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**Open-ended Working Group of the Parties to
the Montreal Protocol on Substances that
Deplete the Ozone Layer
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Bangkok, 1–5 July 2019
Item 3 of the provisional agenda***

**Unexpected emissions of trichlorofluoromethane
(CFC-11) (decision XXX/3)**

**Unexpected emissions of CFC-11: overview outlining the
procedures under the Montreal Protocol on Substances that
Deplete the Ozone Layer and the Multilateral Fund for the
Implementation of the Montreal Protocol with reference to
controlled substances by which parties review and ensure
continuing compliance with the Protocol obligations and with
the terms of agreements under the Fund**

Report by the Secretariat

I. Introduction

1. The present report is prepared in response to decision XXX/3 of the Thirtieth Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer. In paragraph 6 of that decision, the parties requested the Secretariat, in consultation with the secretariat of the Multilateral Fund for the Implementation of the Montreal Protocol, to provide the parties with an overview outlining the procedures under the Protocol and the Fund with reference to controlled substances by which the parties review and ensure continuing compliance with Protocol obligations and with the terms of agreements under the Fund, including with regard to monitoring, reporting and verification. The parties also requested the Secretariat to provide a report to the Open-ended Working Group at its forty-first meeting on these issues and a final report to the Thirty-First Meeting of the Parties.

2. The present report is in three parts. The first part, in section II, considers the provisions of the Montreal Protocol and related procedures and decisions by which the parties review and ensure continuing compliance with their obligations. The second part, in section III, deals with the procedures under the Multilateral Fund relating to the fulfilment by Article 5 parties of their obligations under their funding agreements. The third part, in section IV, presents some brief observations emanating from sections II and III.

* UNEP/OzL.Pro.WG.1/41/1.

II. Provisions of the Montreal Protocol and related procedures by which the parties review and ensure continuing compliance with Protocol obligations

3. The Montreal Protocol on Substances that Deplete the Ozone Layer was adopted in 1987 to “protect the ozone layer by taking precautionary measures to control equitably total global emissions of substances that deplete it, with the ultimate objective of their elimination on the basis of developments in scientific knowledge, taking into account technical and economic considerations and bearing in mind the developmental needs of developing countries” (Montreal Protocol preambular para. 6).
4. The Protocol established a framework of control measures, including annexes specifying the substances to be controlled, schedules for reduction of consumption and production of controlled substances, instructions on how to calculate control levels for consumption and production, requirements for baseline data reporting and annual data reporting, measures to control trade with both parties and non-parties and a mechanism to review the status of compliance of individual parties with their obligations under the Protocol. Provision was made for flexibility in phasing out controlled substances, including mechanisms to satisfy the essential or critical needs of parties through the approval of exemptions for particular uses of controlled substances.
5. The Protocol has been adjusted seven times and amended five times. Those adjustments and amendments have expanded the range of substances that are subject to controls, adjusted the timeframes for the control measures, established the financial mechanism to ensure financial assistance and technology transfer to developing countries, and introduced the requirement for parties to establish licensing systems for import and export of controlled substances.
6. The present section outlines the provisions of the Montreal Protocol that comprise the control measures for substances and that establish the framework for the review of compliance with the Protocol. It describes the reporting by the parties and the review of reported data, as well as the non-compliance procedure by which the review is undertaken, including consideration of relevant issues by the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol. Decisions of the Meetings of the Parties dealing with the framework for reviewing and ensuring compliance with the Protocol and related issues are described, including the approaches adopted by the Meetings of the Parties in cases of non-compliance. Finally, the present section describes the provisions for the external review and verification of the global implementation of the ozone treaties through the work of the assessment panels and the monitoring of the ozone layer itself.

A. Compliance-related provisions of the Montreal Protocol

7. The Montreal Protocol sets out the following elements related to control measures, including controls on trade, as well as reporting of data and information, calculation of control levels and compliance.
8. Articles 2A to 2J and Article 5 set the control measures relating to the consumption and production of controlled substances listed in the Annexes to the Protocol, including the definition of the reference levels for reductions and the phase-out steps and schedules. They provide flexibility for phase-out of controlled substances.¹
9. Articles 4 and 4A deal with control of trade with non-parties and parties, respectively, while Article 4B deals with the establishment and operation of licensing systems. All parties are required to ban imports from and exports to non-parties with respect to controlled substances, and to have licensing systems in place within defined time frames for those controlled substances. The data collected through these licensing systems contribute to the collection of data that parties are required to report under Article 7.
10. Paragraphs 5 and 6 of Article 5 note that the implementation by Article 5 parties of their obligations under the Protocol depends upon the effective implementation of the financial mechanism and technology transfer provided for in Articles 10 and 10A, and allows any Article 5 party to notify the Ozone Secretariat that, having taken all practicable steps, it is unable to implement any or all of its

¹ Flexibility may take the form of essential and critical use exemptions that may be approved by the parties after the phase-out where necessary for the health, safety or functioning of society or to avoid significant market disruption. In addition, some uses of controlled substances (for example, feedstock, process agents and quarantine and pre-shipment) are not controlled (although parties are required to report data on the amounts produced or consumed for those uses).

obligations due to the inadequate implementation of Articles 10 and 10A. The Secretariat transmits a copy of the notification to the parties for consideration at the next Meeting of the Parties and a decision on appropriate action.

11. Article 7 provides for reporting by parties of baseline data on production, imports and exports of controlled substances (in para. 2) and for reporting of relevant annual data (in para. 3) within certain time frames.

12. Article 3 provides the methodology for the calculation of control levels (for production, imports and exports and consumption) for all controlled substances, as well as emissions of Annex F, group II, substances.

13. Article 9 requires parties to report to the Ozone Secretariat on a biennial basis a summary of their activities relating to research, development, public awareness and exchange of information.

14. Article 12 (c) requires the Ozone Secretariat to prepare and distribute regularly to the parties reports based on information received pursuant to Articles 7 and 9.

15. Article 8 provides for the approval of appropriate procedures and institutional mechanisms for determining non-compliance with the Protocol and for treatment of parties found to be in non-compliance with Protocol obligations. The non-compliance procedure, adopted pursuant to this article and described further in section D below, established the Implementation Committee and outlined its mandate and the means of bringing matters under its purview to the attention of the parties.

B. Reporting of data and information under the provisions of the Montreal Protocol

16. National reporting in accordance with Article 7 of the Montreal Protocol is the primary tool for gathering data and information on progress and measures taken by parties to implement their obligations under the Protocol. Those annual reports, using formats approved by the parties,² including detailed instructions and guidelines, form the basis for implementation review and monitoring the status of compliance by parties. The Meetings of the Parties have regularly emphasized that timely, accurate and up-to-date reporting is key to effective monitoring and assessment of parties' compliance with their obligations (see decision XXX/13 and previous related decisions).

17. Paragraphs 1 and 2 of Article 7 require parties to provide statistical data on production, imports and exports of each controlled substance, or best possible estimates of such data where actual data are not available, for defined baseline periods, within defined time frames. Article 7, paragraph 3, requires parties to provide, for the year for which the control measures enter into force for that party and for each year thereafter, statistical data on annual production, amounts used for feedstocks, amounts destroyed by approved technologies and imports from and exports to parties and non-parties, respectively, for each controlled substance as well as data on the amounts of methyl bromide used for quarantine and pre-shipment applications. Annual statistical data are also required with respect to imports and exports of Annex A, group II, and Annex C, group I, substances that have been recycled (Article 7, para. 3 bis) and emissions of certain Annex F, group II, substances per facility (Article 7, para. 3 ter).

18. The parties have adopted many decisions relevant to data reports under Article 7, most of which simply clarify what data are to be reported. A few such decisions also specify additional reporting by parties: for example, decision VI/9, on essential use nominations for controlled substances other than halons for 1996 and beyond, together with paragraph 4 of annex II to the report of the Sixth Meeting of the Parties (on annual reporting of controlled substances used for laboratory and analytical uses); decisions X/14, XV/7 and XVII/6 on process agents; and decision XXI/3 on reporting of uses of controlled substances as process agents.

19. Under paragraph 3 of Article 4B, each party is required, within three months of introducing its licensing system, to report to the Ozone Secretariat on the establishment and operation of that system.

20. Paragraphs 1 and 2 of Article 9 require parties to cooperate in promoting research, development and exchange of information on technologies, possible alternatives and costs and benefits of control strategies, and in promoting public awareness of the environmental effects of the emissions of substances that deplete the ozone layer. Paragraph 3 of Article 9 requires parties to submit to the

² The most recent changes to the data reporting forms, instructions and guidelines were approved by decision XXX/10.

Ozone Secretariat every two years a summary of the activities they have conducted pursuant to that article.

C. Voluntary reporting and actions

21. In several decisions, the parties have invited, requested or otherwise provided for the voluntary reporting of information by parties. Some of those relate to data reported under Article 7,³ while others deal with issues that fall outside the control measures and compliance mechanism, for the purposes of information- and experience-sharing. Subject to the provisions of the relevant decision, the Ozone Secretariat makes the reported information available to all parties. The Secretariat also provides updates to the Implementation Committee and the Meetings of the Parties on relevant information provided by parties on a voluntary basis. Decisions relating to trade and licensing are considered in the present section.

22. Parties that do not permit the importation of products containing Annex A and Annex B controlled substances (decision X/9) or equipment containing or relying on hydrochlorofluorocarbons (HCFCs) from any source (decision XXVII/8) are invited to inform the Ozone Secretariat, which shall distribute the information to all parties.

