the Global Climate System: Issues Related to Hydrofluorocarbons and Perfluorocarbons, Summary for Policymakers (2005), at 9 (“In 2002, CFC, HCFC, and HFC banks were about 16, 4, and 1 GtCO₂-eq. (direct GWP weighted) respectively. In 2015, the banks are about 8, 5, and 5 GtCO₂-eq. respectively, in the BAU scenario.”) [hereinafter IPCC/TEAP Summary for Policymakers]. TEAP Supplement, supra note 2, at 15 (“The large scale destruction of banks is not included in the BAU scenario.”).

15 TEAP, Response to Decision XVIII/12, Report of the Task Force on HCFC Issues (with Particular Focus on the Impact of the Clean Development Mechanism) and Emissions Reductions Benefits Arising from Earlier HCFC Phase-Out and Other Practical Measures, (August 2007), at 12, available at http://ozone.unep.org/Assessment_Panels/TEAP/Reports/TEAP_Reports/TEAP-TaskForce-HCFC-Aug2007.pdf [hereinafter TEAP Response]. The tables here only reference CFCs and HCFCs. Banks of CFCs, HCFCs, HFCs, and PFCs were estimated at about 21 GtCO₂-eq. in 2002. IPCC/TEAP, Special Report: Safeguarding the Ozone Layer and the Global Climate System: Issues Related to Hydrofluorocarbons and Perfluorocarbons, Summary for Policymakers (2005), at 9 (“In 2002, CFC, HCFC, and HFC banks were about 16, 4, and 1 GtCO₂-eq. (direct GWP weighted) respectively. In 2015, the banks are about 8, 5, and 5 GtCO₂-eq. respectively, in the BAU scenario.”) [hereinafter IPCC/TEAP Summary for Policymakers]. TEAP Supplement, supra note 2, at 15 (“The large scale destruction of banks is not included in the BAU scenario.”).

19. ODS banks associated with refrigeration and air-conditioning in developed countries¹⁶ are set forth below in tonnes.¹⁷ If the Parties address these banks, emissions of 194,038 tonnes of CFCs (roughly 2 GtCO₂-eq.) and 454,887 tonnes of HCFCs (roughly 0.77 GtCO₂-eq.) can be mitigated by 2015; this is roughly 90% of CFCs and 50% of HCFCs banked in accessible refrigeration, SAC, and MAC equipment in developed countries.¹⁸

Sector	Sub-Sector	CFC Bank 2002	CFC Bank 2015 (BAU)	HCFC Bank 2002 ¹⁹	HCFC Bank 2015 (BAU)
Refrigeration	Domestic	38,103	356	0	0
	Commercial	2,885	64	100,948	32,961
	Transport	376	1	2,113	5
	Industrial	19,518	9,938	79,595	46,412
AC	Stationary	49,923	13,871	751,126	405,148
	Mobile	107,513	50 ²⁰	9,196	3,565
Total		218,318	24,280	942,978	488,091

20. The TEAP has identified technically and economically feasible end-of-life measures and concluded that “the main mitigation strategies likely to have effect on ODS emissions in the mid-term (e.g., as of 2008) are those associated with end-of-life measures in refrigeration and mobile and stationary air-conditioning.”²¹ “End-of-life measures [across all sectors] are consistent and significant contributors to savings in terms of both ozone and climate, with cumulative savings of around 300,000 ODP tonnes and about 6 billion tonnes CO₂-eq.” from 2011 to 2050.²²

21. Several countries have successfully employed regulatory and/or voluntary measures to improve recovery and recycling/destruction of ODS banks at the end of equipment’s useful life. Among these are Australia, Japan, the United States, Canada, and several EU member states. The following measures have proving successful for recovering and recycling/destroying ODSs in developed countries:

(a) Require service practices that maximize recycling or destruction of ODSs and/or provide a rebate for returned ODSs (e.g. Australia, U.S., certain Canadian provinces, Japan, EU members);

(b) Set certification requirements for recycling and recovery equipment for technicians and reclaimers (e.g. U.S., Japan, EU members);

16 See Ecosphere, Review of the implementation of Regulation (EC) No 2037/2000 on substances that deplete the ozone layer (December 2007) (“Review of EC 2037/2000”) at 103, available at http://ec.europa.eu/environment/ozone/pdf/regulatory_options_report.pdf (providing specific ODS bank estimates across all sectors in the EU in 2007 and 2010).

17 TEAP Response, supra note 4, at 27. The tables here only reference CFCs and HCFCs. However, banks of CFCs, HCFCs, HFCs, and PFCs were estimated at about 21 GtCO₂-eq. in 2002. IPCC/TEAP Summary for Policymakers, supra note 4, at 9 (“In 2002, CFC, HCFC, and HFC banks were about 16, 4, and 1 GtCO₂-eq. (direct GWP weighted) respectively. In 2015, the banks are about 8, 5, and 5 GtCO₂-eq. respectively, in the BAU scenario.”); TEAP Supplement, supra note 2, at 15 (“The large scale destruction of banks is not included in the BAU scenario.”).

18 Estimates of CO₂-eq. have been calculated based on the GWP of CFC-12 and HCFC-22, the most common refrigerants found in these applications.

19 In 2006, HCFCs formed the dominant refrigerant bank, estimated at more than 1,500,000 tonnes, representing 60% of the total amount of refrigerants in use. Two thirds of this bank can be found in non-Article 5 countries. See UNEP, 2006 Report of the Refrigeration, Air Conditioning and Heat Pump Technical Options Committee 2006 Assessment, (2006) (“RTOC 2006 Assessment Report”) at 2, available at http://ozone.unep.org/teap/Reports/RTOC/rtoe_assessment_report06.pdf.

20 See id. The ODS-refrigerant bank was estimated at 60,000 tonnes of CFC-12 in 2006 with a 10% annual emissions rate, meaning very few ODS-containing systems will remain in service after 2012.

