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**Open-ended Working Group of the Parties to
the Montreal Protocol on Substances that
Deplete the Ozone Layer
Forty-third meeting**
Bangkok, 22 and 24 May and 14–17 July 2021

Report of the forty-third meeting of the Open-ended Working Group of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer

Online session on the report on the replenishment of the Multilateral Fund for the Implementation of the Montreal Protocol

Introduction

1. Owing to the continuing coronavirus disease (COVID-19) pandemic and related travel restrictions, the forty-third meeting of the Open-ended Working Group of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer could not be held in person in Bangkok as had been planned. Instead, a number of issues were selected from the provisional agenda for online work, including the replenishment of the Multilateral Fund for the Implementation of the Montreal Protocol for the period 2021–2023.

2. Accordingly, an online session on the replenishment report was convened online on 22 and 24 May 2021, to consider guidance to the task force of the Technology and Economic Assessment Panel (replenishment task force) on further work on volume 3 of the report by the Panel issued in May 2020, containing an assessment of the funding requirement for the replenishment of the Multilateral Fund for the period 2021–2023 (the replenishment report) and the related corrigendum.

I. Opening of the session

3. The session was co-chaired by Mr. Martin Sirois (Canada) and Ms. Vizmindia Osorio (Philippines).

4. The session was opened by Ms. Osorio at 2.05 p.m. (Nairobi time (UTC + 3))¹ on Saturday, 22 May 2021.

5. An opening statement was delivered by Ms. Megumi Seki, Executive Secretary of the Ozone Secretariat.

6. Ms. Osorio welcomed representatives to the online session and thanked them for the dedication and flexibility shown in attending meetings at the weekend.

7. In her statement, Ms. Seki expressed her appreciation to the parties for the decision taken by the Fourth Extraordinary Meeting of the Parties to the Montreal Protocol to facilitate the payment of

¹ All times mentioned are Nairobi time (UTC + 3).

2021 contributions to the Multilateral Fund by many parties. As a result of the significant efforts of the proponents of the draft decision and the cooperation of the other donor parties and all the parties operating under paragraph 1 of Article 5 (Article 5 parties), it would now be possible to secure valuable contributions to the Multilateral Fund, ensuring a stronger position for making progress under the Protocol.

8. The main task at the current online session was to agree on whether a supplementary report or an update to the May 2020 report by the Technology and Economic Assessment Panel was required, and what kind of information any such work should cover. Comments posted in advance of the session by parties on the online forum on the issue had enabled all the parties to prepare for the discussion at the current session.

9. Reaching consensus on the issue was important because the further work by the Panel, together with the original report issued in May 2020, would form the basis of the negotiations on the replenishment for the period 2021–2023, due to take place at the combined twelfth meeting (part II) of the Conference of the Parties to the Vienna Convention for the Protection of the Ozone Layer and the Thirty-Third Meeting of the Parties to the Montreal Protocol. It was still not certain whether that meeting would be held in person or online; parties might therefore wish to consider other ways of negotiating to reach consensus and compromise should an in-person meeting not be possible.

II. Organizational matters

A. Attendance

10. The following parties to the Montreal Protocol were represented: Albania, Algeria, Angola, Argentina, Australia, Austria, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Bhutan, Bosnia and Herzegovina, Brazil, Brunei Darussalam, Bulgaria, Cambodia, Canada, Chile, China, Colombia, Costa Rica, Cuba, Czechia, Denmark, Dominican Republic, Ecuador, Egypt, Estonia, European Union, Fiji, Finland, France, Gambia, Germany, Grenada, Guinea, Guinea-Bissau, Guyana, Holy See, Hungary, Iceland, India, Indonesia, Ireland, Italy, Jamaica, Japan, Kenya, Kuwait, Latvia, Lithuania, Madagascar, Malaysia, Mexico, Micronesia (Federated States of), Montenegro, Morocco, Netherlands, New Zealand, Nicaragua, Nigeria, Niue, North Macedonia, Norway, Palau, Panama, Paraguay, Peru, Poland, Portugal, Russian Federation, Saint Kitts and Nevis, Saint Lucia, Samoa, Saudi Arabia, Slovakia, Solomon Islands, Sweden, Switzerland, Thailand, Tonga, Trinidad and Tobago, Tuvalu, Uganda, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Yemen.

11. The following United Nations entities, organizations and specialized agencies were represented: United Nations Environment Programme, World Bank, World Meteorological Organization. The Montreal Protocol assessment panels and the Secretariat of the Multilateral Fund for the Implementation of the Montreal Protocol were also represented.