23. Decision IX/8, paragraph 2, requests parties to provide names and contact details of licensing system focal points to the Secretariat for circulation to all parties, in order to facilitate the efficient notification, reporting or cross-checking of information.

24. Decision XIV/7, paragraph 5, encourages parties to exchange information and intensify joint efforts to improve means of identification of ozone-depleting substances and prevention of illegal traffic in ozone-depleting substances. To facilitate an exchange of information, paragraph 7 invited parties to report to the Secretariat fully proved cases of illegal trade in ozone-depleting substances, for dissemination to all parties.

25. Decision XVI/7 invites parties, subject to rights and obligations under the Protocol and any other international agreements, not to restrict trade in products or commodities treated with methyl bromide or grown on soil treated with methyl bromide.

26. Decision XVII/16, paragraph 4, requests the Ozone Secretariat to revise the data reporting format to enable reporting of destinations of exports (including re-exports) of all controlled substances and urges parties to implement the revised reporting format. It also requests the Secretariat to report back aggregated information received from the exporters to the importing parties concerned. In a similar vein, decision XXIV/12 requests the Ozone Secretariat to revise the reporting format to allow reporting of the exporting party for the quantities reported as imports. Paragraph 2 of the decision requests the Secretariat to compile aggregated information on controlled substances received from the importing/re-importing party and to provide that uniquely and solely to the exporting party concerned when requested, in a manner that will maintain information deemed to be confidential. The Thirtieth Meeting of the Parties adopted decision XXX/12, which recalls the two aforementioned decisions and recognizes that that information facilitates the identification of differences between data reported on imports and data reported on exports, which in turn could facilitate the identification of illegal trade. The decision urges parties to report the destinations of their exports and the sources of their imports to the Secretariat for that purpose.

27. Decision XIX/12, in addition to urging parties to fully and effectively implement and actively enforce their systems for licensing the import and export of controlled substances, as well as the recommendations in a number of decisions (decisions IX/8, XIV/7, XVII/12, XVII/16 and XVIII/18), lists the following eight specific measures that parties might voluntarily wish to consider implementing domestically to improve implementation and enforcement of their licensing systems in order to combat illegal trade in ozone-depleting substances more effectively:

- (a) Sharing information with other parties, such as by participating in an informal prior informed consent procedure or similar system;
- (b) Establishing quantitative restrictions, for example import and/or export quotas;
- (c) Establishing permits for each shipment and obliging importers and exporters to report domestically on the use of such permits;

³ For example, decisions IV/11, para. 3 (actual quantities of substances destroyed); decisions VII/9, para. 4, and XVII/16, para. 4 (types, quantities and destinations of exports); decision VII/30, para. 1 (feedstock uses); and decision XXIV/12, para. 1 (exporting parties of quantities reported as imports).

- (d) Monitoring transit movements (trans-shipments) of ozone-depleting substances, including those passing through duty-free zones, for instance by identifying each shipment with a unique consignment reference number;
- (e) Banning or controlling the use of non-refillable containers;
- (f) Establishing appropriate minimum requirements for labelling and documentation to assist in the monitoring of trade of ozone-depleting substances;
- (g) Cross-checking trade information, including through private-public partnerships;
- (h) Including any other relevant recommendations from the ozone-depleting substances tracking study [prepared in response to decision XVII/16, para. 1].

D. Non-compliance procedure

28. The non-compliance procedure was adopted in 1990 pursuant to Article 8, initially on an interim basis, by the Second Meeting of the Parties (decision II/5). It was established on a permanent basis in 1992 by decision IV/5 and reviewed and amended in 1998 (decision X/10 and annex II to the report of the Tenth Meeting of the Parties). The procedure covers the institutional arrangements, procedural matters and actions that can be taken by individual parties, the Ozone Secretariat, the Implementation Committee and the Meetings of the Parties in respect of non-compliance with the Montreal Protocol.

1. Institutional arrangements

29. The institutional arrangements consist of the Implementation Committee (established by para. 5 of the non-compliance procedure), the Ozone Secretariat and the Meetings of the Parties.

30. The Implementation Committee is composed of 10 parties elected by a Meeting of the Parties for a two-year term of office based on equitable geographical distribution (5 from Article 5 parties and 5 from non-Article 5 parties). Parties are eligible for re-election for one consecutive term. The Committee elects its own president and vice-president, each of whom serves for one year at a time. The vice-president serves as the rapporteur of the Committee. The Committee meets twice a year unless it decides otherwise (see para. 6 of the non-compliance procedure).

31. The Secretariat acts as the liaison between the Committee and the relevant parties; provides further information that the Committee may request or that the Secretariat may become aware of in the course of preparing its report; arranges for and services the meetings of the Committee; and, in general, assists the Committee in discharging its functions.

32. The functions of the Committee are specified in paragraph 7 of the non-compliance procedure, as follows:

- (a) To receive, consider and report on any submission relating to possible non-compliance;
- (b) To receive, consider and report on any information or observations forwarded by the Secretariat in connection with the preparation of the reports on information submitted under Articles 7 and 9 and concerning compliance with the provisions of the Protocol;
- (c) To request, where it considers necessary, through the Secretariat, further information on matters under its consideration;
- (d) To identify the facts and possible causes relating to individual cases of non-compliance referred to the Committee, as best it can, and make appropriate recommendations to the Meeting of the Parties;
- (e) To undertake, upon the invitation of the party concerned, information-gathering in the territory of that party for the purpose of fulfilling the functions of the Committee;
- (f) To maintain an exchange of information with the Executive Committee of the Multilateral Fund.

33. In addition, in paragraph 8, the Implementation Committee is required to consider the submissions, information and observations referred to in paragraph 7 with a view to securing an amicable solution of the matter on the basis of respect for the provisions of the Protocol.

34. The Implementation Committee reports to the Meeting of the Parties, including any recommendations it considers appropriate. The Meeting of the Parties may, taking into consideration the circumstances of the matter, decide upon and call for steps to bring about full compliance with the Protocol, including measures to assist the parties' compliance with the Protocol and to further the

Protocol's objectives (para. 9). The Meeting of the Parties may request the Implementation Committee to consider certain issues and make recommendations to assist its consideration of matters of possible non-compliance (para. 14).

2. Review of reported data and information

35. The Ozone Secretariat reviews the reports provided by the parties pursuant to Articles 7 and 9 and related decisions and uses the reported data to calculate the parties' annual consumption and production levels in accordance with the stipulations of Article 3 and relevant decisions. This allows for the evaluation of reported data against the control measures established in Articles 2A to 2J and Article 5 of the Protocol and the identification of possible cases of non-compliance. The Secretariat also receives any submissions from the parties on non-compliance and transmits them to the Implementation Committee for its consideration. Decision VII/20 allows the Secretariat to seek clarification on data reported under Article 7 where there is a discrepancy with country programme data (which is presented to the Executive Committee of the Multilateral Fund); however, should the request for clarification not result in agreement, the data provided to the Secretariat is used.⁴ Under paragraph 3 of the non-compliance procedure, where the Secretariat, in the course of preparing its report, becomes aware of possible non-compliance by any party with its obligations under the Protocol, it may request further information about the matter. The Secretariat may also seek clarification in cases of incomplete data and information (see, for example, decision XXIV/14).

36. The Secretariat's report in accordance with Article 12 (c) of the Protocol concerning data reported under Articles 7 and 9 is submitted to the Implementation Committee and the Meeting of the Parties. The issues covered in the report on data include the following:

- (a) Status of compliance with data reporting requirements (reporting pursuant to Article 7, paragraphs 3, 3 bis and 3 ter, as well as baseline data reporting pursuant to Article 7, paras. 1 and 2);
- (b) Cases of non-compliance with control measures (with reference to Articles 2A through 2J and Article 5);
- (c) Monitoring of progress of parties previously in non-compliance, specifically compliance with respect to decisions recording plans of action to return to compliance (various decisions adopted by the Meetings of the Parties);
- (d) Reporting of and accounting for exemptions for essential and critical uses (various decisions adopted by the Meetings of the Parties);
- (e) Reporting of exports and their destination countries (decisions XVII/16 and XXX/12);
- (f) Reporting of imports and their source countries (decisions XXIV/12 and XXX/12);
- (g) Cases of excess calculated consumption and production attributable to stockpiling (decisions XVIII/17 and XXII/20);
- (h) Reporting of process agent use (decisions X/14 and XV/7 and subsequent decisions);
- (i) Reporting of and accounting for production of phased-out substances;
- (j) Reported feedstock uses;
- (k) Reported quarantine and pre-shipment uses of methyl bromide;
- (l) Reported destruction of ozone-depleting substances;
- (m) Reporting of zeroes where appropriate, rather than blank cells (decisions XXIV/14, XXIX/18 and XXX/14);
- (n) Reporting on the establishment of licensing systems (Article 4B);
- (o) Requests by parties for changes in their baseline data;
- (p) Other compliance-related issues;
- (q) Reported information on activities related to research, development, public awareness and exchange of information (pursuant to Article 9).

37. In addition, the Ozone Secretariat prepares a separate report for the Implementation Committee providing more detailed information on cases related to non-compliance with obligations

⁴ As described in section III of the present document, the secretariat of the Multilateral Fund likewise compares the data submitted under the country programme with that submitted under Article 7 and brings any discrepancies to the attention of the Executive Committee and the Implementation Committee.

under the Protocol. That provides a summary of available and relevant information relating to the non-compliance status of each party under consideration by the Committee, including their reduction schedule, interim benchmarks and data regarding their non-compliance and a description and summary of communication with the Secretariat, as well as relevant actions taken by previous Meetings of the Parties and the Implementation Committee.