21 See TEAP Supplement, supra note 2, at ix.

22 TEAP Response, supra note 4, at 12.

- (c) Restrict the sale or importing of refrigerant to certified importers, wholesalers, technicians, etc. (e.g. U.S., Australia);
- (d) Require sellers to take-back used ODSs and equipment (e.g. Australia, Japan);
- (e) Restrict the amount of new ODSs that can be placed on the market or place an escalating tax on new material to encourage appropriate market behavior (e.g. U.S.);
- (f) Establish safe disposal requirements to ensure removal of refrigerants from goods that enter the waste stream with the charge intact such as motor vehicle air conditioners, home refrigerators, and room air conditioners and/or make voluntary emissions of refrigerants an offense (e.g. U.S., Japan, EU members, Australia);
- (g) Establish voluntary initiatives with government that permit participants to advertise their eco-friendly practices (e.g. U.S., Canada);
- (h) Establish industry-led voluntary initiatives to promote recovery and recycling/destruction which impose levies, require certification, require sellers take-back used ODSs and equipment, provide rebates for returned ODSs, and utilize industry infrastructure to reduce costs (e.g. Canada, Australia); and/or
- (i) Expand ODS voluntary measures to include other GHGs that are used as substitutes for ODSs or can be destroyed at the same facilities as ODSs (e.g. Australia).

22. In addition to regulations and voluntary initiatives, enforcement and compliance are important. EU Regulation EC 2037/2000 mandates the destruction of CFCs following their recovery from equipment and foams.²³

23. We propose that the 2008 MOP adopt the following measures to promote the destruction of ODS by all Parties. Some of these can be adopted as new decisions or as modification of earlier decisions. Others can be adopted as adjustments or amendments. These options are indicated in each measure. However, the MOP can decide the appropriate choice, based on advice from the legal drafting group. No specific legal language has been proposed at this stage in order to promote a full debate in the forthcoming OEWG meeting.

2. Finance ODS Bank Destruction in Article 5 Parties

24. Destruction of ODS banks in developing countries would benefit from financing through the MLF and, if necessary, supplementary sources committed to climate reductions. The history of decisions resulting from the Meetings of the Parties (MOPs) demonstrates that promoting destruction of ODS banks and assisting the destruction of ODS banks in Article 5 countries has long been considered not just within the purview of the Montreal Protocol, and in particular Article 10, but a concern warranting significant resources.²⁴ MLF financing could begin immediately with pilot projects. This can be achieved by adding at the end of the indicative list of incremental costs (Annex VIII of the report of Fourth MOP) as “(d) cost of destruction of surplus, contaminated and unneeded ODS.”

3. Provide Incentives to All Parties for ODS Bank Destruction

25. Destruction of appropriate quantity of ODSs could be made a condition for essential/critical use exemption through a change in Decision IV/25 of the 4th MOP on essential uses.²⁵ Noting that those Parties with destroyable ODS may not need essential use exemptions vice versa and the year(s) of availability of destroyable ODS may differ from the year(s), this change in the Decision IV/25 should be coupled with a decision that the destruction credits be carried forward for more than one year, enabled to be exchanged across the Groups of

23 See TEAP Supplement, *supra* note 2, at 36.

24 Examples of Decisions addressing ODS bank destruction include: Decision IV/11 at ¶7; Decision IV/12 at ¶2; Decision IV/24 at ¶4; Decision VII/31; Decision XVII/17; Decision XVII/18 at ¶1.

25 See Sarma, K. Madhava, Strengthening the Montreal Protocol: The Step-by-step Approach of the Montreal Protocol, in *THE MONTREAL PROTOCOL: CELEBRATING 20 YEARS OF ENVIRONMENTAL PROGRESS* (ed. Kaniaru, Donald) 203-13, at 209 (Cameron May 2007).

Controlled ODS and that Parties could trade in destruction credits. The other parts of Decision IV/25, such as scrutiny by the TEAP and approval of MOP for essential use exemptions would remain unchanged. A5 Parties would require appropriate treatment under the principle of common but differentiated responsibility.

4. Mandate Destruction of Surplus ODS Once Need for Essential Use Exemption Ceases for All Parties.

26. This can be achieved by changing Articles 2, 2A to 2H and Article 5.

F. Proposed adjustment to the Montreal Protocol to reduce the allowance of methyl bromide produced for basic domestic needs in developed countries for export to Parties operating under paragraph 1 of Article 5 (submitted by Kenya and Mauritius)

1. Summary

27. The Montreal Protocol's Maximum Production Allowance (MPA) permitted for methyl bromide (MB) produced in non-Article 5(1) Parties for Basic Domestic Needs (BDN) is 10,076 metric tonnes per year, which is 80% of the annual average of the production reported by eligible non-Article 5(1) Parties for the period 1995 to 1998 inclusive.

28. The consumption of MB in Article 5(1) Parties continues to decrease to a record low of 7,022 metric tonnes in 2006.

29. We propose to reduce the MPA for MB-BDN from 10,076 metric tonnes per year to 5,038 metric tonnes per year (equivalent to 40% of the MPA for MB-BDN), to ensure that the supply is not substantially greater than the demand for MB from 1 January 2010.

30. A review of MB-BDN production not later than 2010 will permit the Parties to adjust the BDN to a level sufficient to meet the needs of Article 5(1) Parties until 2015.

31. Our proposal will avoid potentially excessive production of MB which, if left unaddressed, would delay the adoption of available alternatives in developing countries, undermine MLF-funded projects on alternatives in Article 5(1) Parties, and further damage the ozone layer.

32. Using the Protocol's Adjustment procedure to reduce the MPA for MB-BDN is consistent with the suggestions of the contact group which met in 2007 to consider harmful trade in MB.

33. The proposed Adjustment for BDN does not affect the permitted uses of MB for quarantine and pre-shipment.

2. Goal

34. To reduce the maximum production allowance for methyl bromide for Basic Domestic Needs, so that the supply is not substantially greater than the demand from 2010 until 2015.

3. Context

(a) Exports of methyl bromide for Basic Domestic Needs

35. The quantity of MB used for pest control continues to reduce annually as alternatives to replace this ozone-depleting pesticide have been developed, registered (when necessary) and implemented in both Article 5(1) and non-Article 5(1) Parties.