12. The following intergovernmental, non-governmental, industry, academic and other bodies and organizations were represented as observers: Daikin, Nolan Sherry and Associates Ltd., Environmental Investigation Agency, Institute for Governance and Sustainable Development, Natural Resources Defense Council, Universidad San Francisco de Quito.

B. Adoption of the agenda

13. The Working Group adopted the following agenda for the online session on the basis of the full provisional agenda for the forty-third meeting of the Open-ended Working Group set out in document UNEP/OzL.Pro.WG.1/43/1 and the shortened provisional agenda specific to the online session on replenishment set out in document UNEP/OzL.Pro.WG.1/43/2/Add.1.

1. Opening of the session.
2. Organizational matters:
 - (a) Adoption of the agenda;
 - (b) Organization of work.
3. Replenishment of the Multilateral Fund: guidance to the task force of the Technology and Economic Assessment Panel on further work on the replenishment report.
4. Adoption of the report.
5. Closure of the session.

C. Organization of work

14. The Working Group agreed to the organization of work proposed by the Co-Chair, namely to focus exclusively on agenda item 3; to establish contact and informal groups, or hold informal or regional meetings, between the two meetings of the online session, if necessary, with technical support from the Secretariat; and to submit any proposed draft decisions to be considered at the online session in electronic form to the Secretariat, on the understanding that the translation of such texts would not be possible owing to time constraints. Plenary meetings would be held daily from 2 to 4 p.m. and from 4.30 to 6 p.m.

III. Replenishment of the Multilateral Fund: guidance to the task force of the Technology and Economic Assessment Panel on further work on the replenishment report

15. Introducing the item, the Co-Chair recalled that, pursuant to decision XXXI/1, the Technology and Economic Assessment Panel had established a task force to prepare a replenishment report on the appropriate level of funding for the Multilateral Fund for the period 2021–2023. The parties had reviewed and commented on the task group's report through an online forum established in connection with the forty-second meeting of the Open-ended Working Group, held in late 2020. The Co-Chairs of the Working Group had provided the task force with a compilation of the parties' comments and the task force had issued a response document in October 2020 entitled "TEAP Replenishment Task Force Responses to OEWG-42 Co-Chairs' compilation of comments submitted by parties", which was available as a background document for the current online session but was not intended for discussion.

16. Additional background information on the matter was set out in document UNEP/OzL.Pro.WG.1/43/2/Add.1, including the following four possible options for further work on the replenishment report, formulated by the Secretariat to provide a basis for discussion by the parties:

- (a) To prepare a supplementary report based on a list of issues agreed on by the parties. The list of issues could include one or more of the following:
- (i) Elements of additional scenarios and activities, selected from the task force response document;
 - (ii) New elements of additional scenarios and activities not contained in the task force response document;
 - (iii) Corrections and clarifications identified and addressed in the task force response document;
 - (iv) Updates based on decisions, rules and guidelines agreed on by the Executive Committee at its eighty-sixth meeting;²
- (b) To prepare a supplementary report without an agreed list of issues, but on the basis of a request to the replenishment task force to take into account, to the extent possible, the comments provided by the parties as compiled in the task force response document, with a view to refining the estimated funding range for the triennium 2021–2023;
- (c) To prepare an updated report that would take into account the corrections and clarifications identified and addressed in the task force response document and/or take into account the decisions, rules and guidelines agreed by the Executive Committee at its eighty-sixth meeting;
- (d) Not to prepare an additional report, if parties determine that there is already sufficient information available in the replenishment report.

17. An online forum had been opened from 12 April to 10 May 2021 for parties to comment on the options, and the comments received from parties in the online forum had been compiled in a document entitled "Compilation of comments posted by parties in the online forum for replenishment (OEWG43), on further work on the TEAP replenishment report", which was available as a background document.

² Pursuant to decision XXXI/1, the Panel is to take into account the decisions, rules and guidelines agreed on by the Executive Committee at all its meetings, up to and including its eighty-fifth meeting, in determining eligibility for the funding of investment projects and non-investment projects.

18. Prior to opening the floor for comments, the Co-Chair stressed the importance of limiting the discussion to the guidance to be provided to the Technology and Economic Assessment Panel and avoiding comments on the substantive issues in the Panel's replenishment report or its October 2020 response document. He requested parties to link their interventions to the options outlined in the document wherever possible.

19. In the ensuing discussion, many representatives who took the floor began by thanking the Technology and Economic Assessment Panel and its replenishment task force for their work and the Secretariat for the preparations for the online session. Many also took the opportunity to congratulate Ms. Seki on her appointment as Executive Secretary.