3. Consideration by the Implementation Committee

38. The non-compliance procedure provides for three ways in which a matter may be brought before the Implementation Committee in respect of any party's implementation of the Montreal Protocol obligations.

- (a) **By parties with reservations (under paragraphs 1 and 2 of the non-compliance procedure):** if one or more parties have reservations regarding another party's implementation of its obligations under the Protocol, those concerns may be addressed in writing (with corroborating information) to the Ozone Secretariat, after which the following steps are taken:
- (i) The Secretariat sends copy of the submission to the party concerned within two weeks of receiving it;
 - (ii) The party concerned should reply to the Secretariat and to the parties involved within three months, or such longer period as the circumstances may require;
 - (iii) If no reply is received from the party within that time the Secretariat sends a reminder;
 - (iv) As soon as the reply and any further information from the party become available, but not later than six months from the original submission, the Secretariat transmits the submission, the reply and any further information to the Implementation Committee. If no response is received from the party within that time frame, the Secretariat similarly submits the matter to the Implementation Committee.
- (b) **By the Secretariat (under paragraph 3 of the non-compliance procedure):** where the Ozone Secretariat, in the course of preparing its report, becomes aware of possible non-compliance by any party with its obligations under the Protocol, it may request the party concerned to furnish necessary information about the matter. If there is no response from the party concerned within three months or such longer period as the circumstances may require, or if the matter is not resolved through administrative action or through diplomatic contacts, the Secretariat includes the matter in its report to the Meeting of the Parties pursuant to Article 12 (c) of the Protocol and informs the Implementation Committee.
- (c) **By a party in (possible) non-compliance (under paragraph 4 of the non-compliance procedure):** when a party itself concludes that it is unable to fully comply with its obligations under the Protocol, it may make a written submission to the Ozone Secretariat explaining the specific circumstances that it considers to be the cause of its non-compliance. The Secretariat transmits the submission to the Implementation Committee.

39. In each case, the Implementation Committee is to consider the matter as soon as is practicable, carrying out its functions as specified in paragraph 7 of the non-compliance procedure (including identifying the facts and possible causes, requesting further information and, upon invitation by the party concerned, undertaking on-site information-gathering).

40. In performing its functions, the Implementation Committee considers the submissions, information and observations with a view to securing an amicable solution to the matter on the basis of respect for the provisions of the Protocol (para. 8 of the procedure). The Committee then reports to the Meeting of the Parties, including any recommendations it considers appropriate (para. 9). The Meeting of the Parties may also request the Implementation Committee to make recommendations to assist the Meeting of the Parties in its consideration of matters of possible non-compliance (para. 14).

41. The non-compliance procedure establishes legal safeguards for parties that are subject to proceedings before the Implementation Committee, in order to ensure due process. Thus, a party concerned is to be notified of submissions to the Implementation Committee and the dates and venue of the meetings of the Implementation Committee at which the matter is to be considered. The party concerned is entitled to participate in the proceedings before the Implementation Committee, but no party, whether or not it is a member of the Implementation Committee, may participate in the elaboration and adoption of the recommendations on a matter in which it is involved (paras. 10 and 11). The procedure also assures the confidentiality of information received in confidence (paras. 15 and 16).

42. Representatives of the secretariat of the Multilateral Fund and the implementing agencies participate in meetings of the Implementation Committee as observers, and provision is made through the customary practice of the Implementation Committee for the participation of a representative of the Global Environment Facility when the compliance of a party receiving its assistance is under consideration (see UNEP/OzL.Pro/ImpCom/39/7). In addition, in order to further facilitate the exchange of information between the two committees, the chair and vice-chair of the Executive Committee of the Multilateral Fund are invited to attend the Implementation Committee's meetings. Similarly, the president and vice-president of the Implementation Committee are invited to attend the Executive Committee's meetings (see para. 51 of the report of the twenty-sixth meeting of the Implementation Committee – UNEP/OzL.Pro/ImpCom/26/5).

43. The Implementation Committee does not make final decisions regarding cases of non-compliance referred to it. However, it may make recommendations for actions to be taken by the parties concerned or by the Ozone Secretariat or implementing agencies, and elaborates recommendations for the adoption of decisions by the Meetings of the Parties. At its thirty-sixth meeting, the Implementation Committee adopted a range of standard recommendations dealing with routine matters of non-compliance, "for the purpose of helping the Committee manage its increasing workload more efficiently and effectively and ensure the equitable treatment of parties in like circumstances, while continuing to ensure that the individual circumstances of each party subject to the non-compliance procedure are taken into full consideration" (recommendation 36/52).

4. Consideration by the Meeting of the Parties

44. Paragraph 9 of the non-compliance procedure states that the report of the Implementation Committee is to be made available to parties six weeks before the Meeting of the Parties at which it is to be considered. In practice, however, the meetings of the Implementation Committee are held back to back with the meetings of the Open-ended Working Group and the Meetings of the Parties, and the written report of the second meeting is therefore not available within the stipulated time frame. Instead, the President of the Committee presents an oral report and any recommendations for decisions arising from the Committee's deliberations to the plenary of the Meeting of the Parties.

45. The Meeting of the Parties considers the report of the Implementation Committee and its recommendations and may decide on appropriate action, including adopting one or more of the measures specified in annex V to the report of the Fourth Meeting of the Parties, entitled "Indicative list of measures that might be taken by a Meeting of the Parties in respect of non-compliance with the Protocol" (1992, UNEP/OzL.Pro.4/15). Those measures are:

- A Appropriate assistance, including assistance for the collection and reporting of data, technical assistance, technology transfer and financial assistance, information transfer and training;
- B Issuing cautions;
- C Suspension, in accordance with the applicable rules of international law concerning the suspension of the operation of a treaty, of specific rights and privileges under the Protocol, whether or not subject to time limits, including those concerned with industrial rationalization, production, consumption, trade, transfer of technology, the financial mechanism and institutional arrangements.

E. Analysis of the types of issues considered by the Implementation Committee to date and approaches adopted by the Committee

46. The vast majority of cases of non-compliance considered by the Implementation Committee to date have arisen from the Ozone Secretariat's review of data reported by the parties. There has been no submission to date by a party with reservations about implementation by another party. A number of parties have made use of the self-reporting option.⁵

47. The issues considered to date by the Committee include:

⁵ For example, joint statements were made in 1995 to the Implementation Committee and to the Open-ended Working Group by Belarus, Bulgaria, Poland, the Russian Federation and Ukraine regarding possible non-fulfilment of their obligations under the Montreal Protocol; Estonia, Latvia and Lithuania sent a letter to the Ozone Secretariat in 1996 concerning institutional and financial problems affecting compliance, followed by a joint statement by Latvia and Lithuania to the fourteenth meeting of the Implementation Committee; and Bangladesh made a presentation to the Implementation Committee in 2009.

- (a) Non-compliance with data reporting obligations (including reporting of annual and baseline data under Article 7 of the Protocol, reporting on process agents, reporting on stockpiling);
- (b) Non-compliance with control measures under the Protocol;
- (c) Follow-up on parties' plans of action to return to compliance;
- (d) Non-compliance with the ban on trade with non-parties,
- (e) Non-compliance with the requirement to establish licensing systems under Article 4B;
- (f) Requests for changes in baseline data;
- (g) Implementation challenges, including challenges faced by new parties and countries with economies in transition, as well as special situations such as natural disasters;
- (h) Classification of parties as operating or not operating under Article 5 of the Protocol;
- (i) Status of countries of the former Soviet Union with respect to succession to the Convention and the Treaty;
- (j) Technical issues including production for basic domestic needs; stockpiling; metered dose inhalers; exempted laboratory and analytical uses; process agent uses; transfer of production allowance; polyols; and reporting of very small (de minimis) quantities of controlled substances;
- (k) A range of procedural and formal issues, including modalities for baseline changes, data and information from the Multilateral Fund, engagement with the Executive Committee, the Implementation Committee primer and standard recommendations.

48. To date, the Implementation Committee has adopted almost 1,000 recommendations, including the following:

- (a) Recommendations for decisions to be adopted by the Meetings of the Parties (on non-compliance, plans of action to return to compliance, data reporting, baseline changes and other substantive and procedural issues);
- (b) Recommendations noting that parties had submitted data indicating that they were in compliance with their commitments under their plans of action to return to compliance;
- (c) Recommendations for international assistance, including assistance by the Global Environment Facility;
- (d) Recommendations for favourable consideration of Article 5 parties or countries with economies in transition for international assistance;
- (e) Recommendations urging parties to comply with the requirement to establish licensing systems;
- (f) Recommendations on trade issues, including recognition of non-parties that meet the requirements of Article 4, paragraph 8;
- (g) One recommendation that a party be deemed ineligible for financial assistance from the Multilateral Fund until it meets the requirement to submit its data;
- (h) Requests for further information from parties (to date, the provision for on-site information gathering upon invitation by a party has not been invoked);
- (i) Invitations to parties to attend the meetings to discuss issues in person;
- (j) Requests to the Ozone Secretariat on various issues, including procedural or formal issues, and to implementing agencies for action such as expedited implementation or providing progress reports.

