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Item 10 of the provisional agenda for the high-level segment*

Adoption of decisions by the Twenty-Fourth Meeting of the Parties to the Montreal Protocol

Draft decisions for the consideration of the Twenty-Fourth Meeting of the Parties to the Montreal Protocol

Note by the secretariat

I. Introduction

1. Section II of the present note sets out draft decisions developed by parties and contact groups comprising parties established during the thirty-second meeting of the Open-ended Working Group of the Parties to the Montreal Protocol. The set of square brackets around all of the decisions is meant to indicate that the Working Group did not reach consensus on any of the draft decisions. In addition, many of the draft decisions contain square brackets around text within the decisions, indicating that during the initial discussions, some parties had raised concerns or had alternative proposals relating to that text. The Working Group agreed, however, that all of the draft decisions should be forwarded to the Twenty Fourth meeting of the Parties in the state they were in at the conclusion of the Working Group meeting for further consideration. The Working Group also agreed that further work could be undertaken intersessionally on several of the draft decisions. Consequently, it is possible that additional iterations of some of the proposals will be prepared before the Twenty-Fourth Meeting of the Parties. To ensure that parties are able to consider the most up-to-date versions of the draft decisions, the Ozone Secretariat will post on its website any updated texts that it receives. If necessary it will also issue an addendum to the present note prior to the Twenty-Fourth Meeting of the Parties setting forth any such texts.

2. Section III of the present note contains draft decisions prepared by the Secretariat pertaining to administrative matters related to the Montreal Protocol. The parties have historically adopted decisions on such matters at their annual meetings, filling in information as needed.

3. The proposed amendments to the Montreal Protocol that were submitted by the Federated States of Micronesia and Canada, Mexico and the United States of America pursuant to Article 9 of the Vienna Convention and paragraph 2 of Article 10 of the Montreal Protocol can be found in documents UNEP/OzL.Pro.24/5 and UNEP/OzL.Pro.24/6, respectively.

* UNEP/OzL.Pro.24/1.

II. Draft decisions submitted by parties and/or emanating from contact groups during the thirty-second meeting of the Open-ended Working Group for consideration by the Twenty-Fourth Meeting of the Parties

[A. Draft decision XXIV/[A]: Essential-use nominations for controlled substances for 2013

Submission by China and the Russian Federation

[*The Twenty-Fourth Meeting of the Parties decides*:

Noting with appreciation the work done by the Technology and Economic Assessment Panel and its Medical Technical Options Committee,

Mindful that, according to decision IV/25, the use of chlorofluorocarbons (CFCs) for metered-dose inhalers does not qualify as an essential use if technically and economically feasible alternatives or substitutes are available that are acceptable from the standpoint of environment and health,

Noting the Panel's conclusion that technically satisfactory alternatives to CFC-based metered-dose inhalers are available for some therapeutic formulations for treating asthma and chronic obstructive pulmonary disease,

Taking into account the Panel's analysis and recommendations for essential-use exemptions for controlled substances for the manufacture of metered-dose inhalers used for asthma and chronic obstructive pulmonary disease,

Welcoming the continued progress in several parties operating under paragraph 1 of Article 5 in reducing their reliance on CFC-based metered-dose inhalers as alternatives are developed, receive regulatory approval and are marketed for sale,

1. To authorize the levels of production and consumption for 2013 necessary to satisfy essential uses of CFCs for metered-dose inhalers for asthma and chronic obstructive pulmonary disease specified in the annex to the present decision;

2. To request nominating parties to supply to the Medical Technical Options Committee information to enable assessment of essential-use nominations in accordance with the criteria set out in decision IV/25 and subsequent relevant decisions as set out in the handbook on essential-use nominations;

3. To encourage parties with essential-use exemptions in 2013 to consider sourcing required pharmaceutical-grade CFCs initially from stockpiles where they are available and accessible, provided that such stockpiles are used subject to the conditions established by the Meeting of the Parties in paragraph 2 of its decision VII/28;

4. To encourage parties with stockpiles of pharmaceutical-grade CFCs potentially available for export to parties with essential-use exemptions in 2013 to notify the Ozone Secretariat of such quantities and of a contact point by 31 December 2012;

5. To request the Secretariat to post on its website details of the potentially available stocks referred to in the paragraph 4 of the present decision;

6. That the parties listed in the annex to the present decision shall have full flexibility in sourcing the quantity of pharmaceutical-grade CFCs to the extent required for manufacturing metered-dose inhalers, as authorized in paragraph 1 of the present decision, from imports, from domestic producers or from existing stockpiles;

7. To request parties to consider domestic regulations to ban the launch or sale of new CFC-based metered-dose inhaler products, even if such products have been approved;

8. To encourage parties to fast-track their administration processes for the registration of metered-dose inhaler products in order to speed up the transition to chlorofluorocarbon-free alternatives.

Annex

Essential-use authorizations for 2013 of chlorofluorocarbons for metered-dose inhalers

(Metric tonnes)

Parties	*2013*
China	[395.82] [386.82]
Russian Federation	[212]

]

B. Draft decision XXIV[B]: Essential-use exemption for chlorofluorocarbon-113 for aerospace applications in the Russian Federation

Submission by the Russian Federation

The Twenty-Fourth Meeting of the Parties decides:

Noting that the Chemical Technical Options Committee has concluded that the nomination of the Russian Federation satisfies the criteria to qualify as essential use under decision IV/25, including the absence of available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health,

Noting also that the Chemical Technical Options Committee recommended the acceleration of efforts to introduce appropriate alternatives to investigate materials compatible with alternatives and the adoption of newly designed equipment to complete the phase-out of chlorofluorocarbon-113 (CFC-113) within agreed time schedule,

Noting that the Russian Federation provided in its essential-use exemption nomination a final phase-out plan and nominated 2016 as the final date for CFC-113 use in this application,

Noting also that the Russian Federation is continuing its efforts to introduce alternative solvents in order to gradually reduce consumption of CFC-113 in the aerospace industry to a maximum of 75 metric tonnes in 2015,

1. To authorize an essential-use exemption for the production and consumption in 2013 of 95 metric tonnes of CFC-113 in the Russian Federation for chlorofluorocarbon applications in its aerospace industry;

2. To request the Russian Federation to continue its efforts to follow up the CFC-113 final phase-out plan and explore further the possibility of importing CFC-113 of the required quality for its aerospace industry needs from available global stocks as recommended by the Chemical Technical Options Committee of the Technology and Economic Assessment Panel.

C. Draft decision XXIV/[C]: Quarantine and pre-shipment uses of methyl bromide

Submission by the contact group on quarantine and pre-shipment uses of methyl bromide

[*The Twenty-Fourth Meeting of the Parties decides*:

Recalling the need for consistent reporting on methyl bromide consumption for quarantine and pre-shipment uses,

Recalling decision XXIII/5, in particular its paragraph 2, which invites parties in a position to do so, on a voluntary basis, to submit information to the Ozone Secretariat by 31 March 2013 on:

(a) The amount of methyl bromide used to comply with phytosanitary requirements of destination countries; and

(b) Phytosanitary requirements for imported commodities that must be met through the use of methyl bromide,

Recalling also decision XXIII/5, in particular its paragraph 3, which urges parties to comply with the reporting requirements of Article 7 and to provide data on the amount of methyl bromide used for quarantine and pre-shipment applications annually and invites parties in a position to do so, on a

voluntary basis, to supplement such data by reporting to the Secretariat information on methyl bromide uses recorded and collated pursuant to the recommendation of the Commission on Phytosanitary Measures,

1. To request the Technology and Economic Assessment Panel to provide for consideration by the Open-ended Working Group at its thirty-third meeting, and [each year] [every other year] [until 2020] [every four years] thereafter, an updated report that summarizes the data regarding methyl bromide [uses for quarantine and pre-shipment] submitted under Article 7 of the Protocol [for quarantine and pre-shipment uses] [strictly] on a regional basis and provides an analysis of the trends in that data, [also indicating which assumptions are made in the analysis];

2. To request the Ozone Secretariat to remind [and encourage] parties to submit information by 31 March 2013, on a voluntary basis, in accordance with paragraph 2 of decision XXIII/5;

3. To [invite] [urge] [encourage] parties that have not yet established procedures for data collection on methyl bromide use for quarantine and pre-shipment or wish to improve existing procedures to [consider using] [use] [take note of] the elements identified by the Technology and Economic Assessment Panel [in section 10.4.4 of the Panel's 2012 progress report] as essential in its 2012 progress report;

4. To request the Ozone Secretariat to upload the forms that have been provided as examples in [section 10.4.2] of the Technology and Economic Assessment Panel's 2012 progress report;

5. [To reiterate that parties are urged to comply with the reporting requirements of Article 7 and to provide data on the amount of methyl bromide used for quarantine and pre-shipment applications annually and to request the Ozone Secretariat to individually clarify with parties for which no entries are recorded in the relevant section of the reporting form whether or not consumption of methyl bromide for quarantine and pre-shipment occurred.]]

D. Draft decision XXIV/[D]: Feedstock uses

Submission by the European Union and Croatia

Explanatory Note

In decision XXI/8(3), parties requested the Technology and Economic Assessment Panel "to investigate chemical alternatives to ODS in exempted feedstock uses and investigate alternatives, including not-in-kind alternatives, to products made with such process agents and feedstocks and provide assessment of the technical and economic feasibility of reducing or eliminating such use and emissions."