36. Article 5(1) Parties have made significant progress eliminating their uses of MB. UNEP's Methyl Bromide Technical Options Committee (MBTOC) reported in 2007 that 80% of Article 5(1) Parties had reduced their MB consumption to less than half of their 2005 national

base levels. Moreover, more than half of the ninety-five Article 5(1) Parties that consumed MB in the past have totally eliminated their consumption.

37. The MB consumption for controlled uses in Article 5(1) Parties, reported to the Ozone Secretariat pursuant to Article 7 of the Montreal Protocol, was 18,100 tonnes in 1998; 17,669 tonnes in 2001; 12,697 tonnes in 2002; 11,831 tonnes in 2003; 10,512 tonnes in 2004; 9,497 tonnes in 2005; and 7,022 tonnes in 2006, which is about 45% of the Article 5(1) base level.

38. With regard to production, Article 5(1) Parties reported production to the Ozone Secretariat of 969 tonnes in 2006. In non-Article 5(1) Parties, only France, Israel and the United States are eligible to produce MB for BDN, as they were the only MB-producing Parties that reported data to the Ozone Secretariat for the period 1995 to 1998 inclusive²⁶, which subsequently allowed the calculation of the maximum BDN production allowance affecting these Parties²⁷.

39. The MPA for MB-BDN for the period 2005 to 2014 is 6045.5 ODP tonnes²⁷ per year, equivalent to 10,076 tonnes, which is 80% of the annual average production reported by France, Israel and the United States for the period 1995 to 1998 inclusive²⁸. This MPA for MB is about 43% more than the amount consumed by Article 5(1) Parties in 2006.

40. Figure 1 below illustrates the MPA of 80% MB-BDN from 2005, which is currently in force. However, according to the data reported under Article 7, the consumption of MB in Article 5 Parties has trended downwards since 2001 (solid line), according to the data reported pursuant to Article 7. This trend is expected to continue in the future (dotted line) as alternatives to MB become even more widespread in Article 5(1) Parties. Accordingly, we propose an adjustment of the MPA for MB-BDN from 80% to 40%, effective from 1 January 2010, to take account of this downward trend in MB consumption.

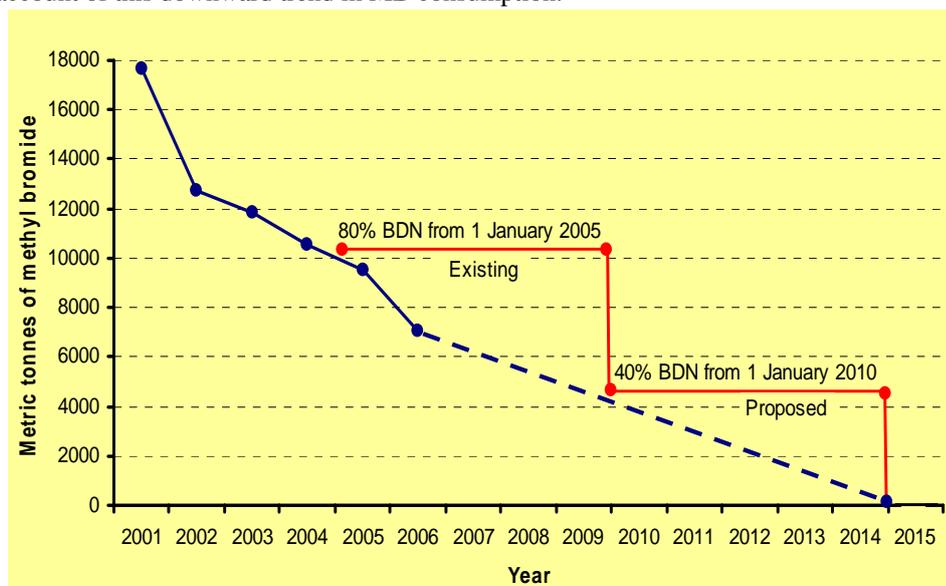


Figure 1: Consumption of methyl bromide in Article 5(1) Parties, shown as reported by Parties (as a solid line) and projected into the future (dotted line). Also shown is the existing maximum production allowance for methyl bromide for Basic Domestic Needs from 1 January 2005 (80%), and our proposal for BDN from 1 January 2010 (40%).

41. In the light of technical alternatives existing for almost all controlled uses of MB²⁹, and considering that the demand from 2007 and successive years is most likely to be less than the

26 Pursuant to Article 2H paragraphs 5bis and 5ter of the Montreal Protocol.

27 Production and Consumption of Ozone Depleting Substances under the Montreal Protocol 1986 – 2004. [Ozone Secretariat](#) UNEP November 2005; page 32;

28 Pursuant to Article 2H, paragraphs 5 bis and 5 ter of the Montreal Protocol

29 Synthesis Report (2006). 2007. [UNEP/OzL.Pro.WG.1/27/3](#); Page 6.

quantity of MB consumed in 2006 due to the success of the MLF-funded projects and other actions taken at the national level, our proposal for a 40% MPA for MB-BDN will be more than adequate to meet the demand from 1 January 2010.

42. However, in order to ensure that the MPA for MB-BDN is not excessive from 2012 onwards, taking into account the rate of MB reduction in Article 5(1) Parties, we also propose that the Parties review the MPA for MB-BDN no later than 2010.

43. Therefore, we propose that the MPA for MB-BDN would remain at 80% until 31 December 2009. However, from 1 January 2010 and until any further Adjustment by the Parties, we propose the MPA for MB-BDN would be 40%.

44. Our proposal would avoid excessive production of MB-BDN which, if left unaddressed, would encourage increases in MB consumption in Article 5(1) Parties, delay the adoption of available alternatives thereby undermining the work of the MLF-funded projects on alternatives to MB, and further damage the ozone layer.

(b) Harmful trade

45. The Parties first highlighted their concerns with excess supplies of MB entering developing countries, which they considered as harmful trade, in a decision³⁰ agreed by the Parties in 2004. In response to this decision in 2006, TEAP defined “harmful trade” as “...any trade that adversely impacts the implementation of control measures by any Party, allows back sliding from the implementation of alternatives to methyl bromide already achieved, or is counter to the domestic policy of either the importing or the exporting Party.”