F. Analysis of approaches adopted by the Meetings of the Parties

49. The Meetings of the Parties have adopted a large number of decisions relating to the framework by which the parties review and ensure continuing compliance with the Protocol. They include decisions on control measures (under Articles 2, 2A through 2J and Article 5) and the review of control measures (under Article 6), including definitions of key terms under Article 1, adjustments to existing control measures and the addition of new control measures through amendments to the Protocol; decisions on trade relating to Articles 4, 4A and 4B; decisions on the reporting of data under Article 7; decisions on non-compliance and the non-compliance procedure and institutional arrangements under Article 8; decisions on research, development and public awareness under Article

9; and decisions on the financial mechanism under Articles 10 and 10A, including the establishment and replenishment of the Multilateral Fund, the membership of the Executive Committee, the review and evaluation of the financial mechanism and the eligible cost categories and guidelines for funding the phase-out of controlled substances by Article 5 parties.

50. With respect to compliance-related issues, the decisions adopted to date by the Meetings of the Parties include more than 30 decisions relating to parties' compliance or non-compliance with their data reporting obligations (including baseline data); 150 decisions relating to compliance or non-compliance with the control measures under the Protocol or with plans of action to return to compliance; 15 decisions on licensing systems; 37 decisions on trade, including illegal trade and reporting of sources of and destinations for imports and exports and trade with non-parties in compliance with the Protocol; and 14 decisions relating to requests for changes in baseline data. Decisions have also been adopted on procedural issues with respect to the non-compliance procedure itself and the format and methodology for data reporting, as well as the annual decision on the membership of the Implementation Committee.

51. Decisions relating to parties' non-compliance with the control measures under the Protocol typically relate to the submission by the non-compliant party of an explanation for the situation and a plan of action that would enable it to return to a state of compliance (either by requesting such an explanation and plan or by recording the explanation or plan that has already been submitted). Plans of action contain time-specific benchmarks for the reduction in consumption and production of controlled substances. They may also include commitments to introduce import or production quotas for controlled substances, bans on imports of equipment dependent on controlled substances and the adoption of relevant policy and regulatory instruments.

52. Decisions relating to non-compliance also typically provide for ongoing monitoring of the situation and urge the party concerned to work with the relevant implementing agencies, where applicable, to implement the plan of action. The decisions note that, to the degree that the party is working towards and meeting the specific Protocol control measures, it should be regarded as a party in good standing and should continue to receive international assistance to enable it to meet its commitments, in line with item A of the indicative list of measures that might be taken in respect of non-compliance. The decisions caution the non-compliant party, in terms of item B of the indicative list of measures, that in the event of failure to return to compliance in a timely manner, the parties will consider measures consistent with item C of the indicative list of measures, which allows for suspension of specific rights and privileges under the Protocol in a situation of non-compliance. To date, only one decision has been adopted to apply such measures to any party.⁶

53. The consideration of trade issues by the Meetings of the Parties (which extends beyond those issues reported to it by the Implementation Committee) includes the following:

- (a) Clarification of the application of export bans with non-parties to particular amendments (e.g., decision IV/17A);
- (b) Recommendations to parties to adopt legislative and administrative measures, including labelling, to regulate imports and exports (15 decisions);⁷
- (c) Requests to the Ozone Secretariat to provide information on dumping, illegal trade and uncontrolled production of controlled substances (decision VII/33) and on options for studying a range of issues related to illegal trade (decisions XII/10 and XIII/12);
- (d) Encouragement to parties to take particular actions to improve the monitoring of trade and prevent illegal trade (decision XIV/7);
- (e) Requests to the Ozone Secretariat to produce draft terms of reference for a study on the feasibility of developing a system for tracking trade in ozone-depleting substances and to convene a workshop of experts to make appropriate proposals to the Meeting of the Parties (decision XVI/33), and to revise the data reporting forms to cover exports (including re-exports) of controlled ozone depleting substances (decision XVII/16);
- (f) Building on the resulting recommendations from the workshop, exhortations to parties to take specific action (decisions XVIII/18 and XIX/12).

⁶ Decision VII/18, para. 8, restricted exports of ozone-depleting substances by the Russian Federation to only Belarus and Ukraine (which were part of the Commonwealth of Independent States).

⁷ Decisions VII/32, IX/8, IX/9, XIV/36, XV/20, XVI/32, XVII/23, XVIII/35, XIX/26 (which included a request for the submission of a plan of action to establish licensing systems), XX/14, XXI/12, XXII/19, XXIII/31, XXIV/17 and XXV/15.

G. Scientific and technical monitoring

54. Beyond the monitoring of compliance by individual parties with their specific legal obligations, the Protocol also makes provision for regular assessment and review of the control measures themselves, under Article 6, which states that every four years the Parties shall assess the control measures provided for in Articles 2 and 2A through 2J “on the basis of available scientific, environmental, technical and economic information”. To that end, the parties “shall convene appropriate panels of experts qualified in the fields mentioned” and “the panels will report their conclusions, through the Secretariat, to the parties”.

55. In addition, under the Vienna Convention for the Protection of the Ozone Layer, the parties undertook, in Article 2, paragraph 2 (a), to “co-operate by means of systematic observations, research and information exchange in order to better understand and assess the effects of human activities on the ozone layer and the effects on human health and the environment from modification of the ozone layer”.

56. Apart from the mechanisms for scientific and technical monitoring provided for under the Protocol and the Convention, independent scientific monitoring plays an important role in confirming parties’ compliance with their obligations. For example, an article published in 2018 in the journal *Nature*⁸ triggered a discussion by the parties that culminated in decision XXX/3 on unexpected emissions of CFC-11. The issue was taken up by the Scientific Assessment Panel and discussed at length in its 2018 quadrennial assessment report.^{9,10}

1. Assessment and review of control measures: assessment panels

57. The assessment panels were established pursuant to Article 6 of the Protocol.

58. The Technology and Economic Assessment Panel¹¹ works in conjunction with its five technical options committees,¹² which deal with specific sectors of the industry related to ozone protection. From time to time, it also convenes temporary subsidiary bodies in the form of working groups or task forces to address particular issues raised by the parties. The Panel keeps abreast of new technologies, industrial processes and changes in the markets, and can identify the production and consumption of controlled substances and possible sources of emissions from their use. In doing so, the Panel relies on data from industry and other sources, as well as drawing from the data reported by the parties under the Protocol.

59. The Scientific Assessment Panel and the Environmental Effects Assessment Panel are responsible for the review of scientific knowledge and knowledge concerning the environmental effects of ozone depletion, respectively.¹³

60. All panels submit quadrennial reports, and the Technology and Economic Assessment Panel and its technical options committees also provide ongoing progress reports and other thematic reports in response to specific requests from the parties more frequently. From time to time, the work of the panels, the committees and any temporary subsidiary bodies is informed by requests from the Meetings of the Parties. Through their work, the panels provide independent and empirical assessments of the implementation of the Protocol and inform decisions on ozone layer protection to help to ensure that the Protocol achieves its mandate.

⁸ Stephen A. Montzka and others, “An unexpected and persistent increase in global emissions of ozone-depleting CFC-11”, *Nature*, vol. 557, pp. 413–417 (2018). Available at www.nature.com/articles/s41586-018-0106-2.

⁹ World Meteorological Organization, *Scientific Assessment of Ozone Depletion: 2018*, Global Ozone Research and Monitoring Project—Report No. 58 (Geneva, 2018).

¹⁰ Similarly, the 2002 quadrennial report by the Scientific Assessment Panel raised the issue of the significant measured atmospheric concentrations of carbon tetrachloride, which was subsequently discussed by the parties – see decisions XVI/14, XVIII/10, XXI/8, XXIII/8 and XXVII/7.

¹¹ The current terms of reference of the Technology and Economic Assessment Panel, its technical options committees and temporary subsidiary bodies were adopted by the parties in their decision XXIV/8 and deal with the scope of work, procedural issues, reports, code of conduct and conflict of interest and disclosure guidelines.

¹² Flexible and Rigid Foams Technical Options Committee (FTOC); Halons Technical Options Committee (HTOC); Medical and Chemicals Technical Options Committee (MCTOC); Methyl Bromide Technical Options Committee (MBTOC); and Refrigeration, Air-Conditioning and Heat Pumps Technical Options Committee (RTOC).

¹³ The terms of reference for the Scientific Assessment Panel and the Environmental Effects Assessment Panel were adopted by the First Meeting of the Parties (see annex VI to the report of the Parties to the Montreal Protocol on the work of their first meeting).

2. Vienna Convention: research and systematic observations

61. Although decision XXX/3 requested information on procedures under the Montreal Protocol and its Multilateral Fund, the Secretariat considered it pertinent to include information in the present report on procedures under the Vienna Convention, which also provides for independent scientific reviews in the form of research and systematic observation of the ozone layer itself.

62. In Article 3 of the Convention, the parties undertook to initiate and cooperate, directly or through competent international bodies, in the conduct of research and scientific assessments that were further elaborated in Annexes I and II to the Convention.

63. To that end, the meeting of the Ozone Research Managers was established¹⁴ to “review ongoing national and international research and monitoring programmes to ensure proper coordination of these programmes and identify gaps that need to be addressed”. That scientific forum is composed of government-appointed atmospheric research managers and scientists who specialize in research and systematic observations related to ozone layer modifications. The Conference of the Parties to the Vienna Convention typically adopts a decision at each of its triennial meetings taking note of the report of the Ozone Research Managers and encouraging the parties to adopt and implement the recommendations in the report (see decision VC XI/1 and previous related decisions).