The Panel presented its findings in that regard in its 2011 assessment report and, more recently, in its 2012 progress report. On the basis of those findings, it can be noted that, among other things:

(a) Quantities of ozone-depleting substances used for feedstock amount currently to over 1 million metric tons (over 433,000 ODP-tonnes) and are expected to grow in the future. Without closer monitoring, there is a risk that significant amounts of ozone-depleting substances will be diverted to other uses which are either banned (e.g., CFCs, carbon tetrachloride) or largely limited (e.g., methyl bromide, hydrochlorofluorocarbons (HCFCs));

(b) Emission rates from feedstock uses remain uncertain owing to a lack of robust information that could be applied in all regions or for all processes. The Panel, however, estimates that they are probably in the range of 0.1 – 5.0 percent, depending on the process and the level of emission controls. Even when taking only 1 percent as the average, annual emissions would amount to about 10,000 metric tonnes and about 4,400 ODP-tonnes. Since the majority (over 77 percent) of the quantities of ozone-depleting substances used for feedstock are CFCs, carbon tetrachloride and HCFCs, which are also potent greenhouse gases, the annual emissions in terms of CO_2eq would amount to approximately 12 million tons CO_2eq, assuming an average global-warming potential of 1,500;

(c) There may also be quantities of ozone-depleting substances used for feedstock which are not reported, and even where data is reported significant discrepancies between imports and exports can be observed;

(d) There is insufficient information available on possible alternative technologies to ozone-depleting substances in feedstock uses.

These observations clearly indicate the urgent need for addressing feedstock uses of ozone-depleting substances. Measures may include exchanging information on alternative technologies, reducing ozone-depleting substance emissions from such processes and closer monitoring in general.

Closer monitoring would assist parties in managing ozone-depleting substances and reducing threats to a successful phase-out. Improved reporting on feedstock would help to estimate the quantities of ozone-depleting substances used as feedstock in different types of processes. The labelling of ozone-depleting substance containers intended for feedstock could prevent diversion to other uses of ozone-depleting substances.

Communicating and sharing existing knowledge on types of processes in which ozone-depleting substances are used as feedstock, alternatives that avoid the use of ozone-depleting substances and information about better products not requiring ozone-depleting substance feedstock will also facilitate addressing emissions of ozone-depleting substances in uses that are not relevant for the calculation of consumption. Calling for better emission controls would diminish emissions from feedstock uses but also have positive side effects in other areas, notably when carbon tetrachloride is used, since this is a toxic substance.

In its 2012 progress report, the Panel emphasized the problem of the proper classification of ozone-depleting substance use in certain chemical processes as feedstock or process agent. On the basis of information received from the parties concerned, the Panel clarified that the use of carbon tetrachloride in the process of vinyl chloride monomer (VCM) production by pyrolysis of ethylene dichloride can be considered as a feedstock use and not a process agent use. However, as the design of this process can vary significantly from plant to plant, there is a need to request those parties having VCM production that have not yet submitted information to submit information to the Panel through the Ozone Secretariat on the use of carbon tetrachloride in such processes in order to allow the Panel to identify whether the relevant use is process agent or feedstock use.

Draft decision

The Twenty-Fourth Meeting of the Parties decides:

Recalling Article 1 of the Montreal Protocol, which indicates that the amount of ozone-depleting substances entirely used as feedstock in the manufacture of other chemicals shall not be counted in the calculation of "production" of ozone-depleting substances,

Recalling also Article 7 of the Montreal Protocol, mandating, inter alia, reporting on feedstock uses,

Recalling further paragraph 1 of decision VII/30, in which, inter alia, the parties specified that importing countries shall report the quantities of ozone-depleting substances imported for feedstock uses,

Recalling decision IV/12, in which the parties clarified that only insignificant quantities of ozone-depleting substances originating from inadvertent or coincidental production during a manufacturing process, from unreacted feedstock, or from their use as process agents which are present in chemical substances as trace impurities, or that are emitted during product manufacture or handling, shall be considered not to be covered by the definition of an ozone-depleting substance contained in paragraph 4 of Article 1 of the Montreal Protocol, and recalling also that in decision IV/12 the parties were urged to take steps to minimize emissions of such substances, including such steps as avoidance of the creation of such emissions and reduction of emissions using practicable control technologies or process changes, containment or destruction,

Noting with concern that the Technology and Economic Assessment Panel reported a continued increase in the global production of ozone-depleting substances for feedstock uses and mindful that, even when emission rates are assumed to be low, the quantities emitted pose a notable threat of ozone depletion and contribute considerably to global warming,

Mindful that carbon tetrachloride is being used in large quantities as feedstock, which may contribute to the discrepancies observed in global atmospheric abundances of carbon tetrachloride,

Mindful also that most ozone-depleting substances used as feedstock can also be employed for uses that have already been phased out and, if not appropriately monitored, could pose a threat to a successful phase-out,

Mindful further that the identification of processes in which ozone-depleting substances are used as feedstock and the promotion of alternative technologies and superior products not or no longer requiring the use of ozone-depleting substances as feedstock will facilitate the management of ozone-depleting substances,

Recalling decision XXIII/7, in which the parties stated that the use of carbon tetrachloride for vinyl chloride monomer production would be considered to be a feedstock use, on an exceptional basis, until 31 December 2012,

Noting with appreciation the information provided by the Technology and Economic Assessment Panel in its 2012 progress report about the use of carbon tetrachloride for the production of vinyl chloride monomer,

1. To confirm that the use of carbon tetrachloride in the production of vinyl chloride monomer by pyrolysis of ethylene dichloride in the processes evaluated by the Panel in its 2012 progress report is considered to be a feedstock use;

2. To request parties with vinyl chloride monomer production facilities in which carbon tetrachloride is used and that have not yet reported the information requested by the parties in decision XXIII/7 to provide such information to the Panel before 28 February 2013 to allow it to clarify whether the use in a particular facility is a feedstock use or process agent use;

3. To remind all parties that reporting on quantities of ozone-depleting substances used as feedstock is obligatory under Article 7 of the Montreal Protocol;

4. To remind parties to minimize emissions of ozone-depleting substances in feedstock uses, including by taking measures to avoid emissions such as control technologies, process changes, containment or destruction, and to replace ozone-depleting substances with alternatives to the extent possible;

5. To call upon all parties to refrain from commissioning new production facilities using ozone-depleting substances as feedstock when alternatives to ozone-depleting substances are available for feedstock applications that meet the requirements of the products;

6. To request all parties to identify processes in which ozone-depleting substances are used as feedstock on their territory and to report to the Ozone Secretariat by 31 January 2014 aggregated information on the processes identified, including the name of the end-products, with Chemical Abstract Service (CAS) numbers if available, and the types and amounts of ozone-depleting substances used in each process, and to update that information as new feedstock uses are identified in their territories;

7. To request all parties to provide information to the Ozone Secretariat on new alternatives replacing any feedstock uses reported under paragraph 4 of the present decision;

8. To request the Ozone Secretariat to publish on its website and update annually an aggregated list of feedstock uses of ozone-depleting substances and of alternatives to ozone-depleting substances for those uses reported by the parties in accordance with paragraph 4 of the present decision, to include:

(a) The end-products of the processes, with the CAS numbers, if available;

(b) The types of ozone-depleting substances used in the process;

(c) The quantity of the ozone-depleting substances used in the processes;

(d) The total quantity for each substance over all uses;

9. To request all parties to consider introducing labelling requirements for ozone-depleting substance containers to allow for the identification of the intended use of the substances in the containers;

10. To request the Technology and Economic Assessment Panel to continue its work and to provide, in its 2013 progress report, information as called for in decision XXI/8, in particular on the identification of alternatives to ozone-depleting substances for feedstock uses, and to assess the technical and economic feasibility of measures to reduce or eliminate such uses and emissions.

E. Draft decision XXIV/[E]: Additional information on alternatives to ozone-depleting substances

Submission by the contact group on additional information on alternatives to ozone-depleting substances

[*The Twenty-Fourth Meeting of the Parties decides*:

Recalling the special report of the Technology and Economic Assessment Panel and the Intergovernmental Panel on Climate Change entitled *Safeguarding the Ozone Layer and the Global Climate System: Issues Related to Hydrofluorocarbons and Perfluorocarbons*,

Recalling also the report of the Technology and Economic Assessment Panel on alternatives to hydrochlorofluorocarbons (HCFCs) in the refrigeration and air-conditioning sector in parties operating under paragraph 1 of Article 5 with high ambient temperatures and unique operating conditions, submitted to the Open-ended Working Group at its thirtieth meeting pursuant to decision XIX/8,

Noting with appreciation volume 2 of the 2012 progress report of the Technology and Economic Assessment Panel,

Concerned about the potential growth in the production, consumption and use of high-global-warming potential alternatives to ozone-depleting substances as a result of the phase-out of ozone-depleting substances,

[*Recalling* that in decision XIX/6 the parties requested the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol, when developing and applying funding criteria for projects and programmes for the accelerated phase-out of HCFCs, to give priority to cost-effective projects that focus on, among other things, substitutes and alternatives that minimize other impacts on the environment, including on the climate,]

Aware of the increasing availability of low-global-warming-potential alternatives to ozone-depleting substances,

Reaffirming that expertise is available under the Montreal Protocol in the sectors in which a transition to alternatives to ozone-depleting substances is under way,

1. To request the Technology and Economic Assessment Panel to [establish a [temporary subsidiary body][task force] that includes current members of its technical options committees, supplemented by experts with additional expertise [on [the most recent] alternatives and technologies [not yet fully represented on the Panel], to prepare a draft report for consideration by the Open-ended Working Group at its thirty-third meeting and a final report to be submitted to the Twenty-Fifth Meeting of the Parties that would]:

(a) Identify and describe, for each sector and end-use, the efficacy of all [low-global-warming-potential] [commercially available, [technically proven] environmentally friendly] alternatives to HCFCs [and chlorofluorocarbons (CFCs)] [, including not-in-kind alternatives,] currently deployed [taking into account safety, health and environmental considerations, including water use, waste disposal, energy efficiency and life-cycle analysis] [and anticipated to be available in the periods [before 2015] [before 2020] [2015–2020, 2020–2025, 2025–2030, 2030–2035 and after 2035];

[(a) alt. identify and describe for each sector and end use commercially available technically proven environmentally friendly alternatives [including not-in-kind alternatives] to HCFCs currently deployed, taking into account safety, health and environmental considerations including water use, waste disposal, energy efficiency and [life-cycle analysis] before 2020, 2015 to 2020, 2020–2025, 20252030, 2030–2035 and after 2035;] [before 2020, and to the extent possible, indicating trends up to 2030;]