46. The TEAP also reported at that time that harmful trade may originate from global stockpiles of MB and from global production. TEAP recommended that non-Article 5(1) Parties should make a special effort to declare all stocks and ensure that MB from these stocks is not exported, except for critical uses or for quarantine and pre-shipment (QPS) uses.

47. In regard to production, TEAP noted that the Protocol allows non-Article 5(1) Parties until 2015 to produce each year up to 80% of their average production for the four year period from 1995 to 1998, to satisfy the BDN requirements of Article 5(1) Parties. TEAP cautioned that this quantity needed to be regulated carefully to prevent harmful trade.

48. Based on these conclusions in the TEAP report, ten Parties³¹ proposed a draft decision in 2007 on harmful trade in MB, which was considered by the Parties at their Open-Ended Working Group meeting in June, and again at their nineteenth Meeting in September (MOP19).

49. It was generally agreed at MOP19 that harmful trade was an important issue affecting Article 5(1) Parties. However, a contact group established to further consider the draft decision was not able to reach consensus. The contact group suggested that the proponents submit a proposal to the Protocol for an Adjustment that provides for a reduction in the production of MB-BDN, and that such a proposal would need to be submitted at least 6 months before the meeting at which it was to be considered.

50. Accordingly, the proposed legal text is submitted in Section 4 below. The proponents of the Adjustment confirm that only paragraph 5 in Article 2H is changed. As a result, the permitted uses of MB for QPS, which are described in paragraph 6 of Article 2H, remain unaffected.

30 Decision Ex.I/4, paragraph 9(a). First Extraordinary Meeting of the Parties, 24-26 March 2004

31 Angola, Botswana, Burkina Faso, Kenya, Malawi, Nigeria, Sierra Leone, Uganda, United Republic of Tanzania and Zambia

4. Legal text of the proposed adjustment

Article 2H

51. A new paragraph is inserted after 5 bis, as follows:

5 ter. Each Party shall ensure that for the twelve-month period commencing on 1 January 2010 and in each twelve-month period thereafter, its calculated level of production of the controlled substance in Annex E for the basic domestic needs of the Parties operating under paragraph 1 of Article 5 does not exceed forty per cent of the annual average of its production of the substance for basic domestic needs for the period 1995 to 1998 inclusive. A Meeting of the Parties shall review, not later than 2010, the calculated level of production of the controlled substance in Annex E for the basic domestic needs of the Parties operating under paragraph 1 of Article 5³².

52. The current paragraph 5 ter is renamed 5 qua.

5. Conclusions

53. There is no “automatic” procedure currently in place to adjust the MPA for MB-BDN to take account of the reduced demand in developing countries.

54. An Adjustment of the MPA for MB-BDN by the Parties to 40% from 1 January 2010, followed by a review by the Parties of the MPA for MB-BDN no later than 2010, will ensure that MB can be produced in non-Article 5(1) Parties in quantities sufficient to support the basis domestic needs for MB in Article 5(1) Parties.

G. Draft decision on extension of the fixed-exchange-rate mechanism (Alternative draft decisions on the use of the fixed-exchange-rate mechanism in the context of the replenishment of the Multilateral Fund) (submitted by the Secretariat in response to the request of Parties at the twenty-eighth session of the Open-ended Working Group)

1. Extension of the fixed-exchange-rate mechanism to the 2009–2011 replenishment of the Multilateral Fund

1. To direct the Treasurer to extend the fixed-exchange-rate mechanism to the period 2009–2011;

2. That Parties choosing to pay their contributions to the Multilateral Fund for the Implementation of the Montreal Protocol in national currencies will calculate their contributions based on the average United Nations exchange rate for the six-month period commencing 1 January 2008;

3. That, subject to paragraph 4 below, Parties not choosing to pay in national currencies pursuant to the fixed-exchange-rate mechanism will continue to pay in United States dollars;

4. That no Party should change the currency selected for its contribution in the course of the triennium 2009–2011;

5. That only Parties with inflation rate fluctuations of less than 10 per cent, as per published figures of the International Monetary Fund, for the preceding triennium will be eligible to utilize the fixed-exchange-rate mechanism;

³² The changes to the legal text are shown here underlined for clarity, but would not be in underlined in the final text.

6. To urge Parties to pay their contributions to the Multilateral Fund in full and as early as possible in accordance with paragraph 7 of decision XI/6;

7. To agree that if the fixed-exchange-rate mechanism is to be used for the replenishment period 2012–2014 Parties choosing to pay their contributions in national currencies will calculate their contributions based on the average United Nations exchange rate for the six-month period commencing 1 January 2011;

2. Permanent extension of the fixed-exchange-rate mechanism

1. To direct the Treasurer to use the fixed-exchange-rate mechanism for all future replenishments of the Multilateral Fund;

2. That Parties choosing to pay their contributions to the Multilateral Fund for the Implementation of the Montreal Protocol in national currencies will calculate their contributions based on the average United Nations exchange rate for the six-month period commencing 1 January of the year prior to the commencement of each subsequent replenishment. Subject to paragraph 3 below, Parties not choosing to pay in national currencies pursuant to the fixed-exchange-rate mechanism will continue to pay in United States dollars;

3. That no Party should change the currency selected for its contribution for a given replenishment period during the course of that replenishment period;

4. That only Parties with inflation rate fluctuations of less than 10 per cent, as per published figures of the International Monetary Fund, for the preceding replenishment period will be eligible to utilize the fixed-exchange-rate mechanism for a given replenishment period;

5. To urge Parties to pay their contributions to the Multilateral Fund in full and as early as possible in accordance with paragraph 7 of decision XI/6;

II. Draft decisions on administrative matters

A. Draft decisions VIII/AA and XX/AA: Status of ratification of the Vienna Convention, the Montreal Protocol and [the London, Copenhagen, Montreal and Beijing] amendments to the Montreal Protocol

1. To note with satisfaction the large number of countries which have ratified the Vienna Convention for the Protection of the Ozone Layer and the Montreal Protocol on Substances that Deplete the Ozone Layer;

2. To note that, as of 15 November 2008, [---] Parties had ratified the London Amendment to the Montreal Protocol, [---] Parties had ratified the Copenhagen Amendment to the Montreal Protocol, [---] Parties had ratified the Montreal Amendment to the Montreal Protocol and [---] Parties had ratified the Beijing Amendment to the Montreal Protocol;