64. The General Trust Fund for Financing Activities on Research and Systematic Observations Relevant to the Vienna Convention for the Protection of the Ozone Layer was established¹⁵ “for the purpose of financing activities on research and systematic observations relevant to the Vienna Convention”. The primary aim of the Trust Fund is to provide complementary support for the continued maintenance and calibration of the existing World Meteorological Organization Global Atmospheric Watch ground-based stations in developing countries and in countries with economies in transition, to achieve balanced global coverage. Consideration is also to be given to supporting other activities identified by the Ozone Research Managers and in consultation with the co-chairs of the Scientific Assessment Panel and the Environmental Effects Assessment Panel, for the improvement of the observation network and relevant research.

65. The Trust Fund has an advisory committee¹⁶ with a mandate to develop a long-term strategy for the Trust Fund with implementation objectives and priorities; to develop a short-term action plan that takes into account the most urgent needs of the Global Ozone Observing System; and to ensure quality control of individual project proposals developed under the Trust Fund.

III. Procedures under the Multilateral Fund by which the parties review and ensure continuing fulfilment of obligations under funding agreements

66. In response to decision XXX/3 of the Thirtieth Meeting of the Parties and Executive Committee decision 82/86, the secretariat of the Multilateral Fund has provided information to the Ozone Secretariat in a note entitled “Overview of the procedures under the Multilateral Fund by which the parties review and ensure continuing compliance with the terms of agreements under the Fund”, which builds upon the information contained in the document UNEP/OzL.Pro/ExCom/82/70, which had been prepared for the eighty-second meeting of the Executive Committee. The present section sets out the key elements of the information provided. The full document is available on the conference portal as a background document.

67. The financial mechanism of the Montreal Protocol, which includes the Multilateral Fund, was established by Article 10 of the Protocol “for the purposes of providing financial and technical cooperation, including the transfer of technologies, to parties operating under paragraph 1 of Article 5 of this Protocol to enable their compliance with the control measures set out in Articles 2A to 2E, Article 2I and Article 2J, and any control measures in Articles 2F to 2H that are decided pursuant to paragraph 1 bis of Article 5 of the Protocol”. The mechanism meets all agreed incremental costs of such parties in order to enable their compliance with the control measures of the Protocol.

68. The Multilateral Fund consists of an Executive Committee, established under paragraph 5 of Article 10 of the Protocol, and a secretariat, the functions of which are described in the terms of reference for the Multilateral Fund, as set out in annex IX to the report of the Fourth Meeting of the

¹⁴ By decision VC I/6 of the first meeting of the Conference of the Parties to the Vienna Convention.

¹⁵ By decision VC VI/2 of the sixth meeting of the Conference of the Parties.

¹⁶ Constituted in response to para. 2 of decision VC X/3 of the tenth meeting of the Conference of the Parties.

Parties. Pursuant to paragraph 4 of Article 10, the Multilateral Fund operates under the authority of the parties, who decide on its overall policies.

A. Enabling compliance through the strengthening of regulatory and institutional frameworks

69. The Multilateral Fund, working with its four implementing agencies¹⁷ and bilateral agencies, provides support to Article 5 parties in the implementation of the Protocol, including through institutional strengthening, capacity-building and compliance assistance.

70. Institutional strengthening provides support for national ozone units in relation to policies, laws and regulations (including the establishment and strengthening of national licensing and quota systems) and their enforcement, import/export data collection and management, reporting of consumption data on controlled substances to both the Ozone Secretariat and the secretariat of the Multilateral Fund, and phase-out activities at the country level. The national regulatory frameworks necessary to ensure compliance with the Montreal Protocol vary based on the particular circumstances of the recipient countries. Institutional strengthening support is also relevant to assisting in the ratification of the amendments to the Montreal Protocol; coordinating stakeholders and linking government authorities with the Executive Committee, the secretariat of the Multilateral Fund and bilateral and implementing agencies; integrating ozone protection issues into national plans; and raising awareness among specific stakeholders and the general public.

71. Capacity-building support in the consumption sector has consistently included the training of law enforcement and customs officers. For the production sector, capacity-building has been provided to ensure reporting and controls on the levels of production and exports, including licensing and quota systems, and reporting and controls on continued production for which non-controlled uses of such substances remain (e.g., feedstock, quarantine and pre-shipment).

72. Capacity-building is also a cornerstone of the assistance provided through the United Nations Environment Programme Compliance Assistance Programme, which, through its regional presence, provides services to Article 5 countries to ensure and sustain the countries' compliance with Protocol measures and to address the individual compliance-related needs articulated by national ozone units. The Compliance Assistance Programme works with Article 5 countries in strengthening their national capacity for effective customs and trade controls, most specifically through the (voluntary) informal prior informed consent mechanism established to support the enforcement of licensing systems for ozone-depleting substances. This and other compliance assistance tools are described in annex II to the background document on the overview of Multilateral Fund procedures provided by the secretariat of the Multilateral Fund. The Compliance Assistance Programme operates nine¹⁸ regional networks that support capacity-building of national ozone officers. These networks share lessons learned and exchange experiences, information and approaches among network members, developed-country partners, technical experts, the Ozone Secretariat, the secretariat of the Multilateral Fund, implementing agencies and other relevant organizations and individuals.

B. Procedures for reporting, monitoring and evaluation under the Multilateral Fund

73. Reporting, monitoring and evaluation under the Multilateral Fund take place as described below.

1. Reporting on consumption and production of controlled substances

74. The following framework has been established under the Multilateral Fund with respect to monitoring and reporting on funded activities for phasing out controlled substances through the financial mechanism:

(a) Governments are required to monitor progress made in reducing the consumption of controlled substances in line with the plans set out in their country programmes and to periodically review the effectiveness of the measures being taken (UNEP/OzL.Pro/ExCom/5/16, paras. 22 and 23). They are required to submit annually a progress report (the country programme data report) on the

¹⁷ The United Nations Development Programme, the United Nations Environment Programme, the United Nations Industrial Development Organization and the International Bank for Reconstruction and Development (World Bank).

¹⁸ The networks for Southeast Asia, South Asia, Pacific Island Countries, West Asia, English-speaking Africa, French-speaking Africa, Europe and Central Asia, Central and Latin America, and the Caribbean.

implementation of country programmes to the secretariat of the Multilateral Fund. Current country programme data reports primarily include information on HCFCs.¹⁹ Country programme data reports are more detailed than data reporting by parties to the Ozone Secretariat under Article 7 and represent the sole source of information on the sector distribution of the use of controlled substances in Article 5 countries;

(b) Consumption and production data (where applicable) included in project proposals are compared with country programme data and with data reported under Article 7 of the Protocol to determine eligible consumption for funding (see Executive Committee decisions 34/18 (a) and 41/16).

75. Based on the country programme data reports, the secretariat of the Multilateral Fund prepares a document on country programme data and prospects for compliance, which the Executive Committee considers at each meeting and which is also submitted as an information document to each meeting of the Implementation Committee.

76. The document summarizes data and information from the country programme reports received, containing, inter alia, the status of licensing and quota systems and an analysis of the status of compliance with the control measures under the Montreal Protocol. The document also compares the consumption and production data under country programme reports with the data reported under Article 7 of the Protocol and identifies potential data inconsistencies between the two data sets. It does not address consumption and production of substances that have already been phased out (e.g., CFCs, carbon tetrachloride and halons).

77. Any inconsistencies in the consumption and production data reported under country programme reports and under Article 7 reports are drawn to the attention of the Executive Committee and, through the information document submitted to each meeting of the Implementation Committee, to the attention of the Implementation Committee and the Ozone Secretariat. The Executive Committee requests relevant implementing agencies to assist the Governments concerned in clarifying the cause of the inconsistency.

2. Conditions and follow-up under funding agreements

78. Since 1999, multi-year agreements have become the predominant funding modality of the Multilateral Fund. Currently, the Executive Committee is considering and monitoring multi-year agreements related to HCFC phase-out management plans and HCFC production phase-out management plans. They specify the commitment of the Governments concerned to achieving sustained aggregate reductions of consumption and production (where applicable) and the funding approved in principle upon demonstration of achievement of those reductions.

79. The conditions for funding that are applicable to the phase-out of HCFCs, which flow from those established for the phase-out of CFCs, include the following requirements:

(a) Funding for the implementation of the HCFC phase-out management plan is only approved once confirmation of the existence and implementation of control measures has been received from the Government;

(b) Since the sixty-eighth meeting of the Executive Committee, Governments are required to provide, as a condition for approving funding for tranche requests, confirmation that an enforceable system of licensing and quotas for HCFC imports and, where applicable, HCFC production and exports, is in place and that the system is capable of ensuring the country's compliance with the HCFC phase-out schedule;

(c) Since the seventy-ninth meeting of the Executive Committee, funding requests for plans for complete HCFC phase-out in the manufacturing sector must include the regulatory measures necessary to ensure the sustainability of complete HCFC phase-out in that specific sector, such as policies banning the import and/or the use of HCFCs.

80. The multi-year agreements describe the conditions that need to be met before releasing funding tranches, including verification; the monitoring of the activities included in the agreements; the roles and responsibilities of the national institutions; the roles and responsibilities of the bilateral and implementing agencies; and the implications of non-compliance with the agreements.

¹⁹ The current country programme data reporting format also includes methyl chloroform and methyl bromide for quarantine and pre-shipment use and non-quarantine and pre-shipment use. The Executive Committee will review the country programme data reporting format at its eighty-third meeting, in line with decision 81/4 (b) (iii).