(b) [Analyse the technical and economic feasibility of options for [minimizing other impacts on the environment.] [reducing reliance on hydrofluorocarbons (HFCs) in the periods in future years considering the time frames specified in paragraph 1 (a) of the present decision]];

(c) [Assess the [potential] [time] [for][current] market penetration of [low [and lower] global-warming-potential] [environmentally friendly] alternatives] [flammable alternatives] by sector [and end uses] [in 2015, 2020, 2025, 2030 and 2035, assuming, inter alia, that appropriate incentives and standards will be in place to facilitate their adoption] [taking into account the barrier of national and international standards involved]];

[(c) alt. Assess the [current] [potential time for] feasibility of commercial adoption of [low and lower global warming potential] [environment-friendly] alternatives by sector [and end uses] [identifying how international standards such as those related to flammable substances may need to be revised to facilitate adoption of such alternatives;] [and discussing factors influencing market uptake such as standards and regulations on the use of flammable substances;]

(d) Further identify [environmentally friendly, economically viable, technically proven, [currently deployed] [or under development] [low-global-warming-potential] alternatives to HCFCs [and CFCs] that are suitable for use in high ambient temperatures, including how such temperatures may affect efficiency or other operational parameters [and considering in particular their availability by the dates in paragraph (a)];

[(e) Estimate the proportion of high-global-warming-potential alternatives that can be avoided and/or eliminated in each key application where HCFCs and CFCs are or have been used in the time frames specified in paragraph 1 (a) of the present decision, taking into account the commercial availability and penetration of low-global-warming-potential alternatives;]

[(e) alt. Evaluate the feasibility of environmentally friendly alternatives [of HFCs] [to HCFCs] in each key application taking into account the commercial availability, economic feasibility, [[relevant]standards under revision] and [their market] penetration [of low-global-warming-potential alternatives;]

2. [To encourage parties in a position to do so to submit to the Ozone Secretariat no later than 1 May 2013 best available data on, or estimates of, their current and historical annual production and consumption of individual HFCs, requesting those data to be treated as confidential where necessary;] [to enable the Technology and Economic Assessment Panel to assess the climate benefits of the HCFC phase-out;]

2 alt. [To encourage parties to provide the information on [environmentally friendly] [the] alternatives to HCFCs to the Technology and Economic Assessment Panel for its reference;]

3. To encourage parties [not operating under paragraph 1 of Article 5] [for the selection of alternatives to HCFCs] [to [revisit their domestic policies with a view to promoting] [promote] policies and measures aimed at avoiding the selection of high-global-warming-potential]] alternatives to HCFCs [that are environmentally friendly, including with respect to water use, waste disposal, energy efficiency and life cycle while taking into account safety and health] [and other ozone-depleting substances in applications in which technological, economical, market-available and tested alternatives exist that minimize impacts on the environment,[in particular on the climate, while meeting other] health, safety and economic considerations;]

4. [To request parties not operating under paragraph 1 of Article 5 to provide adequate financial and capacity-building support and transfer of technologies to parties operating under that paragraph for the application of environmentally friendly alternatives to HCFCs;]

4 alt. [To encourage the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol to continue to consider projects that provide financial and capacity-building support to parties operating under paragraph 1 of Article 5 for the application of environmentally friendly alternatives to HCFCs.]]

F. Draft decision XXIV/[F]: Terms of reference, code of conduct and disclosure and conflict of interest guidelines for the Technology and Economic Assessment Panel and its technical options committees and temporary subsidiary bodies

Submission by the contact group on Technology and Economic Assessment Panel issues

[*The Twenty-Fourth Meeting of the Parties decides*:

Noting paragraph 17 of decision XXIII/10, in which the parties requested the Technology and Economic Assessment Panel to revise its draft guidelines on recusal, taking into account similar guidelines in other multilateral forums, and provide them to the Open-ended Working Group for consideration at its thirty-second meeting,

Noting also the terms of reference of the Panel as set out in annex V of the report of the Eighth Meeting of the Parties, as amended by decision XVIII/19,

{Include a note on the decision XXIII/10 request to the Technology and Economic Assessment Panel that it update the terms of reference?}

Recalling decision VII/34 on the organization and functioning of the Panel and specifically on efforts to increase the participation of experts from Parties operating under paragraph 1 of Article 5 in order to improve geographical expertise and balance,

Bearing in mind that the role of the Panel [and its subsidiary bodies] makes it essential to avoid even the appearance of any conflict between individual members' interests and their duties as Panel members,

Bearing in mind also that it is in the interest of the Panel [and its subsidiary bodies] to maintain public confidence in its integrity by adhering closely to its terms of reference,

1. To request the Technology and Economic Assessment Panel to make recommendations on the future configuration and composition of its technical options committees [while respecting geographic, parties operating under paragraph 1 of article 5/parties not so operating and gender balance as well as technical capabilities in particular with respect to the [different types of alternatives]] to the Open-Ended Working Group at its thirty-third meeting, bearing in mind anticipated workloads;

2. To approve the terms of reference and the conflict of interest and disclosure policy for the Technology and Economic Assessment Panel, its technical options committees and any temporary subsidiary bodies set up by those bodies, as contained in the annex to [the present decision] [the report of the Twenty-Fourth Meeting of the Parties], in place of the terms of reference set out in annex V to the report of the Eighth Meeting of the Parties, as amended.

Annex to decision XXIV/[F]

Terms of reference of the Technology and Economic Assessment Panel and its technical options committees and temporary subsidiary bodies

1. Scope of Work

The tasks undertaken by the TEAP are those specified in Article 6 of the Montreal Protocol in addition to those requested from time to time at Meetings of the Parties. The TEAP analyses and presents technical information and recommendations when specifically requested. It does not evaluate policy issues and does not recommend policy. The TEAP presents technical and economic information relevant to policy. Furthermore, the TEAP does not judge the merit or success of national plans, strategies, or regulations. {Tasks of TOCs and TF to be included.}

2.1 Size and Balance

[*2.1.0*

The overall goal is to achieve a representation of about 50 per cent for Article 5(1) Parties in the TEAP and TOCs and appropriate representation of expertise in the different alternatives.]

2.1.1 TEAP

The membership size of the TEAP should be about [12][18-]22 to allow it to function effectively. It should consist of the [2][3][4] Co-chairs of the TEAP, the Co-chairs of all the TOCs and [2][4-]6 Senior Experts for specific expertise, gender balance, and geographical balance not covered by the TEAP Co-chairs or TOC Co-chairs.

2.1.2 TOCs

Each TOC should have two [or, if appropriate, three] Co-chairs. The positions of TOC Co-chairs ~~as well as of the Senior Experts~~ must be filled to promote a geographical, gender and expertise balance. [The overall goal is to achieve a representation of about 50 per cent for Article 5(1) Parties in the TEAP and TOCs.] The TEAP, through its TOC Co-chairs, shall compose its TOCs, to reflect a balance of appropriate and anticipated expertise [and viewpoints] so that their reports and information are comprehensive, objective, and policy neutral.

2.1.3 TSBs

The TEAP, in consultation with TSB Co-chairs, shall compose its TSBs to reflect a balance of appropriate expertise [and viewpoints] so that their reports and information are comprehensive, objective, and policy neutral. The TEAP, acting through TSB Co-chairs, shall provide a description in reports by TSBs on how their composition was determined. TSB members, including co-chairs, who are not already members of the TEAP, do not become members of the TEAP by virtue of their service on the TSB.

2.2 Nominations

2.2.1 TEAP

Nominations of members to the TEAP, including Co-chairs of the TEAP and TOCs, [must][may] be made by individual Parties to the Secretariat through their respective national focal points. Such nominations will be forwarded to the Meeting of the Parties for consideration. The TEAP Co-chairs shall ensure that any potential nominee identified by TEAP for appointment to the Panel, including Co-chairs of the TEAP and TOCs, is agreed to by the national focal points of the relevant party. [A member of the TEAP, TOCs, or TSBs shall not be current a representative of a Party to the Montreal Protocol.]

2.2.2. TOCs and TSBs

The TEAP, working through the relevant TOC Co-chairs, shall ensure that all nominations [appointments] to its TOCs and its TSBs have been made in full consultation with the national focal points of the relevant party.

Nominations of members to a TOC (other than TOC co-chairs) or to a TSB ([including] [other than] TSB co-chairs) may be made by [the TEAP, TOC Co-Chairs or] individual Parties to the Secretariat [in full consultation with][through] their respective national focal points. Such nominations will be forwarded to the TEAP for consideration. [~~The TEAP, working through the relevant TOC Co-chairs, shall ensure that all nominations to its TOCs and its TSBs have been made in full consultation with the national focal points of the relevant party.~~]

2.3 Appointment of Members of TEAP

In keeping with the intent of the Parties for a periodic review of the composition of the assessment panel, the Meeting of the Parties shall appoint the members of the TEAP for a period of no more than four years [~~to be determined by the Parties~~]. The Meeting of the Parties may re-appoint Members of the Panel upon nomination by [its] [the relevant] [a] party for additional periods of up to four years each. In appointing or re-appointing members of the TEAP, the Parties should ensure continuity [,balance] as well as a reasonable turnover.

2.4 Co-chairs

In nominating and appointing Co-chairs of the TEAP/TOCs/TSBs, Parties should consider the following factors:

(a) Co-chairs should have experience or skills in managing, coordinating, and building consensus in technical bodies, in addition to possessing technical expertise in relevant areas;

(b) The Co-chairs of a TOC should not normally act as Co-chairs of another TOC; and

(c) [The co-chairs of TEAP should not be co-chairs of a TOC.]

2.5 Appointment of Members of TOCs

Each TOC should have about 20-[25] members. The TOC members are appointed by the TOC Co-chairs, in consultation with the TEAP, for a period of no more than four years. TOC members may be re-appointed [following the procedure for nominations] [in consultation with TEAP and the national focal points] for additional periods of up to four years each.