3. To urge all States that have not yet done so to ratify, approve or accede to the Vienna Convention and the Montreal Protocol and its amendments, taking into account that universal participation is necessary to ensure the protection of the ozone layer;

B. Draft decision XX/BB: Membership of the Implementation Committee

1. To note with appreciation the work done by the Implementation Committee under the Non-compliance Procedure for the Montreal Protocol in 2008;

2. To confirm the positions of Jordan, Mauritius, Mexico, New Zealand and the Russian Federation as members of the Committee for one further year and to select -----, -----, ----- and ----- as members of the Committee for a two-year period commencing 1 January 2009;

3. To note the selection of ----- to serve as President and of ----- to serve as Vice-President and Rapporteur of the Committee for one year commencing 1 January 2009;

C. Draft decision XX/CC: Membership of the Executive Committee of the Multilateral Fund

1. To note with appreciation the work done by the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol with the assistance of the Fund secretariat in 2008;

2. To endorse the selection of -----, -----, -----, -----, -----, ----- and ----- as members of the Executive Committee representing Parties not operating under paragraph 1 of Article 5 of the Protocol and the selection of -----, -----, -----, -----, -----, ----- and ----- as members representing Parties operating under that paragraph, for one year commencing 1 January 2009;

3. To note the selection of ----- to serve as Chair and ----- to serve as Vice-Chair of the Executive Committee for one year commencing 1 January 2009;

D. Draft decision XX/DD: Co-Chairs of the Open-ended Working Group of the Parties to the Montreal Protocol

To endorse the selection of ----- and ----- as Co-Chairs of the Open-ended Working Group of the Parties to the Montreal Protocol in 2009;

E. Draft decision XX/EE: Data and information provided by the Parties in accordance with Article 7 of the Montreal Protocol

1. To note with appreciation that [--] Parties out of the [--] which should have reported data for 2007 have now done so and that [--] of those Parties reported their data by 30 June 2008 in conformity with decision XV/15;

2. To note, however, that the following Parties have to date not reported data for 2007: [TBA];

3. To note that their non-reporting of data places the Parties named above in non-compliance with their data-reporting obligations under the Montreal Protocol until such time as the Secretariat receives their outstanding data;

4. To urge those Parties, where appropriate, to work closely with the implementing agencies to report the required data to the Secretariat as a matter of urgency and to request the Implementation Committee to review the situation of those Parties at its next meeting;

5. To note that a lack of timely data reporting by Parties impedes effective monitoring and assessment of Parties' compliance with their obligations under the Montreal Protocol by the Implementation Committee and the Meeting of the Parties;

6. To note further that reporting data 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 to comply with the control measures of the Montreal Protocol;

7. 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;

F. Draft decision XX/FF: Twenty-first Meeting of the Parties to the Montreal Protocol

To convene the Twenty-first Meeting of the Parties to the Montreal Protocol in [] and to announce a firm date for the meeting as soon as possible;

G. Draft decision VIII/BB: Ninth meeting of the Conference of the Parties to the Vienna Convention

To convene the ninth meeting of the Conference of the Parties to the Vienna Convention back-to-back with the Twenty-Third Meeting of the Parties to the Montreal Protocol.

III. Reports and related proposals of the co-chairs of the contact groups established by the Open-ended Working Group at its twenty-eighth meeting on campaign production, destruction and stocks of ozone-depleting substances and replenishment of the Multilateral Fund

A. Summary of the co-chairs of the contact group on campaign production and essential uses

55. As an initial step, the group began to identify important elements that could help in solving problems arising during the final phase-out of CFC-based metered-dose inhalers. Group members were of the opinion that there was a general lack of data and information to determine clearly whether a genuine need for a final production campaign would be feasible. After a comprehensive exchange of views on short and long-term problems, the group identified the following significant topics and questions (the list served as an agenda for the meetings of the contact group):

- (a) Elements of a campaign production:
 - (i) Ways to detect the need for a production campaign;
 - (ii) Estimation of amounts of CFCs necessary to be produced;
 - (iii) Strategies to avoid overproduction and insufficient production;
 - (iv) Policy options.
- (b) Guidance to the Implementation Committee on Bangladesh's potential non-compliance.
- (c) Essential-use process:
 - (i) Adequacy of the current regime;
 - (ii) Guidance for essential-use applications for Parties operating under paragraph 1 of Article 5;
 - (iii) Time frame;
 - (iv) Awareness-raising.

1. Campaign production

56. The group was of the opinion that, in view of the lack of data and information, the Technology and Economic Assessment Panel could be requested to assess the amounts of CFCs required, consistent with decision IV/25 and possible essential-use applications submitted by Parties operating under paragraph 1 of Article 5. In that process the Panel should liaise with the Parties concerned and implementing agencies of the Multilateral Fund. The group observed that the quantities of non-pharmaceutical-grade CFCs should be minimized and destroyed.

57. Various views were expressed by the group on how to conduct and organize a campaign that would take into account ownership of material produced, storage and the logistical problems of supply and minimization of amounts for destruction.

2. Guidance to the Implementation Committee on Bangladesh's potential non-compliance

58. Bangladesh was seeking guidance on its potential non-compliance with CFC phase-out regulations that had been caused by difficulties associated with manufacturing metered-dose inhalers that used CFCs. The representative of Bangladesh observed that the matter had been reported to the Implementation Committee for a possible non-compliance decision. He subsequently submitted an informal paper to the group explaining a possible solution that the Parties could consider. In the ensuing discussion the group advised Bangladesh to sign quickly the agreements with UNDP and UNEP so that the projects approved by the Executive Committee could be implemented without further delay. Bangladesh had indicated to the group that it would be signing the pending contracts within the next two months. The Party was also requested to submit data to the Secretariat in accordance with Article 7 of the Protocol. The Implementation Committee would review the reported information at its next meeting, taking into account decision XVIII/16, and recommend appropriate action to be taken.