81. With respect to conditions to be met, the Executive Committee will only provide funding when the country concerned:
- (a) Has met the phase-out targets of the controlled substances in the agreements and those targets have been independently verified for all relevant years, unless otherwise decided by the Executive Committee;
 - (b) Has submitted a progress report demonstrating that it had achieved a significant level of implementation of activities initiated with previously approved tranches;
 - (c) Has an implementation plan covering each calendar year up to and including the year for which additional funding will be requested.

3. Verification, monitoring and reporting

82. Independent verification of a country's compliance with the reduction targets under the agreement is a condition for funding the release of a tranche unless the Executive Committee decides that such verification will not be required.
83. Verification is the responsibility of the relevant (lead) bilateral or implementing agency. It is undertaken by an independent consultant or institution contracted by the agency, using Executive-Committee-approved standard formats, including detailed guidelines. The guidelines include provisions concerning the selection and terms of reference of the contractor, as well as conflicts of interest.
84. The verification reports are reviewed by the secretariat of the Multilateral Fund, which brings relevant issues to the attention of the Executive Committee for decision. Verification is typically not conducted after the completion of a project.
85. Principles applicable to verification include the following:
- (a) For HCFCs, the verification of consumption should review national legislation, policies and procedures on imports/exports of the substances mentioned in the agreement;
 - (b) Where applicable, the verification should also cover other imported HCFCs that are not listed in the agreement;
 - (c) Annual consumption of ozone-depleting substances should be verified against consumption targets established in the agreement, for all years for which a target is set in the agreement, except those years that have been previously verified;
 - (d) Verifications are also required for tranches of non-low-volume-consuming countries; for low-volume-consuming countries,²⁰ verification is not required for every tranche submission but is done on a sample basis. Each year, the Executive Committee selects a sample of 20 per cent of low-volume-consuming countries for the purposes of verification. The verification report covers all years since the approval of the previous tranche, including the year of the approval of that tranche. Additional funding is provided to those countries to undertake that exercise;
 - (e) The verification report should provide detailed information on the licensing and quota systems, as is set out in the note provided by the secretariat of the Multilateral Fund;
 - (f) The requirements for consumption sector verification reports differ from those for the production sector;
 - (g) Requirements for verification reports in the consumption sector include a comparison between licenses issued and actual imports for each individual importer. Data for actual imports are compared with country programme data and Article 7 data, as well as the targets specified in the agreement. Information must be provided on whether the national customs codes can identify imports of different controlled substances; and whether customs authorities at points of entry are provided with the basic requirements for inspection. The report should review the implementation of the licensing, quota, import/export control and monitoring systems, identify room for improvement and confirm whether the licensing system can handle atypical events;
 - (h) Requirements for verification reports in the production sector differ depending on whether production for exempted uses continues after the phase-out of production. Where the closure of facilities is not required because production for exempted uses may continue, parallel technical and

²⁰ Specifically, for CFCs, countries with a consumption baseline of ozone depleting potential of 360 tonnes and below, and for HCFCs, countries with a consumption baseline in the refrigeration servicing sector of 360 tonnes and below.

financial verification is undertaken, including a cross-check of producer export records for each plant against customs records, and the results are cross-checked to ensure consistency of verified results. Where closure of the production facilities is required after phase-out of production, verifications include further documentation, such as photographic or video evidence of the dismantling and destruction of key equipment, so that production cannot resume after the completion of the project. In either case, all verifications of production lines covered in an agreement are carried out following the prescribed standard format, which provides detailed guidance on what should be included (approved by Executive Committee decision 32/70).

86. Implementing and bilateral agencies are required to submit project completion reports within six months of completion of a project, again using predefined formats. Project completion reports for stand-alone investment projects include detailed information on eligible incremental capital costs, incremental operating costs, any possible savings incurred during the conversion and relevant factors that facilitated implementation.²¹ Project completion reports for multi-year agreements have been streamlined to focus on the lessons learned during implementation of the project and can encompass multiple sectors and activities.

87. As specified in the agreements, the countries are required to conduct regular monitoring of the progress of the activities in their national plans. The monitoring institutions and their roles and responsibilities are described in the agreements, which vary by country. The reporting of such monitoring to the Executive Committee typically ends upon completion of the project.

88. The agreements define the roles and responsibilities of the bilateral and implementing agencies that provide assistance to the countries concerned as lead or cooperating agency. The lead agency takes responsibility, *inter alia*, for ensuring performance and financial verification in accordance with the agreements; providing independent verification to the Executive Committee that the phase-out targets have been met and the associated tranche activities have been completed; fulfilling the reporting requirements for the progress reports and the overall plans; ensuring that appropriate independent technical experts carry out the technical reviews; and carrying out required supervision missions. The cooperating agency provides assistance in policy development when required, assists the country in the implementation and assessment of the activities funded by it while ensuring coordination of activities with the lead agency, and reaches consensus with the lead agency on any planning, coordination and reporting arrangements to facilitate the implementation of the plan.

4. Consequences of not meeting the terms of the funding agreements

89. If a country does not meet the phase-out targets for the controlled substances specified in the agreement or otherwise does not fulfil the agreement, the Executive Committee may decide that the country will not receive the funding specified in the agreement. In such cases, the Executive Committee may reduce the amount of funding (the Committee will discuss each specific case of non-compliance with the agreement) and take related decisions. For example, the Executive Committee, at its seventy-second meeting, decided to withhold 10 per cent of the agreed funding for the second tranche of stage I of an HCFC phase-out management plan pending establishment of the exact consumption of the party for the year concerned and to consider at the following meeting what level of penalty to apply, up to the limit of the funds withheld from the second tranche; at its seventy-fifth meeting, it applied a penalty of 15 per cent of funding of the third tranche of stage I of an HCFC phase-out management plan for a party; and at its eightieth meeting, it applied a penalty calculated on the basis of an amount per kilogram of compensated HCFC production capacity that had been redirected towards feedstock, resulting in an amount to be returned to the Multilateral Fund (see UNEP/OzL.Pro/ExCom/72/47, UNEP/OzL.Pro/ExCom/75/85 and UNEP/OzL.Pro/ExCom/80/59).

5. Monitoring and evaluation under the Multilateral Fund

90. In 1996, at its nineteenth meeting, the Executive Committee endorsed the draft terms of reference for the design of a monitoring and evaluation system for the Multilateral Fund. Monitoring and evaluation involves periodic reporting to gauge the progress, or lack of progress, of completed and ongoing projects. It provides information on the strengths and limitations of various types of projects and phase-out plans, the major causes of failure to reach targets, lessons learned during

²¹ See annex XI.5: Format for project completion report (investment projects) in "Policies, procedures, guidelines, criteria (as at June 2018)". Available at www.multilateralfund.org/Our%20Work/policy/Shared%20Documents/Policy81.pdf.

implementation, and recommendations for action to improve the performance of the Fund. The monitoring and evaluation work programme is submitted annually for Executive Committee approval.

91. Findings and recommendations from the evaluation reports have been reflected in Executive Committee decisions and considered by Meetings of the Parties. For example, an evaluation of customs officer training and licensing system projects in a number of countries (see UNEP/OzL.Pro/ExCom/45/11 and UNEP/OzL.Pro.WG.1/25/6) resulted in the adoption of Executive Committee decision 48/11, paragraph (c), which requested bilateral and implementing agencies to prepare and implement phase-out plans in a manner that would ensure implementation of a number of recommendations made in the evaluation report.

92. Annex I to the background document on procedures for reviewing and ensuring compliance, provided by the secretariat of the Multilateral Fund, highlighted some important findings from evaluation reports relating to CFC consumption and production and has been reproduced in the annex to the present document for ease of reference. Some key points arising out of these and other evaluations by the secretariat of the Multilateral Fund include the following:

(a) Institutional strengthening was essential to the successful and on-schedule phase-out of ozone-depleting substances by most Article 5 countries (see UNEP/OzL.Pro/ExCom/56/8);

(b) Where CFC plants were not dismantled but converted to HCFC-22 production, steps needed to be taken to ensure that they did not revert to CFC manufacture. In decommissioning CFC production plants, key elements should be destroyed in a process that is documented and verified (see UNEP/OzL.Pro/ExCom/40/9);

(c) The sector approach adopted by the Executive Committee worked well, as the planned phase-out was achieved. Quota systems to gradually reduce CFC production in exchange for compensation to enterprises generally performed well. Controls on illegal production and illegal trade seemed to be adequate, with several small production plants detected and illegally traded quantities confiscated (see UNEP/OzL.Pro/ExCom/42/12). The rigorous application of import licensing and the completion of phase-out projects to reduce demand were the most productive methods of controlling international trade and reducing illegal trade. Recommendations included awareness-raising among customs officers and building a specialized environmental customs team (see UNEP/OzL.Pro/ExCom/44/12);

(d) Stockpiling seemed to take place ahead of the freeze, especially for CFCs; however, that was followed by a rapid reduction in consumption. Institutional weakness was identified as a possible cause of non-compliance and could be a serious impediment to sustainable compliance for a limited number of countries. Low-volume-consuming countries had a disproportionately high share of non-compliance with the CFC freeze (see UNEP/OzL.Pro/ExCom/46/8);

(e) Possible causes of non-compliance included internal instability, late start of phase-out activities, delays in implementing phase-out projects and developing the legal framework, and deficiencies in communication and cooperation with key stakeholders. One of the most important incentives for achieving compliance with freeze obligations and reduction targets was the commitment in the plan of action submitted to the Implementation Committee and approved by the Meeting of the Parties (see UNEP/OzL.Pro/ExCom/50/9);

(f) Important policy measures included import controls (and sometimes outright bans) and training customs officials, issuing quotas to producers and specific consumption or trading quotas. Possible sustainability issues for carbon tetrachloride phase-out were identified, including low prices linked to illegal sales and use and decisions that allowed stockpiling for future feedstock use (see UNEP/OzL.Pro/ExCom/51/12);

(g) Recommendations were made relating to capacity-building of national ozone units and coordination with other government agencies (see UNEP/OzL.Pro/ExCom/51/13);

(h) Early CFC phase-out was achieved through efficient stakeholder engagement, strict implementation of quota systems and the development of market conditions. Sustainability could be ensured by the efficient operation and enforcement of the import licensing system, as well as continued monitoring and public awareness campaigns. Strengthening monitoring to provide data on recovery and recycling operations was recommended (see UNEP/OzL.Pro/ExCom/58/8);

(i) Undesirable market developments were a cause for concern (e.g., the presence of low-quality CFC alternatives). Existing recovery, recycling and reclamation equipment was reducing demand for HCFC imports, but logistical improvements were needed. Sustainability could be ensured by reinforcing institutional strengthening activities (see UNEP/OzL.Pro/ExCom/69/12).