20. During the discussion, varying degrees of support were expressed for options (a), (b) and (c), while option (d) was not mentioned. Option (c), which provided for an updated report with corrections, clarifications and the outcomes of Executive Committee meetings – the eighty-sixth meeting, held in March 2021, and the eighty-seventh meeting, to be held in June 2021 – garnered the most support, with many representatives expressing a clear preference for it and a few, including one speaking on behalf of a group of parties, indicating that they would be willing to consider it even though they preferred another option. The general rationale was that, given the time available and the logistical constraints imposed by the pandemic, option (c) was a pragmatic approach that would provide the parties with sufficient guidance for the replenishment discussions; one representative nevertheless specified that the update should reflect new hydrofluorocarbon (HFC) consumption data submitted by Article 5 parties, as well as data submitted under country programmes under the Multilateral Fund. Several representatives supported option (c), but in combination with another option: two suggested combining option (c) with option (b) so that parties' comments on the replenishment report would also be taken into account, with both also asking for an assessment of the pandemic's impact on compliance activities and on potential opportunities when recovering from the pandemic, while two others favoured combining option (c) with option (a), including one speaking on behalf of a group of parties who supported the supplementary report as provided for in option (a). The representative speaking on behalf of a group of parties said that they could consider reducing the scope of the supplementary report that they had suggested in the online forum. One representative selected option (b) as a more realistic alternative to option (a), which would normally be the preferred approach. One representative said that option (a) was not viable, as the circumstances of the meeting effectively prevented the Working Group from negotiating a list of key issues as it would normally have done.

21. There was substantial discussion on the extent to which the task force should address parties' written comments on the replenishment report. While many representatives acknowledged the importance of parties' comments, some argued that it was not practical to address them all. One representative noted that option (b) was problematic in that it essentially requested the replenishment task force to take the large number of comments into account "to the extent possible", which constituted insufficient guidance and could lead to comments being addressed regardless of whether they were pertinent or useful to the analysis. One representative, noting that the Working Group did not have the authority to amend the terms of reference for the replenishment study, said that the task force should limit itself to comments consistent with the terms of reference; several others subsequently echoed that position.

22. A representative of the Technology and Economic Assessment Panel responded to requests for clarification and concerns emerging from the discussion, notably regarding what additional work the replenishment task force was capable of doing and how it could incorporate into an updated report the salient aspects of the discussions of the Executive Committee of the Multilateral Fund at its eighty-seventh meeting, scheduled for late June 2021. She explained that the terms of reference for the replenishment study did not cover decisions beyond the eighty-fifth meeting of the Executive Committee, and instructions would therefore be needed to cover the additional meetings. Several projects approved by the Executive Committee intersessionally could also be taken into account in the updated report, as well as new party ratifications of the Kigali Amendment to the Montreal Protocol. In terms of the task force's capabilities, she noted that its two-year term was unusual and had created certain difficulties for the group's members, some of whom now had additional commitments not foreseen at the outset of the mandate. A full new report based on other scenarios would be a strain for the task force, as would consideration of the more than 200 comments on the replenishment report. Guidance would therefore be needed on which comments to consider.

23. The representative of Canada introduced draft text set out in a conference room paper on the possible guidance that could be given to the replenishment task force. He explained that, similar to option (c), the proposal provided for an updated report, but added consideration of the outcome of the eighty-seventh meeting of the Executive Committee and of new data on HFC consumption and

production submitted by the parties. It also allowed for supplementary work providing alternative scenarios and additional analysis. He explained that the proposal was designed to allow the task force to exercise its best judgement in deciding which of the elements suggested by parties would strengthen the technical basis for the calculations in the report. A similar approach had been used for previous reports submitted to the Open-ended Working Group, whereby the Panel would take into consideration in providing updated reports all the comments expressed by the parties. He also noted that the report on the replenishment for the triennium 2021–2023 would be the first to deal with funding for HFC phase-down and would set a precedent; the parties should therefore strive for excellence.

24. Several representatives, including one speaking on behalf of a group of parties, welcomed the proposal as a good starting point for further discussions on the guidance to be given to the replenishment task force. The Co-Chair invited parties to examine the proposal thoroughly.

25. Subsequently, when asked for the view of the replenishment task force on the guidance proposed in the draft text, Ms. Bella Marañon, co-chair of the task force, said that, in relation to the updating of the May 2020 replenishment report, it was clear what was being requested. The task force would, however, need clearer guidance on what to include in a potential supplementary report.