3. Essential-use process

59. It was acknowledged that the essential-use process was extremely detailed, demanding and time-consuming, and, as such, the group expressed some urgency in tackling the issue. It was also noted that Parties operating under paragraph 1 of Article 5 might not be fully familiar with the application process that was required to enable the evaluation of information submitted by Parties. A consensus emerged that the current essential-use regime based upon decision IV/25 should be extended to Parties operating under paragraph 1 of Article 5.

60. It was also mentioned that there might be a need to review the handbook on essential uses to meet the requirements of Parties operating under paragraph 1 of Article 5. One Party provided examples of new information to be included in the essential-use application, which included submission of a phase-out strategy with indicative phase-out dates and volumes of CFCs, information on stocks and type of CFCs, information on prices of CFC metered-dose inhalers and available alternatives, and the situation of local manufacture compared to imported products. Essential-use nominations should be submitted for assessment by the Medical Technical Options Committee. The group said that the Medical Technical Options Committee should take into account the short time available for impending essential-use nominations, which had a deadline of 31 January 2009, and bear in mind unforeseeable circumstances when considering phase-out strategies, and suggested that the Medical Technical Options Committee might need to provide short-term technical support for those submissions. Parties not operating under paragraph 1 of Article 5 indicated that technical support could be provided to Parties that were so operating, to enable them to prepare applications for essential-use nominations.

4. Way forward

61. The group agreed that the Ozone Secretariat should carry out a review of all relevant decisions on essential uses in order to extend their applicability to essential-use nominations submitted by Parties operating under paragraph 1 of Article 5. A report by the co-chairs would be posted on the Secretariat's website for Parties to provide their comments by 15 September 2008. Subsequently, the co-chairs would endeavour to prepare a draft decision regarding essential-use applications for Parties operating under paragraph 1 of Article 5 for consideration by the Twentieth Meeting of the Parties in Doha in November 2008.

B. Summary and proposal of the co-chairs of the contact group on destruction and stocks of ozone-depleting substances

Introduction

62. There is general consensus that all Parties believe that the issue of destruction and ozone-depleting substance banks is an important one and requires immediate attention and

action. A contact group was formed at the twenty-eighth meeting of the Open-ended Working Group of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer to discuss the issue further and to make progress thereon.

63. Parties are invited to submit their comments on this summary report and, in particular, on the co-chairs' proposals contained therein to the Ozone Secretariat by 15 September 2008 at the latest.

1. Opening and organization of the contact group

64. The contact group was opened by the co-chairs, Mr. Agustín Sánchez (Mexico) and Mr. Martin Sirois (Canada), who welcomed the participants. After agreeing to leave the meeting open to observers, the contact group heard an initial presentation from the European Community on its new proposal on the management of banks distributed as a conference-room paper at the twenty-eighth meeting of the Open-ended Working Group. The group also had for its consideration a joint proposal from the Federated States of Micronesia and Mauritius, contained in pre-session document UNEP/OzL.Pro.WG.1/28/3/Add.1, and one from Argentina, circulated at the meeting as a conference-room paper, that had been introduced in plenary.

65. The group agreed that the discussions would be organized on the key issues that seemed to underlie all of the proposals and that had emerged from statements delivered in the plenary on the matter. The group deliberated for over six hours on those key issues that it believed would contribute to a thoughtful decision on the issue.

2. Discussion of key issues

66. Specifically, the group considered five key issues: the scope of action (e.g., the Substances that should be addressed, the sectors to be covered, and the definitions of unwanted material and banks); the options for financing action; the linkages that the issue of destruction might have with other international legal agreements such as the Framework Convention on Climate Change and the Basel Convention; the environmental benefits that it was hoped to achieve; and the short and long-term policy options that were needed to deal with the issue.

3. Scope of action

67. Where scope was concerned, various views were expressed, which included:

(a) Substances to be addressed: Some members felt that only ozone-depleting substances that were no longer produced should be included. Most members of the group supported focusing on CFCs and halons which would be phased out shortly. It was thought that that approach would have the virtue of ensuring that there was no perverse incentive created to produce more of an existing substance in the hope of securing funding for its destruction. That said, some delegations thought that any programme should be aimed at helping dispose of any ozone-depleting substance that was unwanted (although that term should be more precisely defined), including HCFCs, especially since the facilities to destroy all ozone-depleting substances would be the same, and HCFC-foamed refrigerators would soon be reaching the end of their useful lives;

(b) Sectors or sources to be addressed: Most members of the group supported addressing the easiest sources first. In that context, stocks of contaminated ozone-depleting substances which had already been assembled were noted as being readily available and at risk of venting in some countries. It was also noted that refrigerants and halons were likely to be more accessible in old use systems and would therefore be more cost-effective to deal with than foams. Stocks that had resulted from confiscations were also mentioned as being readily available. The suggestion was made that reuse of such stocks should be considered before destruction if that would obviate the need for new production to meet essential or critical uses. It was suggested that consideration could be given to selling such confiscated material to another country in order to fund more compliance and confiscation efforts. Concerning banked ozone-depleting substances in used equipment, it was noted that it might be harder to gain access to those substances and that locating such banks and equipment could require surveys, support and capacity-building;

(c) In relation to scope and the environmental benefits to be achieved: It was noted that a decision on the benefits to be achieved would affect the scope of the actions contemplated. In that context, it was suggested that, if the Parties wished also to include climate benefits, they might not need to consider destroying halons as the destruction of halons was thought to yield limited or no climate benefits;

(d) The concept of unwanted ozone-depleting substances: This concept was explored and had different meanings for different delegations. Some suggested focusing on contaminated ozone-depleting substances, others thought that the term should include ozone-depleting substances in obsolete use systems. The notion that some ozone-depleting substances might be unwanted in one country but not in another was also expressed. It was noted that the scope of action would be affected by a decision by the group on the definition of the term.

68. The overall concept of the scope of action that would be necessary to address the issue was discussed, and there seemed to be general agreement that the issue needed to be dealt with in a holistic manner that included policies, regulations and incentives and that it covered recovery, collection, storage and transport.

69. Most members of the group, noting the success, efficiency and experience of the Multilateral Fund and its direct nexus to the Montreal Protocol, expressed the view that the Fund should be the primary mechanism used to provide technical and policy support to Parties operating under paragraph 1 of Article 5 in their efforts to deal with banks and the destruction of unwanted ozone-depleting substances. Given that many of those banks would need to be dealt with in the near future, those members noted that the funding currently provided for under the replenishment task force report might not be sufficient for the issues to be satisfactorily addressed.