2.6 Termination of Appointment

TEAP can dismiss a member of the TEAP, TOCs, or TSBs, including Co-chairs of those bodies, by a two-thirds majority vote of the TEAP. A dismissed member has the right to appeal to the next Meeting of the Parties through the Secretariat. [Parties are informed when members leave....]

2.7 Replacement

If a member of the TEAP, including TOC Co-chairs, relinquishes or is unable to function, the TEAP after consultation with the nominating Party can temporarily appoint a replacement from amongst its bodies for the time up to the next Meeting of the Parties, if necessary to complete its work. For the appointment of a replacement TEAP member, the procedure set out in paragraph 2.2 should be followed.

2.8 Subsidiary Bodies {PERHAPS MOVE TO BEFORE 2.6?}

Temporary Subsidiary Technical Bodies (TSBs) can be appointed by the TEAP to report on specific issues of limited duration. The TEAP [/TOCs] may appoint and dissolve, subject to review by the Parties, such subsidiary bodies of technical experts when they are no longer necessary. For issues that cannot be handled by the existing TOCs and are of substantial and continuing nature TEAP should request the establishment by the Parties of a new TOC. A decision of the Meeting of the Parties is required to confirm any TSB that exists for a period of more than one year.

2.9 Guidelines for Nominations and Matrix of Expertise

The TEAP/TOCs will draw up guidelines for nominating experts by the Parties. The TEAP/TOCs will publicize a matrix of expertise available and the expertise gap in the TEAP/TOCs so as to facilitate submission of appropriate nominations by the Parties. The matrix should [must] include the need for geographic [gender] and expertise balance and provide consistent information on expertise that is available and required. [The matrix would include the name and affiliation [and the specific expertise [knowledge] [in particular] [including] on different alternatives].] The TEAP/TOCs, acting through their respective co-chairs, shall ensure that the matrix is updated at least [once] a year and shall publish the matrix on the Secretariat website and in the Panel's annual progress reports. The TEAP/TOCs shall also ensure that the information in the matrix is clear, sufficient [and consistent as far as is appropriate between the TEAP and TOCs and balanced] to allow a full understanding of needed expertise. {The requirements of the matrix could be reflected as bullets.}.

3. Functioning of TEAP/TOCs/TSBs

3.1 Language

The TEAP/TOCs/TSBs meetings will be held and reports and other documents will be produced only in English.

3.2 Meetings

3.2.1 Scheduling

The place and time of the TEAP/TOCs/TSBs meetings will be fixed by the Co-chairs.

3.2.2 Secretariat

The Ozone Secretariat should attend the meetings of the TEAP whenever possible and appropriate to provide ongoing institutional advice on administrative issues when necessary.

[*3.2.3 Operating Procedures*

Co-Chairs of the TOCs should organize meetings in accordance with [aligned] standard operating procedures following best practices developed by the [Secretariat] to ensure full participation of all relevant members to the greatest extent possible, appropriate record-keeping, and proper decision-making. The standard operating procedures should be updated periodically and made available to the Parties. {NEED A DECISION TO REQUEST THE SECRETARIAT TO DEVELOP THE SOP?}]

3.3 Rules of Procedure

The rules of procedure of the Montreal Protocol for committees and working groups will be followed in conducting the meetings of the TEAP/TOCs/TSBs, unless otherwise stated in these terms of reference for TEAP/TOCs/TSBs or other decisions approved by a Meeting of the Parties.

3.4 Observers

No observers will be permitted at the TEAP, TOC or TSB meetings. However, anyone can present information to the TEAP/TOCs/TSBs [with prior notice] and can be heard personally if the TEAP/TOCs/TSBs consider it necessary.

3.5 Functioning by Members

The TEAP/TOCs/TSBs members function on a personal basis as experts, irrespective of the source of their nominations and accept no instruction from, nor function as representatives of Governments, industries, NGOs or others.

4. Report of TEAP/TOCs/TSBs

4.1 Procedures

The reports of the TEAP/TOCs/TSBs will be developed through a consensus process. The reports must reflect any minority views appropriately {FURTHER VIEWS ON HOW – ALSO SEE VOL 3 OF TEAP PROGRESS REPORT.}.

4.2 Access

Access to materials and drafts considered by the TEAP/TOCs/TSBs will be available only to TEAP/TOCs members or others designated by TEAP/TOCs/TSBs.

4.3 Review by TEAP

The final reports of TOCs and TSBs will be reviewed by the TEAP and will be forwarded, without modification (other than editorial or factual corrections which have been agreed with the Co-chairs of the relevant TOC or TSB) by the TEAP to the [Meeting of the] Parties, together with any comments the TEAP may wish to provide. Any factual errors in the reports may be rectified through a corrigendum following publication, upon receipt by TEAP or the TOC of supporting documentation.

4.4 Comment by Public
Any member of the public can comment to the Co-chairs of TOCs and TSBs with regard to their reports and they must respond as early as possible. If there is no response, these comments can be sent to the TEAP Co-chairs for consideration by TEAP.

5. Code of conduct for Members of the Technology and Economic Assessment Panel and its bodies

Code of Conduct
[Good governance and best practices of TEAP, TOCs and TSBs are defined in accordance with the principles of transparency, predictability, accountability, responsibility and disclosure. The TEAP, TOCs and TSBs aim at a zero-tolerance of corruption.]

Members of the TEAP, TOCs and the TSBs have been asked by the Parties to undertake important responsibilities. As such, a high standard of conduct is expected of Members in discharging their duties. In order to assist members, the following guidelines have been developed as a Code of Conduct that must be followed by the members of the TEAP, TOCs and TSBs.

1. This Code of Conduct is intended to protect Members of the TEAP, TOCs and TSBs from conflicts of interest [including corruption] in their participation. Compliance with the measures detailed in these guidelines is a condition for serving as a Member of the TEAP, the TOCs or the TSBs.

2. The Code is to enhance public confidence in the integrity of the process while encouraging experienced and competent persons to accept TEAP, TOC and/or TSB membership by:

    - establishing clear guidelines respect to conflict of interest and disclosure while and after serving as a Member, and
    - by minimizing the possibility of conflicts arising between the private interest and public duties of Members and by providing for the resolution of such conflicts, in the public interest, should they arise.

3. In carrying out their duties, Members shall:

    - perform their official duties and arrange their private affairs in such a manner that public confidence and trust in the integrity, objectivity and impartiality of the TEAP, TOCs and TSBs are conserved and enhanced;
    - act in a manner that will bear the closest public scrutiny, an obligation that is not fully discharged by simply acting within the law of any country;
    - act in good faith for the best interest of the process;
    - exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances;
    - not give preferential treatment to anyone or any interest in any official manner related to the TEAP, TOCs or TSBs;
    - not solicit or accept significant gifts, hospitality, or other benefits from persons, groups or organizations having or likely to have dealings with the TEAP, TOCs or TSBs;
    - not accept transfers of economic benefit, other than incidental gifts, customary hospitality or other benefits of nominal value, unless the transfer is pursuant to an enforceable contract or property right of the Member;
    - not represent or assist any outside interest in dealings before the TEAP, TOCs or TSBs;
    - not knowingly take advantage of, or benefit from, information that is obtained in the course of their duties and responsibilities as a Member of the TEAP, TOCs and TSBs, and that is not generally available to the public; and
    - not act, after their term of office as a Member of the TEAP, TOCs or TSBs in such a manner as to take improper advantage of their previous office.

4. To avoid the possibility or appearance that Members of the TEAP, TOCs or TSBs might receive preferential treatment, Members shall not seek preferential treatment for themselves or third parties or act as paid intermediaries for third parties in dealings with the TEAP, TOCs or TSBs.

6. Conflict of Interest and Disclosure Guidelines for the Technology and Economic Assessment Panel, Its Technical Options Committees and Temporary Subsidiary Bodies

Definitions

1. For the purposes of these Guidelines:

(a) "conflict of interest" means any current [professional, political,] financial or other interest of a Member, or of that Member's personal partner or dependent, which, in the opinion of a reasonable person does or appears to:

(i) Significantly impair that individual's objectivity in carrying out their duties and responsibilities for the TEAP, TOC, or TSB; or

(ii) Create an unfair advantage for any person or organization;

(b) "Member" means member of the TEAP, TOCs and/or TSBs;

(c) "recusal" means that a Member does not participate in particular [aspects] [elements] of TEAP, TOC or TSB work because of a conflict of interest; and

[(d) ["ethics advisory body"] ["conflict resolution body"] means the body appointed under paragraph 22].

{Include something on illegal activities [including corruption] in an appropriate place somewhere -- using such examples as rules set out in other international bodies like the World Bank and how the IPCC addresses this issue?}

Purposes

2. The overall purpose of these Guidelines is to protect the legitimacy, integrity, trust, and credibility of the TEAP, TOCS and TSBs and of those directly involved in the preparation of reports and activities.

3. The role of the TEAP, TOCs , and TSBs demands that they pay special attention to issues of independence and bias in order to maintain the integrity of, and public confidence in, their products and processes. It is essential that the work of TEAP and its TOCs and TSBs is not compromised by any conflict of interest.

4. Written agreement to comply with these Guidelines is a condition for service as a Member.

5. These Guidelines are to enhance public confidence in the process, while encouraging experienced and competent persons to serve on the TEAP, TOC and/or TSB, by:

(a) Establishing clear guidance with respect to disclosure and conflict of interest while [and after] serving as a Member;

(b) Minimizing the possibility of conflicts of interest arising with respect to Members, and by providing for the resolution of such conflicts, in the public interest, should they arise; and

(c) Balancing the needs—

(i) To identify the appropriate reporting requirements, and

(ii) To ensure the integrity of the TEAP process.

6. These Guidelines are principle-based and do not provide an exhaustive list of criteria for the identification of conflicts.

7. The TEAP, TOCS, TSBs and their Members should not be in a situation that could lead a reasonable person to question, and perhaps discount or dismiss, their work because of the existence of a conflict of interest.