IV. Observations emanating from sections II and III above

93. The Vienna Convention and its Montreal Protocol are widely acknowledged to be among the most effective multilateral environmental agreements in history. They were the earliest such agreements to achieve universal ratification, which is a significant achievement in its own right and confirms the high degree of engagement by parties to work together to solve a global problem. However, serious concerns have recently been raised by the parties over the unexpected emissions of CFC-11 (UNEP/OzL.Pro.30/11, paras. 128–148).

94. Three cornerstones of the Protocol's architecture are, decision-making based on updated scientific and technical information, its compliance mechanism and the financial mechanism to assist Article 5 parties in meeting their obligations under the Protocol.

95. The provisions in the Protocol and the Convention for ongoing scientific, environmental, technical and economic assessment provide the basis for the independent evaluation of actual progress being made towards healing the ozone layer. They also make it possible to detect and address anomalies, such as changes in concentrations and emissions of controlled substances, and to identify the sources of such changes. The unexpected emissions of CFC-11 were identified in this way.

96. The framework for compliance and the non-compliance procedure apply to all parties to the Protocol. The assessment of compliance relies on data and information reported by the parties themselves. There is no provision under the Protocol for the independent verification of data and information reported by the parties under the Protocol, be it data related to consumption and production of ozone-depleting substances reported in accordance with Article 7 or information provided pursuant to Article 4B on licensing.

97. The Protocol's framework for reviewing and ensuring compliance with the obligations that parties to the Protocol have committed to meeting is an important part of its success. The approach adopted is one of facilitation, including the provision of assistance to parties, rather than punishment. That approach has promoted compliance by all parties and encouraged parties to self-report potential non-compliance. While there is provision for a more punitive approach to be adopted in line with item C of the indicative list of measures, that has only been resorted to once in the Protocol's history. Monitoring of implementation by parties that are subject to non-compliance decisions, including their development and implementation of plans of action to return to compliance, also confirms their strong overall commitment to fulfilling Protocol obligations.

98. The Implementation Committee's active engagement, as evidenced by the large number of recommendations adopted to date, can be regarded as a key strength of the non-compliance mechanism. The reliance on standardized recommendations for scenarios that arise frequently ensures that similar cases are treated in a consistent manner, in line with fundamental principles of administrative law. Another key strength is the geographical balance among parties represented in the Committee; the regular review of the Committee's membership also enhances inclusiveness and transparency. However, there is no requirement for specific expertise or qualifications among its membership.

99. Similarly, the relatively large number of decisions taken by the Meetings of the Parties on compliance and related matters emphasizes the importance of the compliance mechanism in the framework of the Protocol and the commitment of the parties to ensuring compliance.

100. A number of decisions provide for voluntary reporting of data and information. For example, decision XVII/16 urges parties to implement the revised reporting forms, which include exports of controlled ozone-depleting substances; decision XXX/12 urges parties to provide information on sources and destinations of imports and exports; and decision XIV/7 invites parties to report to the Ozone Secretariat fully proved cases of illegal trade in ozone-depleting substances, for dissemination to all parties. Although reporting of such information is voluntary, when reported it can contribute to the enhancement of a party's ability to comply with its obligations, by ensuring useful exchanges of information and the provision of practical advice.

101. To some extent, the policies and processes related to monitoring, reporting, verification and evaluation under the Multilateral Fund may, for Article 5 parties, compensate for the lack of verification under the Protocol's reporting and compliance provisions. The comparison of data reported under the country programme with that reported under Article 7 of the Protocol provides a useful mechanism for reviewing the reported data. The detailed progress reports submitted with each funding tranche request of an HCFC phase-out management plan or an HCFC production phase-out management plan have helped to assess the potential risk of a party being in non-compliance with the

Protocol, to determine the accuracy of the consumption previously reported²² and to identify consumption that had not been reported.²³

102. In the verification process, both the data reported and the operation of the licensing and quota systems are reviewed. Verification reports follow formats approved by the Executive Committee and are produced by external contractors, contributing to a consistent and independent assessment of the party's implementation of its obligations. However, these policies and procedures are only applicable to Article 5 parties receiving support from the Multilateral Fund. Monitoring and verification are typically not conducted after the completion of a project.

103. The evaluations conducted to date under the auspices of the secretariat of the Multilateral Fund have confirmed the centrality of the licensing and quota system to enforcing control measures, as well as the value of institutional strengthening and capacity-building. They have also highlighted the importance of monitoring swing plants and documenting the closure of production facilities, including the dismantling and destruction of key equipment, to ensure that CFC production cannot resume, and of identifying and dismantling any illegal production of controlled substances.

104. Non-fulfilment by a party of its obligations under its funding agreements can lead to a more punitive approach than is usually the case under the non-compliance procedure, including financial penalties.

²² A number of countries have reduced their starting points and levels of consumption in base years and subsequent years.

²³ For example, HCFC-22/HCFC-142b blends and HCFC-141b in pre-blended polyols.

Annex***List of selected evaluations undertaken on CFC consumption and production**

Title	Description	Key findings
Executive Committee report on the evaluation of customs officers training and licensing system projects (UNEP/OzL.Pro.WG.1/25/6)	The report of the Executive Committee on the evaluation of customs officers training and licensing system projects was prepared in response to decision XIV/7, paragraph 6 of the 14th Meeting of the Parties to the Montreal Protocol and presented to the 25th Meeting of the Open-ended Working Group (OEWG) in June 2005	The recommendations of the OEWG were: Improving the involvement of customs, including the higher levels of hierarchy, in the ODS phase-out; amending and upgrading the legislation framework in those Article 5 countries where it is incomplete, and improving enforcement and regional cooperation; accelerating and assisting implementation of customs training, including regional activities, where appropriate; and amending training materials and contents and putting supporting information materials and identifiers to effective use
Desk study on the evaluation of the implementation of the CFC-production sector agreements (UNEP/OzL.Pro/ExCom/40/9)	The report describes the main features of the agreements, the modalities of their implementation, the results achieved so far and their verification. Additionally, issues for further analysis during field evaluation missions are identified	The phase-out planned under the agreements has been achieved and the funding has been provided as scheduled, except for China. Plants that are designed for production of both CFCs and HCFC-22 (swing plants) have not been dismantled, because they have been converted to HCFC-22 production. However, it must be assured that they will not be reconverted to CFC manufacture. Auditing of production volumes in swing plants designed to be able to produce both CFCs and HCFC-22 might be necessary, to ensure that no CFC is produced. In decommissioning CFC-production plants, key elements should be destroyed and this process be documented and verified. In order to avoid restarting CFC production at the same or other locations, information about the fate of equipment not destroyed should also be made available to the verification team
Report on the intermediate evaluation of CFC production sector phase-out agreements (UNEP/OzL.Pro/ExCom/42/12)	This report is a synthesis of reports of evaluation missions regarding CFC production sector phase-out agreements in three Article 5 countries (China, the Democratic People's Republic of Korea and India)	Due to the large number of plants, the sector approach adopted by the Executive Committee for these agreements has worked well. The quota systems adopted in China and India to gradually reduce CFC-production in exchange for compensations provided to the enterprises performed generally well. Policies regulating production and the institutional arrangements to implement them, as well as sales and foreign trade of CFCs and are in place in the three countries. There seems to be an adequate control of illegal production and trade. In several instances, small illegal production plants have been detected and dismantled in China, and in India, some quantities of illegally imported CFC were confiscated by customs and distributed to