70. Other members of the group, while not discounting the role that the Multilateral Fund might play in addressing ozone-depleting substance banks, suggested that there were a variety of other institutions that could possibly contribute to that effort, especially as destruction would likely involve climate co-benefits. Those members felt that, at the current point in the discussions, all those options should be kept at least for consideration. Some suggested that, if any other sources of funding were considered, it should be up to the donor countries to find such complementary funding and to funnel it through the Multilateral Fund.

71. Others suggested that initial efforts should be launched by using the Multilateral Fund and, in parallel, that other modalities should be studied, including those that might be developed in the post-2012 era, to see whether they could contribute to further steps that might be taken. The need to ensure additionality of the funding as it related to activities that would not otherwise be taken was also noted.

72. In terms of environmental benefits, most members of the group acknowledged that the primary benefits that should be considered were ozone and climate benefits. It was noted that the Parties could benefit greatly from a cost-benefit analysis of undertaking different collection and destruction activities. Such an analysis could help to attract other sources of financing, as well as helping to determine the appropriate level at which to set any incentives for collection and destruction. In that context, some members wished to consider whether it would be positive or negative to provide an incentive for collection and destruction at a level that could discourage redeployment for servicing purposes.

73. Regarding policy options to deal with the issue of destruction and banks, one member of the group proposed that the Protocol should be amended to make destruction mandatory and that the indicative list of incremental cost should be amended to include the destruction of ozone-depleting substances. Several other members, however, suggested there was insufficient information at the current stage to consider an amendment or mandatory approach. Many of those Parties suggested a step-by-step approach which could start with pilot projects in a geographically diverse set of countries representing both small and large consumers. While some were interested in pursuing the notion contained in the proposals by the Federated State of Micronesia and Mauritius and by Argentina regarding the creation of destruction credits that could be marketed to enable new production, others suggested that that idea, while interesting and worth exploring, should not be considered as a substitute for the current essential-use process. It would have to be explored in much greater detail before it could be agreed to. In that context, there seemed to be agreement around the desirability of taking immediate action on certain easier activities that could be undertaken at the current stage and on establishing a

framework to enable development of further information and policy options which could inform future decisions on the matter.

74. The members of the group acknowledged that the issue of destruction touched on the work of a number of other multilateral environmental agreements and institutions. Those noted in that context included, in particular, the Basel Convention, and also the Stockholm Convention, the Rotterdam Convention, the Framework Convention on Climate Change and the Clean Development Mechanism. Specific issues regarding the ability of certain countries to transport waste consistent with the Basel Convention were noted and it was also noted that past and more recent discussions with the Secretariat of the Basel Convention had demonstrated a willingness on the part of that institution to work with the Parties to the Montreal Protocol on the issue.

4. Co-chairs' proposals

(a) Proposal on scope

75. Given the general agreement and sense of urgency to take quick action, and taking into account, first, the understanding that it will be hard to address every facet of the issue immediately; second, the fact that there will be a limited amount of time to address CFCs and halons, and, third, the emphasis placed by Parties on the easiest first concept, it is suggested that the Parties might agree in the short term to focus on already assembled stocks of CFCs and halons that are either contaminated or are the result of confiscations, with the understanding that consideration should be given to the redeployment of confiscated ozone-depleting substances (as opposed to destruction) if they can be redeployed in a manner that would obviate the need for new production mainly for essential or critical uses.

76. A proposed decision should promote steps that should be taken in the areas of policies, regulations and incentives, and embody an understanding that destruction encompasses actions related to recovery, collection, bank management (including storage) and transport.

(b) Proposal on funding modalities, environmental benefits, and policy options

77. Consideration should be given to requesting the Multilateral Fund, as a first step, to support activities in Parties operating under paragraph 1 of Article 5 related to the collection, containment, bank management, transport and disposal (destruction or redeployment) of already existing stocks of contaminated or confiscated CFCs and halons. To that end, the Technology and Economic Assessment Panel should be requested to include in its supplemental replenishment report an analysis of the costs that might be involved with the collection of such already existing stocks, their transport to destruction facilities or redeployment as the case may be, and their destruction. To support that effort, such Parties are requested to provide the Technology and Economic Assessment Panel with information on the amount of stocks of contaminated or confiscated ozone-depleting substances that they have ready and waiting for destruction.

78. [The Technology and Economic Assessment Panel] [The Ozone Secretariat] [The Fund Secretariat] should initiate investigations of and discussions with other potential sources of funding that might be available to provide complementary funding for climate co-benefits that were expected to accrue from that effort. To facilitate such discussions, [the Technology and Economic Assessment Panel] [the Executive Committee/Fund Secretariat] is asked to initiate a study on the costs and benefits of collection, storage, bank management, transportation and destruction of different categories of unwanted ozone-depleting substances, including ozone-depleting substance refrigerants in obsolete equipment, and ozone-depleting substance banks currently in foams, taking into account, on the benefit side, the climate and ozone benefits to the suppressed release of such ozone-depleting substances to the atmosphere.

79. Such a study should also consider the size of the incentive that may be necessary to encourage the robust recovery and destruction of ozone-depleting substances and, in addition, consider the advantages and disadvantages of having such incentives lead to a discouragement of redeployment of collected ozone-depleting substances for servicing. Given the urgency of the issue, it would be desirable to have that study, if possible, in time for consideration by the Twenty-First Meeting of the Parties.

(c) Proposal on synergies with other conventions

80. Accordingly, to facilitate a greater understanding of the legal and administrative issues that might be associated with the transport of ozone-depleting substances from the source country to the destroying country, the Ozone Secretariat should be requested to liaise with the Secretariat of the Basel Convention and to prepare a paper for consideration at the twenty-ninth meeting of the Open-ended Working Group of the Parties. In that regard, the Basel Secretariat should be invited to attend the twenty-ninth meeting of the Open-ended Working Group, to respond to queries by the Parties as needed.