Disclosure

8. Members are to disclose annually any potential conflicts of interest. They must also disclose the source of any funding for their participation in the work of the TEAP, TOC and/or TSB. [An illustrative list of other interests that should be disclosed is provided in Annex A to these Guidelines.]

9. Members are to disclose any material change to previously submitted information within 30 days of any such change.

10. Notwithstanding paragraphs 8 and 9, a Member may decline to disclose information related to activities, interests and funding where its disclosure would adversely and materially affect:

    (a) [International relations,] defence, national security or imminent public safety;

    (b) The course of justice in prospective or current court cases;

    (c) The ability to assign future intellectual property rights;

    (d) The confidentiality of commercial, government, or industrial information; or

    (e) [Personal confidentiality].

11. Members who decline to disclose information under paragraph 10 must declare that they are doing so in their disclosure of interest under paragraphs 8 or 9 and must be completely excluded [dismissed] from discussions and decisions on related topics.

Conflict of Interest

12. A Member's strong opinion (sometimes referred to as bias), or particular perspective, regarding a particular issue or set of issues does not create a conflict of interest. The Member, or the Member's personal partner or dependent, must have an interest, ordinarily financial, that could be directly affected by the work of the relevant body. It is expected that issues of potential bias will be addressed in the TEAP, TOCs and TSBs by including Members with different perspectives and affiliations which should be balanced so far as possible. [Replace the paragraph with: "A member's strong opinion (sometimes referred to as bias), or particular perspective, regarding a particular issue or set of issues does not necessarily create a conflict of interest but it may do so. It is expected that the TEAP, TOCs and TSBs will include members with different perspectives and affiliations, which should be balanced so far as possible.]

13. These Guidelines apply only to current conflicts of interest. They do not apply to past interests that have expired, no longer exist and cannot reasonably affect current assessment. Nor do they apply to possible interests that may arise in the future but that do not currently exist, as such interests are inherently speculative and uncertain. For example, a pending application for a particular job is a current interest, but the mere possibility that one might apply for such a job in the future is not a conflict of interest.

Procedures

14. All of the bodies involved in advising on and deciding conflict of interest issues under these Guidelines should consult the relevant Member where the body has concerns about a potential conflict of interest and/or where it requires clarification of any matters arising out of a Member's disclosure. Such bodies should ensure that the relevant individuals [and, where appropriate, [the nominating Party,] [relevant focal point]] have an opportunity to discuss any concerns about a potential conflict of interest.

15. In the event that an issue regarding a potential conflict of interest arises, the relevant Member and Co-chairs should attempt to resolve the issue through consultations. If the consultations reach an impasse, an outside mediator should be selected by the Executive Secretary to assist in resolving the matter. The mediator should not be a Member and should not otherwise have any current affiliation with the relevant individuals, bodies or issues.

[16. At any point, the [ethics advisory] [conflict resolution] body may be consulted by Members, individuals who may become Members, the TEAP, and the TOCs regarding issues related to:

    (a) Member disclosures;

    (b) Potential conflicts of interest or other ethics issues; or

    (c) Potential recusal of Members.

17. The [ethics advisory] [conflict resolution] body must promptly inform a Member if it has been asked to advise on an issue regarding the Member. Any information provided to [and any advice provided by] the [ethics advisory] [conflict resolution] body will be

considered confidential and will not be used for any purpose other than consideration of conflict of interest issues under these Guidelines without the express consent of the individual providing the information [or requesting the advice, as appropriate].]

18. If an issue under these Guidelines cannot be resolved through the procedures in paragraphs 14 through 17:

- A TEAP member, including TEAP and TOC Co-chairs, may be recused from a defined area of work only by a three-fourths majority of the TEAP (excluding the individual whose recusal is at issue).
- A TOC or TSB member, excluding TEAP and TOC Co-chairs, may be recused from a defined area of work by a majority of the Co-chairs of the relevant TOC or, in the event of a tie vote, by a three-fourths majority of the TEAP.

19. In the event of a vote under the previous paragraph, the Member whose recusal is at issue may not vote. {THINK AGAIN ABOUT “VOTE”.}

Recusal

20. When a conflict of interest is determined to exist with respect to a particular Member, the Member should, depending on what is appropriate in the circumstances, be:

(a) Excluded from decision-making and discussions related to a defined area of work;

(b) Excluded from decision-making but may participate in discussions related to a defined area of work; or

(c) Excluded from participation in the matter in any other manner deemed appropriate.

21. A Member who is recused completely or partially from an area of work may nevertheless answer questions with respect to that work at the request of the TEAP, TOC or TSB.

[[*Ethics Advisory Body*] [*Conflict Resolution Body*]

22. The [ethics advisory] [conflict resolution] body shall comprise three persons appointed by a Meeting of the Parties [upon a consensus recommendation of the TEAP [or another body]]. Members of the ethics advisory body should have expertise in conflict of interest and other ethics issues and should not be current or former Members of the TEAP, TOCs, or TSBs. {Role of the Oz Sec?}{Member to have experience in conflict resolution or law?}

23. Members of the body may be appointed for terms of three years except that, of the first three appointments to the body, one term is to be for one year and one term is to be for two years. {Management of the body, e.g., financial implications?}

24. The term of any person appointed to the body may be re-appointed by the Parties only for one further term.]

25. {There should be rules of procedure for the conflict resolution body as part of this TOR or another set of operating procedure/guidelines for TOCs.}

Annex

The following is an illustrative list of the types of interests that should be disclosed:

(a) A current proprietary interest of a Member or his/her personal partner or dependent in a substance, technology or process (e.g., ownership of a patent) to be considered by the Technology and Economic Assessment Panel or any of its technical options committees or temporary subsidiary bodies;

(b) A current financial interest of a Member or his/her personal partner or dependent, e.g., shares or bonds in an entity with an interest in the subject matter of the meeting or work (but not shareholdings through general mutual funds or similar arrangements where the expert has no control over the selection of shares);

(c) A current employment, consultancy, directorship or other position held by a Member or his/her personal partner or dependent, whether or not paid, in any entity which has an interest in the

subject matter of the Technology and Economic Assessment Panel. This element of disclosure also includes paid consultancy efforts performed on behalf of an implementing agency to assist developing countries to adopt alternatives;

(d) The provision of advice on significant issues to a government with respect to its implementation of the Montreal Protocol or engaging in the development of significant policy positions of a government for a Montreal Protocol meeting;

(e) Performance of any paid research activities or receipt of any fellowships or grants for work related to a proposed use of an ozone-depleting substance or an alternative to a proposed use of an ozone depleting substance.]

G. Draft decision XXIV/[G]: Trade of controlled substances with ships sailing under a foreign flag

Submission by the contact group on the treatment of ozone-depleting substances supplied to ships

Explanatory note

1. Introduction

Ozone-depleting substances are used as consumables for various uses on different means of transport, for example as refrigerants on cargo or fishing ships. While ozone-depleting substances find multiple uses on board ships, their main application by volume is as a refrigerant. Unlike other uses, such as fire-extinguishing systems, foams blown with ozone-depleting substances or solvent uses, unsealed marine refrigeration equipment needs to be maintained and re-filled on a regular basis.

The question arose as to how these uses are to be addressed by the parties to ensure the appropriate transparency and compliance in the context of the reporting and licensing requirements under the Montreal Protocol. The main question was whether deliveries to ships sailing under a foreign flag need to be considered as import or export for the purpose of the Montreal Protocol.

Decision XXIII/11 asked the Ozone Secretariat, the Technology and Economic Assessment Panel and the parties to provide further information to facilitate an informed discussion. The information provided by the Ozone Secretariat and the parties (UNEP/OzL.Pro.WG.1/32/2 and UNEP/OzL.Pro.WG.1/32/INF/4) shows that parties take different approaches.

2. Potential implications

The different approaches taken by parties have numerous implications.

2.1.1 Data discrepancies

Data discrepancies result when one party reports exports to a vessel, while the flag State of the vessel does not. Such discrepancies are observed at present and, according to the data provided by the Refrigeration, Air-Conditioning and Heat Pumps Technical Options Committee (RTOC), potentially affects several thousand tonnes of ozone-depleting substances annually.

2.1.2 Risks for phase-out plans and the presence of banks

Parties are put at risk when the national ozone unit of the importing party is not aware of the quantities. Hence these quantities would possibly not be addressed in the party's phase-out strategy in cases where that was necessary. At a certain point in time, the party might be confronted with an unexpectedly large increase in ozone-depleting substance banks.

2.1.3 Illegal trade and trade with non-parties

The different approaches open a loophole for illegal trade. It would be simple for a vessel to take ozone-depleting substances on board while declaring them as consumption on board. If the party responsible for the vessel was not monitoring the ozone-depleting substance stocks appropriately, they could be unloaded anywhere and undermine the phase-out strategies of third parties. Experiences of the European Union suggest that ozone-depleting substances are often taken on board vessels and declared as consumption on board. However, in practice these containers are often subsequently handed over to other vessels that remain on the high seas. This appears to happen in particular within fishery fleets.

In the same way as described above, ozone-depleting substances could be purchased by vessels but eventually be unloaded in third countries that need to be considered as non-parties for such trade. This would undermine the control measures of the Montreal Protocol.

3. Magnitude of the problem

In its 2012 progress report RTOC provided information on the estimated refrigerant bank and related emissions.

	CFC	HCFC	HFC	Total ODP#	Total GWP
Refrigerant bank (tonnes)	1 250	26 400	4 480	2 702	67 018 600
Approximate refrigerant emissions (tonnes/year)	500	7 920	570	936	20 407 700

A typical refrigerant charge for vessels above 100 gross tonnage was found to be between 100 and 500 kg for direct systems, and between 10 and 100 kg for indirect systems. The annual refrigerant leakage rate was estimated to be as high as 20–40 per cent.