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		<p>the CFC producers. Technical assistance has been allocated in each annual programme for India and China, and has normally been underspent. In India and China, the prices for CFC did not go up due to a lower demand created by the awareness-raising to end-users, which matched the speed of the phase-out process. The process of phase-out set in motion seems to be sustainable and on track to achieve the full elimination of CFC production planned for the end of 2009, supported by the Governments' power to impose significant penalties for any transgressions (decision 42/42)</p>
<p>Follow-up to decision 42/12(c) on the intermediate evaluation of CFC production sector phase-out agreements (UNEP/OzL.Pro/ExCom/43/9)</p>	<p>This report is in follow-up to decision 42/12(c): "To request the Government of India, in cooperation with the World Bank, to plan and verify allowable CFC production in India as so-called gross production, to review the calculations made to establish the baseline for the agreement, and to report to the 43rd meeting on their findings"</p>	<p>At its 42nd meeting, the Executive Committee considered the report on the intermediate evaluation of CFC production sector phase-out agreements, which presented the findings and recommendations resulting from the evaluation missions to China, the Democratic People's Republic of Korea, and India in January 2004. The Secretariat received a Report prepared by the Ozone Cell, Ministry of Environment and Forests Government of India and the World Bank for submission to the 43rd meeting of the Executive Committee</p>
<p>Desk study on the evaluation of customs officer training and licensing system projects (UNEP/OzL.Pro/ExCom/44/12)</p>	<p>The objective of this desk study is to identify the results and impacts of the implementation of customs training projects and the adoption of import licensing systems, and subsequently to identify evaluation issues for further analysis and prepare the field visits</p>	<p>ODS import licensing and customs training activities were first funded as stand-alone and regional projects, but their rapid increase saw them included in the refrigerant management plan (RMP). Rigorous application of import licenses and the completion of phase-out projects to reduce demand are the most productive method of controlling international trade and reducing illegal trade. To overcome the implementation issues facing these projects, the evaluation recommended inter alia focusing on awareness-raising of customs officers regarding ODS issues and building a specialized customs team to deal with environmental problems, strengthening local/provincial environment authorities to actively support the control procedures, relying on technicians, university staff or governmental laboratories to assist customs in identifying suspicious shipments, and combining all environmental agreement training (e.g., Basel, Stockholm, Rotterdam) in one</p>
<p>Desk study on non-compliance with the freeze in consumption of CFCs, halons, methyl bromide (MB) and methyl chloroform (UNEP/OzL.Pro/ExCom/46/8)</p>	<p>The evaluation of MB projects comprised two stages, a desk study and a Field study, which considered in detail the four largest consuming sectors in Article 5 countries: horticulture (including strawberries and bananas), floriculture, tobacco and postharvest uses. The country case studies were summarized in four sub-sector</p>	<p>In spite of the fact that overall aggregate consumption was usually below the baseline prior to the freeze, the available information pointed to some stockpiling (possibly even significant in a few cases) taking place prior to the freeze coming into effect, especially for CFCs. However, this was followed by a rapid reduction in consumption and for many countries in such a situation there was no persistent non-compliance. A similar</p>

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	papers, which form the basis of the synthesis report	trend may emerge with the subsequent reduction steps. Institutional weaknesses identified as possible cause for non-compliance could be a serious impediment to sustainable compliance for a limited number of countries. The role of UNEP's CAP, as well as that of the other implementing agencies, with regard to enhancing the institutional capacity of countries to address compliance issues needs further assessment. Low-volume consuming countries may constitute about 70 per cent of the number of Article 5 countries, but their share of non-compliance with the CFC freeze was disproportionately higher (decision 46/6)
Final evaluation report on cases of non-compliance (follow-up to decision 46/6) (UNEP/OzL.Pro/ExCom/50/9)	This synthesis report summarizes eight case studies on countries in past or present non-compliance with the freeze and/or reduction targets set for different ODS substances. It follows up on the desk study on non-compliance presented to the 46 th meeting (UNEP/OzL.Pro/ExCom/46/6) and the resulting decision 46/6	In each of the countries visited by the missions, there are still some specific problem areas and challenges ahead to achieve or maintain sustainable compliance. The following main causes were identified for non-compliance: Internal instability due to armed conflicts or political and economic transformation; late start of phase-out activities; delays in implementing phase-out projects and developing legal framework; and deficiencies in communication and cooperation with key stakeholders. Most of the countries covered by this report succeeded in returning to compliance with the freeze obligations, and some also with all ODS consumption reduction targets including those for 2005. One of the most important incentives for this achievement has been the commitment of meeting the targets set by the respective plan of action submitted to the Implementation Committee and approved by the Meeting of the Parties (decision 50/7)
Final report on the evaluation of CTC phase-out projects and agreements (UNEP/OzL.Pro/ExCom/51/12)	The evaluation focused on CTC used as process agents and on CTC production. It covers the first phase of the evaluation, a desk study presented at the 48 th meeting and the case studies subsequently undertaken in China, the Democratic People's Republic of Korea, India, and Pakistan	Compliance was achieved for most Article 5 countries, which is an important achievement in view of the relatively late start of CTC projects and the challenging 85 per cent reduction step without an intermediate freeze. However, eight countries reported some excesses in consumption for 2005, the largest two being Mexico (61.4 ODP tonnes) and Pakistan (86.6 ODP tonnes). Important policy measures have included the installation of import controls (and sometimes outright bans as in China) and corresponding training of customs officials; the issuing of quotas to CTC producers in countries with CTC production; and the issuing in some cases of specific consumption or trading quotas. There are some sustainability issues in that, unlike other presently controlled substances, CTC production will continue and might further increase after the phase-out of controlled production and consumption in 2010. Furthermore, demand will progressively

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		<p>decline to a point where it will be lower than the minimum amount of CTC being co-produced. Selling CTC even at very low prices will still be more profitable than destroying it, with an ensuing risk of CTC being placed on the market without licenses. Such low prices could also result in illegal use of CTC by users, who see it as the best available process agent or solvent option. Hence, ongoing monitoring systems will be vital. Other sustainability issues concern the potential influence of Decision XVIII/17 of the Meeting of the Parties, which accepted the reasoning that some apparent overproduction of CTC could be stockpiled for future feedstock use. This could lead to some leakages of CTC for controlled uses if stocks are not strictly controlled, monitored and verified (decision 51/11)</p>
<p>Desk study on the evaluation of management and monitoring of national phase-out plans (UNEP/OzL.Pro/ExCom/51/13)</p>	<p>The objective of this evaluation is to complement the evaluation of RMPs and national phase-out plans (NPPs) in non-LVC countries (document UNEP/OzL.Pro/ExCom/48/12), which focused primarily on the refrigeration sector and was not able to analyse in depth the management, monitoring and verification aspects of the NPPs. The evaluation and the field visits: reviewed the indicators for assessing implementation delays and difficulties; and analysed the coordination between several implementing agencies (IAs) engaged in implementing a NPP</p>	<p>The phase-out programmes reviewed are, in general, on target. The evaluation raised the question of the cost-effectiveness of the project management unit (PMU) frameworks, in which the PMU can either be a sub-set of the national ozone unit (NOU) or an entirely separate entity working remotely. Therefore, it is essential to ensure that the capacity building, especially working with the private and informal sectors, is not confined to the PMU, but communicated on an on-going basis to the NOU. No lack of coordination or delays was reported between the agencies. The IAs need to assist the PMU and NOU in the development and implementation of the associated legislation and regulations, supported by capacity building, institutional strengthening, stakeholder participation and development of ownership. It is thus necessary to ensure that the NPP is mainstreamed into the national plans and policies of the country, which requires cooperation with other governmental agencies (decision 51/12)</p>
<p>Final report on the evaluation of terminal phase-out management plans (UNEP/OzL.Pro/ExCom/58/8)</p>	<p>This synthesis report summarizes the evaluation reports on the role and the effects of terminal CFC phase-out plans (TPMPs), which have been prepared in several LVC countries, and assesses the findings of a sample of country case studies carried out in eight LVC countries</p>	<p>Early CFC phase-out has generally been achieved through an efficient public-private partnership forum consisting of all stakeholders, a strict implementation of quota systems and the development of market conditions rather than through investment activities. The sustainability is ensured by the efficient operation and enforcement of the import licensing system, as well as continued monitoring and public awareness campaigns. Experience with the phase-out of CFCs can and should be used for the development of a strategy of HCFC phase-out. Although none of these countries covered by this sample have established a PMU, they are all in compliance with the TPMP agreement</p>

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		and the CFC phase-out targets. However, they would benefit from strengthening their monitoring to provide regular and reliable data on recovery and recycling (R&R) operations. Most countries benefited from the flexibility clause, which made it possible to shift resources from one activity to another if deemed necessary to achieve targets (decision 58/6)
Final evaluation report of multi-year agreement projects (UNEP/OzL.Pro/ExCom/69/12)	This report follows the recommendations of a previous desk study for the evaluation of multi-year agreements (MYAs) to further inquire into a series of issues related to the effectiveness of MYA activities and for lessons learned and good practices for the implementation of the HPMP. It is based on data collected during field visits to eight non-LVC countries between January and February 2013 and it focuses mainly on the refrigeration and foam sectors	The refrigeration training activities have contributed not only to promoting actual reduction in CFC consumption but also to building the credibility of government actions and environmental initiatives in general in the sector, creating favourable ground for future endeavours such as HPMP implementation. NPPs incorporate training in good servicing practices for refrigeration technicians, which is often accompanied by the procurement and distribution of servicing tools, either as a continuation of RMPs or as a distinctive component. A cause for concern is the undesirable market developments, such as the massive presence of low-quality CFC alternatives, which can damage the equipment and affect the attitude of the sector towards change. The existing recovery, recycling, and reclamation equipment is successfully collecting and recycling HCFC-22, reducing the demand for HCFC imports. However, IAs and NOUs need to improve the logistics of transportation between refrigerant collection points and recovery/recycling centres, support the regulatory binding conditions for quality assurance and scope of coverage, as well as the economic model for a sustainable operation, including a system of incentives and stimulus. Sustainability would be ensured by the reinforcement of institutional strengthening activities. The evaluation found positive social and economical impacts of the CFC phase-out (decision 69/11)