C. Summary of the co-chairs of the contact group on replenishment and agreed list of items requested for review by the Technology and Economic Assessment Panel related to replenishment of the Multilateral Fund**1. Overview of the summary by the co-chairs**

81. The co-chairs of the replenishment contact group presented their report on the work of the group, which, they noted, had invested over 1,000 person-hours in rich discussions on a wide variety of important and complex issues. The contact group had been mandated to prepare a list of issues for the Technology and Economic Assessment Panel to consider and elaborate on in a report supplementing its replenishment report, in order to assist the Parties in their negotiations on replenishment at the Twentieth Meeting of the Parties. The full list of issues proposed and subsequently agreed by the Open-ended Working Group for consideration by the Panel is set out in section 2 below.

82. The contact group had, in addition, been asked to consider the issue of the fixed exchange rate mechanism. On that matter, the contact group had discussed the issues surrounding the continuation of the use of the fixed exchange rate mechanism, including whether the continuation should be permanent or for three more years. The Ozone Secretariat was requested to prepare a draft decision containing both options for consideration at the Twentieth Meeting of the Parties.

83. The issues identified for consideration by the Technology and Assessment Panel fell into two broad categories: general issues, and issues related to HCFC. Within the general category, a study of the effect of inflation on all activities was requested. A number of Parties expressed their concern regarding the impact of national currency devaluation against the United States dollar on the costs and implementation of activities supported by the Multilateral Fund. The Panel had also been asked to consider a number of issues related to destruction, and Parties operating under paragraph 1 of Article 5 were requested to provide the Panel with information, by 15 August 2008, on the amount of stocks of contaminated or confiscated ozone-depleting substances that they had ready and waiting for destruction. The Panel was also requested to indicate the additional cost estimates for destruction separately from the estimates of the total replenishment figures.

84. With regard to HCFC-related issues to be considered by the Panel, the matter of HCFC production reduction in order to achieve the freeze had been a subject of much debate in the contact group. Some Parties had expressed concern that, as there was a possibility that the production sector could realize actual reduction by 2011, which might need funding from the Multilateral Fund, and in order not to provide disincentives for the industry for that reduction, that possibility should not be undermined in the forthcoming replenishment. In addition, some Parties expressed the view that there were no additional compliance obligations in respect of the HCFC production sector in the 2009–2011 triennium as reflected in the May 2008 report by the Technology and Economic Assessment Panel replenishment task force.

85. Other HCFC-related matters for consideration by the Panel were Multilateral Fund-related issues, including the implications of various cut-off dates for funding eligibility of HCFC projects for the forthcoming replenishments (and hence second-stage conversions); cost-effectiveness in the consumption sector; climate benefits (business-as-usual scenario and alternative substances, cost and cost-benefits, funding options); a risk analysis of future HCFC growth; reconsideration of figures on demonstration projects; and other issues, including the possible effect of the export rule and the multinational rule on the level of funding.

86. Following the presentation, the Co-Chair of the Open-ended Working Group said that, while the deliberations of the contact group on replenishment had benefited from full interpretation and wide participation, more focused and in-depth discussion might be facilitated at the Twentieth Meeting of the Parties by continuing negotiations with a smaller group comprising 12 representatives from Parties operating under paragraph 1 of Article 5 and 12 representatives from Parties not so operating, and by ensuring balanced regional representation.

2. Key elements approved by the Open-ended Working Group for the Technology and Economic Assessment Panel to elaborate in a report supplementing its replenishment report

(a) General

- A study on the variation of inflation on all activities, assuming several percentages. The Panel should explain the rationale for using those percentages

(b) Institutional strengthening

- Institutional strengthening funding scenarios that consider needs likely to be encountered in the next triennium in implementing all aspects of the work programme, giving adequate attention to group 4 countries

(c) Destruction

- An analysis of the costs that might arise in the collection of existing stocks of contaminated or confiscated CFCs and halons, their transport to destruction facilities or redeployment as the case may be, and their destruction. Parties operating under paragraph 1 of Article 5 are requested to provide information to the Panel by 15 August 2008 on the amount of stocks of contaminated or confiscated ozone-depleting substances that they have ready and waiting for destruction

(d) General issue of HCFCs

- The Panel should take into account the conclusions of the Executive Committee on relevant issues, including production sector issues, in order to achieve the freeze

(e) Multilateral Fund-related issues

- Estimate of the impact of the cut-off dates of 30 September 2007, 1 January 2004, as well as 1 January 2000 and 1 January 2010 for this replenishment and the next two replenishments, including scenarios for funding different components of second stage conversions, namely, incremental capital costs, incremental operating costs and technical assistance, taking into consideration decision XIX/6

(f) Servicing sectors and cost-effectiveness

- An explanation of how cost-effectiveness factors have been constructed and which effects are being taken into account
- The extent to which the possibility of converting equipment at the end of its useful life will have an effect on the cost-effectiveness figures for the consumption sector and the resulting impact on the funding requirement and the compliance risks and feasibility of the application of this method in project management

(g) Climate benefits

To the extent possible:

- Provide a business-as-usual scenario based on cost-effectiveness considerations

- Provide an overview of specific alternative substances by sectors and where possible by subsectors
- Where applicable, give cost and cost-benefits of more climate-friendly technologies stating the underlying assumptions. Environmental benefit could be indicated using indicators, including global warming potential reductions and energy use of alternative substance (\$/tonnes CO₂ equivalent)
- Based on the work being carried out by the Executive Committee, provide information on national and international schemes (flexible and/or market mechanisms) for funding emission reductions of HCFC replacements

(h) Baseline operating costs

- A risk analysis, not including costs, relating to extrapolations of future HCFC growth in group 1 countries, based on an annual growth rate of 9 per cent for the years 2011 and 2012, as an annex to the supplemental report, to help the Parties to foresee the risks that may result from the growth rate used by the Panel in the assumption in its current report
- Additional reference date of 2007 in the analysis

3. Demonstration projects

- Reconsideration of its figures taking into account the different applicability of technologies due to climate diversity among countries and to make the corresponding cost adjustments to the remaining HCFC compliance activities

4. Other issues

- Consideration of the export rule and the multinational rule of the Multilateral Fund as these may have an effect on the level of funding
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