Experience gained in the European Union and communicated under decision XXIII/11 suggests that some of these figures might be even higher. Between January 2010 and August 2011, about 2,000 deliveries to ships under a non-European Union flag were licensed. While no thorough analysis of the different deliveries was carried out, the general observation is that fishing vessels account for the majority of it. Apparently, large amounts are also consumed by reefers and cruise ships. Individual deliveries to fishing vessels can reach several tonnes and 225 of these deliveries concerned quantities larger than 1 tonne. It was also observed that a number of ships call at European Union ports several times a year requesting large volumes of ozone-depleting substances. This suggests that individual ships could have emission rates higher than anticipated by RTOC, transfer refrigerant to other ships (possibly even to ships of another flag State) or unload the refrigerant in other ports. Considering also the information provided by the Technology and Economic Assessment Panel, it appears unlikely that such volumes can be consumed for refrigeration purposes on a single ship, which could suggest that these volumes are traded illegally, posing a threat to the success of HCFC phase-out by these parties.

4. Relevant international law

Other provisions of international law need to be considered in this discussion, most importantly maritime law and customs law. To facilitate the enforcement of the Montreal Protocol coherence with other international law would be very beneficial.

4.1 Montreal Protocol

4.1.1 Definition of import and export

The Montreal Protocol does not provide a definition of import and export and apparently these terms are interpreted differently among parties. In decisions IV/14 and IX/34, parties decided how cases of transit, transshipment and imports for re-exports shall be handled.

4.2.2 Recommendation of the Ad-Hoc Group on reporting

As outlined in the Secretariat's paper, the issue of servicing ships sailing under a foreign flag was already addressed in the early 1990s. The first report of the ad hoc group on reporting recommended that "the quantities of controlled substances used for refilling refrigeration and fire-extinguishing systems in ports should be included in the consumption figure of the country with jurisdiction over the port."

The Ozone Secretariat highlighted that the ad hoc group addressed only the issue of refilling in ports but did not consider sales unrelated to refilling. However, nowadays refilling rarely takes place in ports. The length of time a vessel stays in port has reduced significantly and no longer allows for maintenance work to be performed. It appears to have become a common practice for the actual maintenance of refrigeration equipment on board vessels to be carried out by the on-board technician while on the high seas. The ship is solely purchasing the refrigerant in the port State.

4.2 Kyoto Convention

4.2.1 Definition of import, export and customs territory

Since the Montreal Protocol does not provide its own definition of imports and exports, relevant international customs law should be taken into account. While Parties may define this individually in

the context of domestic legislation, at the international level the World Customs Organization (WCO) defines imports and exports as follows:

- Exportation: "The act of taking out or causing to be taken out any goods from the Customs territory";
- Importation: "The act of bringing or causing any good to be brought into a Customs territory".

The International Convention on Simplification and Harmonization of Customs Procedures, also known as the Revised Kyoto Convention, provides, among others, the different procedures under which imports and exports can take place.

Furthermore, as highlighted in the response of the Secretariat of the WCO to the request of the Ozone Secretariat, the Kyoto Convention addresses the issue of so-called "stores for consumption". These are defined as:

- "[…] goods necessary for the operation and maintenance of vessels, aircraft or trains including fuel and lubricants but excluding spare parts and equipment; which are either on board upon arrival or are taken on board during the stay in the Customs territory […]"

This matches the purpose of the ozone-depleting substances delivered to ships. While stores benefit from certain reliefs, they are not excluded from the import or export definition.

The secretariat of WCO cited Standard 15 of the Convention, indicating:

- "Vessels and aircraft which depart for an ultimate foreign destination shall be entitled to take on board, exempted from duties and taxes … stores for consumption necessary for their operation and maintenance during the voyage or flight having regard also to any quantities of such stores already on board."

This puts a certain quantitative limit under which such movements can benefit from the applicable simplifications and indicates that any larger delivery shall be subject to all applicable conditions at customs.

4.3 Maritime law

The responsibility of the flag State for vessels sailing under its flag is outlined in several pieces of international maritime law, including the United Nations Convention on the Law of the Sea (UNCLOS), International Convention for the Prevention of Pollution from Ships (MARPOL) and more recently the Hong Kong Convention.

4.3.1 UNCLOS

UNCLOS is the principal international maritime law. The nationality of ships is defined in Article 91 as "[…] Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship […]" The primary responsibility of flag States for the vessels sailing under its flag is defined in Article 92 on the status of ships as "[…] Ships shall sail under the flag of one State only and … shall be subject to its exclusive jurisdiction […]".

4.3.2 MARPOL

Regulation 10 of Annex VI to MARPOL defines port State control of operational requirements as follows:

> "A ship, when in a port or an offshore terminal under the jurisdiction of another party, is subject to inspection by officers duly authorized by such party concerning operational requirements under this Annex, where there are clear grounds for believing that the master or crew are not familiar with essential shipboard procedures relating to the prevention of air pollution from ships."

Regulation 12 of Annex VI mandates all ships over 400 gross tonnes to keep a record book of all equipment containing ozone-depleting substances which is not permanently sealed and maintain a record of all supply, discharges to atmosphere and land-based reception facilities, repair or maintenance and recharging of such equipment.

5. The European Union proposal

When discussing how to handle such trade several objectives need to be considered to reach a sustainable solution. These are:

- Compliance with the provisions of the Montreal Protocol and earlier decisions of the parties

- Consistency with related international law such as the International Convention on the Simplification and Harmonization of Customs Procedures (Kyoto Convention), UNCLOS, MARPOL and other provisions of international maritime law
- Any solution shall not affect existing baselines for HCFCs
- Any solution shall not retroactively bring any party into non-compliance
- This decision shall not preclude parties from applying their domestic legislation on ozone-depleting substances as long as those requirements do not prevent other parties from applying their own legislation

The proposal by the European Union takes the approach that previous advice given to the parties by the ad hoc group and past practice should be adhered to. However, this would need to be complemented to cover cases where the actual servicing is taking place outside ports and where the delivered volumes exceed reasonable demand for servicing on board of the ship.

In this regard the key elements of the proposal are:

- To consider servicing as domestic consumption of the port State whether or not it takes place in the port provided that the quantity does not exceed reasonable demand
- In case where quantities are ordered by ships which exceed reasonable demand, those should be considered as export to the flag State whilst putting measures in place that facilitate flag States to manage these volumes or prevent such deliveries
- That even in the cases where reasonable demands are exceeded those shall not be accounted for in the calculation of the consumption of the flag State
- To request the Technology and Economic Assessment Panel to provide estimates on the demand of flag States and on reasonable quantities per ship type

The exact procedure on how the Ozone Secretariat needs to do the calculations that would ensure that the quantities appear in the accounting but are not considered for the consumption calculation in the flag State, should be defined in an annex to the final decision. These details should be specified after consultation with the relevant experts on data reporting in the Ozone Secretariat to ensure that the most practicable way is proposed. The annex should in particular clarify:

- How to avoid double counting
- At what stage of the reporting process the Ozone Secretariat would need to do the calculations, and
- How to ensure transparency and traceability

Draft decision

[*The Twenty-Fourth Meeting of the Parties decides*:

Considering that Article 91 of the United Nations Convention on the Law of the Sea defines the nationality of ships in the following terms: "[…] Ships have the nationality of the State whose flag they are entitled to fly. There must exist a genuine link between the State and the ship …",

Considering also that Article 92 of the Convention indicates that "[…] Ships shall sail under the flag of one State only and … shall be subject to its exclusive jurisdiction […]",

Considering further that the World Customs Organization defines exportation as "The act of taking out or causing to be taken out any goods from the Customs territory" and importation as "The act of bringing or causing any good to be brought into a Customs territory",

Considering that while under the International Convention for the Prevention of Pollution from Ships (MARPOL) ships can be subject to port State controls, the main responsibility for regulation and enforcement concerning the use of ozone-depleting substances on a ship lies with the flag State,

Considering also that under MARPOL hydrochlorofluorocarbons (HCFCs) may still be used in new ships until 2020 but that dependency on HCFCs will steadily decline,

Considering further that annex VI to MARPOL requires certain ships to keep record books which, inter alia, indicate the quantities of ozone-depleting substances supplied to and discharged by ships,

Considering that the collection of the data necessary to evaluate the use of controlled substances on ships will not be possible in a short period of time,

Considering also the recommendation of the ad hoc group of experts on reporting of data that the quantities of controlled substances used for refilling refrigeration and fire-extinguishing systems in ports should be included in the consumption figures of the countries with jurisdiction over the ports where the refilling of such systems occurs,

Considering further that the requirements of the Montreal Protocol should be consistent with those of other provisions of international law in order to facilitate their enforcement, while at the same time acknowledging that the parties have the right to different interpretations if necessary,

Acknowledging that some parties need more information about installed quantities of controlled substances on board ships for their sound management,

Acknowledging that parties shall not be precluded from applying their domestic legislation on trade in ozone-depleting substances as long as that legislation does not prevent other parties from applying their own legislation as well as the present decision,

[1. To clarify that, for [the application of the recommendation of the ad hoc group of experts on reporting of data on] the reporting of controlled substances used to service equipment on board ships sailing under foreign flags [in ports of parties other than the flag States], deliveries of controlled substances to a ship qualify as servicing and as consumption of the port State even if the actual servicing is not taking place in the port, [provided that the quantity delivered does not exceed a reasonable quantity typically used to service the equipment on board the given ship type as specified by the Technology and Economic Assessment Panel for the ship type in question;]]

[2. Also to clarify that transfers of [recovered] [waste] [used] controlled substances from ships sailing under foreign flags to appropriate facilities in ports of parties other than the flag States shall be treated accordingly, provided that the quantity of the substances transferred does not exceed the reasonable quantity referred to in paragraph 1 of the present decision;]

[3. Further to clarify that controlled substances supplied to or coming from foreign flagged ships [in unreasonable quantities] and not covered by paragraph 1 [or 2] of the present decision are to be considered as imports and exports for ship servicing and shall be reported separately under Article 7, indicating the flag States concerned and the respective quantities;]

[4. To request the Ozone Secretariat to add the exports reported pursuant to paragraph 3 of the present decision to the data reported by the flag State following the procedure specified in the annex to the present decision, but to disregard those quantities in the calculation of the consumption of the flag State for the purpose of Article 2 F of the Montreal Protocol;]

5. Also to request the Ozone Secretariat to inform the parties concerned about any changes made to their data pursuant to paragraph 4 of the present decision by including such information in the data it provides under decision XVII/16;

6. To invite parties to make use of the informal prior informed consent (iPIC) mechanism to provide information about deliveries not covered by paragraphs 1 or 2 of the present decision prior to the completion of such deliveries and to invite parties participating in the iPIC mechanism to indicate in their licensing sheets in advance whether or not they wish to receive such deliveries;

7. To request the Technology and Economic Assessment Panel to provide together with its 2013 progress report a special report including the following information:

(a) A categorization of ship types and, per ship type, estimates of typical refrigerant charges, including a reasonable servicing demand, and to update that information in the light of new information as appropriate but at least every five years;

(b) Information on the controlled substances still used in the construction of ships, where they are used, technical and economic information on the available environmentally benign alternatives to such substances and similar information for replacements for existing equipment in ships, in particular in the fisheries sector;

(c) An updated version of the information provided by the Technology and Economic Assessment Panel in its previous progress reports on transport refrigeration in the maritime sector;

8. To request the Technology and Economic Assessment Panel to provide in its 2015 progress report for each party an estimation of the quantities of controlled substances needed on board ships sailing under its flag for the period from 2016 to 2020 and to update it every five years and to advise the Panel that where no data is provided by parties, the estimate of the quantities of ozone-depleting substances needed for ship servicing shall be based on the best available data on the ship fleets of the parties;

9. To request parties to collect data on the quantities, types and uses of controlled substances brought on board and taken off ships, to the extent possible on the basis of the record book on ozone-depleting substances provided for in annex VI to MARPOL, and to provide such data to the Technology and Economic Assessment Panel by 1 January 2015;

10. To invite parties manufacturing ships to refrain from using controlled substances and to consider environmentally benign and energy-efficient alternatives wherever they are available;

11. To invite parties that are contracting parties to annex VI to MARPOL to exercise their right to monitor the conditions under which controlled substances are kept on board ships, the quantity of such substances and the associated records.

Annex

Calculation of the consumption of flag States referred to in paragraph 4]

H. Draft decision XXIV/[H]: Clean production of hydrochlorofluorocarbon-22 through by-product emission control

Submission by Burkina Faso, Canada, Comoros, Egypt, Mexico, Senegal and United States of America

The Twenty-Fourth Meeting of the Parties decides:

Recognizing the opportunity to facilitate a clean production approach to the manufacture of hydrochlorofluorocarbon-22 (HCFC-22) for both controlled and feedstock uses,

Recalling decision XVIII/12, in which the parties requested the Ozone Secretariat to facilitate consultations by the Technology and Economic Assessment Panel with relevant organizations to enable the Panel to draw on the work already carried out under those organizations, including work relating to HCFC-22,

Recalling also the report of the Panel submitted pursuant to decision XVIII/12, in particular the section on the role of the Clean Development Mechanism of the Kyoto Protocol to the United Nations Framework Convention on Climate Change with respect to hydrofluorocarbon-23 (HFC-23) by-product emissions resulting from the production of HCFC-22,

Recognizing the relationship of HFC-23 to the controlled substance HCFC-22, given that the production of HCFC-22 results in the by-production of emissions of HFC-23 and that the production of HCFC-22 for feedstock uses is expected to continue beyond the phase-out of production for uses controlled under the Montreal Protocol,

Acknowledging that emissions of HFC-23 are covered by the Kyoto Protocol, and affirming that the present decision is not intended to affect such coverage,

Recognizing the need to address uncontrolled HFC-23 by-product emissions in order to avoid impacts on the climate system resulting from their release, and recognizing also that the technology to control such emissions is readily available,

1. To request the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol to consider proposals for one or more cost-effective demonstration projects to eliminate by-product emissions of HFC-23 during the production of HCFC-22 for facilities or production lines that are not earning emissions reduction credits under the Clean Development Mechanism;

2. To request the Technology and Economic Assessment Panel, in consultation with the Scientific Assessment Panel, to conduct a study of the potential costs and environmental benefits of the implementation of HFC-23 by-product control measures related to the production of HCFC-22 by facility or production line, excluding the costs and benefits associated with existing Clean Development Mechanism projects when relevant, and to prepare a report sixty days before the thirty-third meeting of the Open-ended Working Group in order to assist the parties in further considering this issue.

I. Draft decision XXIV/[I]: Additional funding for the multilateral Fund to maximize the climate benefit of the accelerated phase-out of HCFCs

Submission by Switzerland

[*The Twenty-Fourth Meeting of the Parties*,

Recalling that decision X/16 recognizes the importance of implementing the Montreal Protocol on Substances that Deplete the Ozone Layer and takes note of hydrofluorocarbons (HFCs) and perfluorocarbons as alternatives to ozone-depleting substances that have substantial impacts on the climate system,

Recalling the report by the Technology and Economic Assessment Panel to the Open-ended Working Group at its thirtieth meeting on alternatives to hydrochlorofluorocarbons (HCFCs) in the refrigeration and air-conditioning sector in parties operating under paragraph 1 of Article 5 with high ambient temperatures and unique operating conditions, based on the request made in decision XIX/8,

Recalling that decision XIX/6 encourages parties to promote the selection of alternatives to HCFCs that minimize environmental impacts, in particular impacts on climate, as well as meeting other health, safety and economic considerations,

Recalling that decision XIX/6 requests that the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol, when developing and applying funding criteria for projects and programmes for the accelerated phase-out of HCFCs, gives priority to cost-effective projects and programmes that focus on, inter alia, substitutes and alternatives that minimize other impacts on the environment, including on the climate, taking into account global-warming potential, energy use and other relevant factors,

Recalling that in the guidelines for the preparation of HCFC phase-out management plans adopted by the Executive Committee at its fifty-fourth meeting the Committee encouraged countries and agencies to explore potential financial incentives and opportunities for additional resources to maximize the environmental benefits of HCFC phase-out management plans in accordance with subparagraph 11 (b) of decision XIX/6 of the Nineteenth Meeting of the Parties,

Recalling further that the June 2007 Group of Eight summit declaration stated that: "We will also endeavour under the Montreal Protocol to ensure the recovery of the ozone layer by accelerating the phase-out of HCFCs in a way that supports energy efficiency and climate change objectives",

Noting the report of the Technology and Economic Assessment Panel Task Force about additional information on alternatives to ozone-depleting substances submitted for consideration by the Open-ended Working Group at its thirty-second meeting,

Aware of the increasing availability of low-global-warming-potential alternatives to ozone-depleting substances, including in the refrigeration, air-conditioning and foam sectors,

Concerned about the potential for unfettered growth in the production, consumption and use of alternatives with high global-warming potential as a result of the phase-out of ozone-depleting substances, particularly HCFCs,

Noting that paragraph 2 of article 10 of the Montreal Protocol stipulates that: "The mechanism established under paragraph 1 shall include a Multilateral Fund. It may also include other means of multilateral, regional and bilateral cooperation",

Noting also that paragraph 4 of article 10 of the Montreal Protocol stipulate that: "The Multilateral Fund shall operate under the authority of the Parties who shall decide on its overall policies",

Taking into account the decisions taken by the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol about resource mobilization, in particular at its sixty-seventh meeting,

Para 1 Option 1

decides:

1. To request the Executive Committee to consider options to further minimize impacts on the environment other than ozone layer depletion, in particular on the climate – taking into account global-warming potential, energy use and other relevant factors – of the projects and programmes financed under the Multilateral Fund, in particular for the phase-out of HCFCs, by assessing the

feasibility and usefulness of a funding window to maximize climate co-benefits of the HCFC phase-out based on the following three options:

(a) Receiving voluntary contributions independently or additionally to pledged contributions;

(b) [Concluding agreements with other entities to facilitate cooperation and synergies on projects;]

(c) [Resource mobilization.]

Para 1 Option 2

Willing to facilitate the minimization of impacts on the environment in addition to ozone layer depletion, in particular on the climate – taking into account global-warming potential, energy use and other relevant factors – of the projects and programmes financed under the Multilateral Fund in particular for the phase-out of HCFCs,

decides:

1. To request the Executive Committee to assess the feasibility and usefulness of a funding window to maximize climate co-benefits of the HCFC phase-out based on the following three options:

(a) Receiving voluntary contributions independently or additionally to pledged contributions;

(b) [Concluding agreements with other entities to facilitate cooperation and synergies on projects;]

(c) [Resource mobilization;]

2. Also to request the Executive Committee, taking into account the assessment referred to in paragraph 1 of the present decision, to consider establishing such a funding window and developing terms of reference and procedures for its functioning within the existing framework of the Multilateral Fund, including under the following conditions:

(a) The funding window should be used only for providing additional funding to programmes and projects eligible for Multilateral Fund financial assistance;

(b) The funding window should be used for providing additional funding only when the implementation of alternatives minimizing climate impacts could not be approved for cost reasons, in particular because it would increase the incremental costs of the project above the relevant cost-effectiveness threshold;

(c) The climate impact of alternatives should be established with the help of the Multilateral Fund Climate Impact Indicator;

(d) Financial support from the funding window would be approved within cost-effectiveness thresholds calculated in United States dollars per tonne of CO_2 equivalent [established in such a way that it would remain below the average cost effectiveness of climate change mitigation projects approved under other multilateral environment facilities during a past period of time to be defined];

(e) **option 1** [Any greenhouse gas emission reductions achieved with the support of resources from the funding window would not be eligible for emission credits of any type]; **option 2** [Any funds received through emission credits generated by greenhouse-gas emissions reductions achieved with the resources from the funding window should be collected by the funding window];

(f) Resources from the funding window could be provided on a loan basis for the funding of project components focusing on improving energy efficiency;

(g) In case that resources under the funding window are insufficient to cover the eligible costs of submitted projects, available resources could be allocated taking into account the significance of the climate impact that would be achieved by such projects;

(h) Reporting about the use of the funds available would be provided appropriately to every contributor.

2. To [call upon] [invite] Governments, organizations and in particular multilateral and/or financial institutions already or not traditionally contributing to the Multilateral Fund, to indicate to the

Multilateral Fund secretariat their interest in contributing to such a funding window [and to consider making additional support available to the funding window once established];

3. To request the Executive Committee to report to the Twenty-Fifth Meeting of the Parties on the progress made in the establishment of the funding window.]

J. Draft decision XXIV/[J]: Review by the Scientific Assessment Panel of RC-316c

Submission by Australia, Canada, Norway, Switzerland, the United States of America and the European Union

The Twenty-Fourth Meeting of the Parties decides:

Recalling decisions IX/24, X/8, XI/19 and XIII/5 of the Meeting of the Parties pertaining to new substances,

Noting that the Scientific Assessment Panel has developed procedures for assessing the ozone-depletion potential of new substances,

1. To invite parties in a position to do so to provide environmental assessments of RC-316c (1,2-dichloro-1,2,3,3,4,4-hexafluorocyclobutane, CAS 356-18-3), a chlorofluorocarbon not controlled by the Montreal Protocol, and any guidance on practices that can reduce intentional releases of the substance;

2. To request the Scientific Assessment Panel to conduct a preliminary assessment of RC-316c and report to the Open-ended Working Group at its thirty-third meeting on the ozone-depletion potential and global-warming potential of the substance and other factors that the Panel deems relevant.

K. Draft decision XXIV/[K]: Implications of the outcome document of the United Nations Conference on Sustainable Development for small island developing State implementation of the Montreal Protocol

Submission by Saint Lucia and Trinidad and Tobago

The Twenty-Fourth Meeting of the Parties decides:

Recalling that of the 197 parties to the Montreal Protocol, 39 are recognized by the United Nations as small island developing States,

Recognizing that the outcome document of the United Nations Conference on Sustainable Development, held in Rio de Janeiro, Brazil, from 20 to 22 June 2012, recognized “that the phase-out of ozone-depleting substances is resulting in a rapid increase in the use and release of high global-warming potential hydrofluorocarbons to the environment”,

Recognizing decision XIX/6, in which the parties agreed to accelerate the phase-out of hydrochlorofluorocarbons (HCFCs) and encouraged parties to promote the selection of alternatives to them that minimized environmental impacts, in particular impacts on climate, as well as meeting other health, safety and economic considerations,

Acknowledging that the outcome document of the United Nations Conference on Sustainable Development reaffirmed that “small island developing States remain a special case for sustainable development in view of their unique and particular vulnerabilities, including their small size, remoteness, narrow resource and export base, and exposure to global environmental challenges and external economic shocks…”,

To recognize that small island developing States have unique and particular vulnerabilities and to take those vulnerabilities into account in considering their efforts to meet the Montreal Protocol requirements for the phase-out of HCFCs and their efforts to select and make the transition to longer-term energy-efficient, ozone-friendly and climate-friendly alternatives.

L. Draft decision XXIV/[L]: Funding of production facilities for hydrochlorofluorocarbons

Submission by India

The Twenty-Fourth Meeting of the parties decides:

Recalling decision XIX/6, which states that funding through the Multilateral Fund for the Implementation of the Montreal Protocol shall be stable and sufficient to meet all agreed incremental costs to enable parties operating under paragraph 1 of Article 5 of the Montreal Protocol to comply with the accelerated phase-out schedule for hydrochlorofluorocarbons for both the production and consumption sectors,

Recognizing that there is limited time before the first control measures on hydrochlorofluorocarbons for parties operating under paragraph 1 of Article 5 come into force with the freeze at the baseline level in 2013 and 10 per cent reduction from the baseline in 2015,

Noting that parties operating under paragraph 1 of Article 5 with production facilities for hydrochlorofluorocarbons may be at risk of being in non-compliance with those obligations if adequate assistance is not provided through the Multilateral Fund,

1. To reiterate the intent of decision XIX/6, which is to provide stable and sufficient funding through the Multilateral Fund to meet all agreed incremental costs to enable parties operating under paragraph 1 of Article 5 to comply with the accelerated phase-out schedule for hydrochlorofluorocarbons, including the production sector;

2. To urge the Executive Committee of the Multilateral Fund to finalize as a priority matter the guidelines for funding of production facilities for hydrochlorofluorocarbons;

3. To request the Executive Committee of the Multilateral Fund, while finalizing such guidelines, to take into consideration in particular the proactive regulatory actions taken by some parties operating under paragraph 1 of Article 5 of the Montreal Protocol to limit production of hydrochlorofluorocarbons in facilities in their countries beyond those required for compliance with the relevant control schedule.

M. Draft decision XXIV/[M]: Differences between data reported on imports and data reported on exports

Submission by the contact group on data discrepancies

Explanatory note

1. At present, data on imports and exports of controlled substances are reported by the parties on the basis of Article 7 of the Montreal Protocol and according to the reporting format as last revised by decision XVII/16. Parties exporting controlled substances are requested, inter alia, to submit information on countries of destination in their reports. Data received are reviewed by the Ozone Secretariat in order to calculate consumption of controlled substances by individual parties., The Ozone Secretariat then provides all importing countries with information on all reported exports to their countries. Since currently there is no request for importing parties to provide information on source countries in the reports that they submit to the Ozone Secretariat, the process of clarifying any differences is lengthy and burdensome, especially for importing countries. Moreover, it should be recognized that while such differences may result from the submission of incomplete data, they may also result from illegal trade activities which have been overlooked by the customs authorities in exporting and importing countries. Thus analysis of the data may also assist parties in identifying such illegal activities.

2. The objectives of the following draft decision are:

(a) To diminish the administrative burden connected with the complexity of the process of clarifying differences between import and export data in the absence of a request for importing countries to submit information on countries of origin;

(b) To identify and prevent illegal trade activities in trade in controlled substances, including the diversion of substances into prohibited uses.

Draft decision

The Twenty-Fourth Meeting of the Parties decides:

Noting that there [are significant] may be differences in data on imports and exports of controlled substances submitted by the parties under Article 7 of the Montreal Protocol, and recognizing that while such shipments may have plausible explanations such as shipments over the end of a calendar year [differences may result from] or the submission of incomplete data, they may also result from illegal trade activities or resulting from companies that do not comply with domestic legislation without criminal intend,

Noting also that in the Article 7 data reporting format, as last revised by decision XVII/16, parties exporting controlled substances are requested to submit to the Ozone Secretariat information on countries of destination, while there is no request for parties importing controlled substances with regard to source countries,

Noting further that the absence of a request for importing countries to submit information on source countries makes the process of clarification of differences complex and burdensome for both importing and exporting countries,

Mindful that the further improvement of data reporting systems will facilitate the prevention of the illegal trade in controlled substances,

Recalling decision IV/14 and IX/34 that provided some clarification on how to report transhipments and imports for re-export and thereby provided an indication on what country is to be considered as [source country][exporting country]

2. [To request the Ozone Secretariat to revise, before 1 January 2014 [2013], the reporting format resulting from decision XVII/16 to include in Data Form 1 a column indicating the exporting Party for the quantities reported as import, and to [urge] invite the parties to implement the revised reporting format [expeditiously] as soon as possible;]

[3. To request the Ozone Secretariat to report back [every January] aggregated information related to the controlled substances in question received from the importing/re-importing to the exporting party concerned together with the information provided under decision XVII/16;]

[3. To request the ozone secretariat to compile data, on an annual basis, that is reported under article 7 on imports per paragraph 2 above, together with the information provided as per decision XVII/16 on exports and to send the parties concerned this information.]

4. To [encourage] [invite] parties [to enhance cooperation with the view to clarifying any difference in import and export data and to considering possible action as appropriate] [informed by the Ozone Secretariat [in accordance with paragraph 3 above] [to check for differences and] to [consider undertaking any] [undertake the] actions necessary to clarify the reasons for any differences found and to consider introducing preventive measures, as appropriate].

5. To invite parties to consider participation in the informal Prior Informed Consent (iPIC) scheme as a means to improve information about their potential imports of controlled ODS.

III. Draft decisions on administrative matters

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

The Twenty-Fourth Meeting of the Parties decides:

1. To note with satisfaction the large number of countries that 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 at 1 November 2012, [---] 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 XXIV/[BB]: Membership of the Implementation Committee

The Twenty-Fourth Meeting of the Parties decides:

1. To note with appreciation the work done by the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol in 2012;

2. To confirm the positions of Lebanon, Poland, Saint Lucia, United States of America and Zambia as members of the Committee for one further year and to select ----------, ----------, ----------, ---------- and ---------- as members of the Committee for a two-year period beginning 1 January 2013;

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 beginning 1 January 2013.

C. Draft decision XXIV/[CC]: Membership of the Executive Committee of the Multilateral Fund

The Twenty-Fourth Meeting of the Parties decides:

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 2012;

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 beginning 1 January 2013;

3. To note the selection of ---------- to serve as Chair and ---------- to serve as Vice-Chair of the Executive Committee for one year beginning 1 January 2013.

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

The Twenty-Fourth Meeting of the Parties decides:

To endorse the selection of ---------- and ---------- as Co-Chairs of the Open-ended Working Group of the Parties to the Montreal Protocol in 2013.

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

The Twenty-Fourth Meeting of the Parties decides:

1. To note with appreciation that [--] parties of the [--] that should have reported data for 2011 have now done so and that 99 of those parties reported their data by 30 June 2012 in conformity with decision XV/15;

2. To note, however, that the following parties have to date not reported data for 2011: [--];

3. Also 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. Also to note 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 XXIV/[FF]: Twenty-Fifth Meeting of the Parties to the Montreal Protocol

The Twenty-Fourth Meeting of the Parties decides:

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