26. In relation to the proposal that the task force take into account in its updated report new data on HFC consumption and production submitted by the parties, many representatives noted that 2020 had been an abnormal year and related data would not be representative of consumption and production under normal circumstances owing to the impact that the pandemic had had on the economic situation worldwide. Several representatives were concerned that the low values would skew the calculation of the baseline for HFC phase-down, with subsequent implications for parties in terms of meeting compliance targets and the level of funding available from the Multilateral Fund to assist them in doing so. One representative proffered that, if it were clear that the COVID-19 pandemic had indeed had an impact on the establishment of the baseline, it might even lead to the decision to make more money available to Article 5 parties, to help them phase down greater amounts of HFC when economic activity picked up again. Ms. Suely Carvalho, co-chair of the task force, stated that, at first glance, the Article 7 data that had been received for 2020 seemed to contain large inconsistencies and would need to undergo verification. One representative pointed out that the country programme data for 2020 that was already being submitted to the Secretariat of the Multilateral Fund could be useful for the task force in that it provided consumption data by sector, which could be particularly interesting given the current scarcity of data on HFCs.

27. In response to a question about the ratification models used by the task force in its replenishment report, Ms. Carvalho explained that large Article 5 parties had been taken into account in the second and third scenarios, and that the first scenario, that of current ratifications, would have to be updated to include those that had occurred since May 2020.

28. One representative expressed concern that decisions on a number of priority policy issues had yet to be taken by the Executive Committee of the Multilateral Fund, in relation to funding for enhancing energy efficiency, the level and modalities of funding for HFC phase-down in the refrigeration servicing sector and the costs associated with the integrated implementation of hydrochlorofluorocarbon (HCFC) phase-out and HFC phase-down. It was therefore difficult to give specific guidance on how the task force should deal with those issues, but if they were not taken into account the financing needed for the replenishment could be grossly underestimated. He requested further information from the Chief Officer of the Multilateral Fund about the progress of the work of the Executive Committee.

29. Mr. Eduardo Ganem, Chief Officer of the Multilateral Fund Secretariat, provided an overview of the work of the Executive Committee since the start of the COVID-19 pandemic. He said that the Executive Committee had agreed to use an intersessional approval process to consider as many items as possible on the agenda of its eighty-fifth meeting and to consider all the project proposals submitted for consideration at that meeting. A number of projects had been approved, allowing Article 5 parties to continue implementing HCFC phase-out management plans and institutional-strengthening projects. The Executive Committee had decided to defer any agenda items not considered at the eighty-fifth meeting to the eighty-sixth meeting, for which the Committee has instigated a more extended process to enable it to consider not only project proposals, but also a range of recurring documents, such as progress reports, business plans and country programme data.

30. It had not been possible for the Committee to hold an in-person meeting in early March 2021, as planned, to address all the outstanding issues that could not be approved using the intersessional process. It had therefore extended the intersessional process of the eighty-sixth meeting and complemented it with online meetings. The Executive Committee had approved all but one of the project proposals submitted for consideration at its eighty-sixth meeting and had held extensive

discussions on two important elements of HFC-related policy, namely the draft guidelines for the preparation of the HFC phase-down plans for Article 5 parties and the framework for consultations with relevant institutions to explore the organization of additional resources for enhancing energy efficiency for the phase-down of HFCs in the refrigeration and air-conditioning sectors. It had been agreed that discussions on those elements would be concluded at the eighty-seventh meeting in June 2021, and the secretariat had been provided with guidance on how to address them. In relation to the guidelines for project preparation for HFC phase-down, 24 Article 5 parties had submitted funding requests for consideration at the eighty-sixth meeting and, to date, approximately 30 to 35 parties had submitted such requests to the Executive Committee at its eighty-seventh meeting. Once the guidelines had been approved, the Executive Committee planned to consider approving the requests.

31. In response to a question about how the task force had addressed subparagraph 2 (f) of the terms of reference,³ Ms. Carvalho said that the report contained an annex dedicated to the suggested approach to low-volume-consuming parties, which was to maintain and build on the momentum built during HCFC phase-out. It had not been possible, however, to consider the cost of enhancing energy efficiency in the absence of guidance from the Executive Committee.

32. One representative, supported by others, proposed that the task force, in its updated report, take into account the impact of the ongoing COVID-19 pandemic upon the estimates and appropriate range for the replenishment. Other representatives, however, pointed out that, although the information could be useful in helping the parties understand the impacts later in the triennium, it was impractical to request the task force to examine the matter, including owing to the complexity of the issue; the time available to the task force to undertake the work; and the fact that its members were not experts in COVID-19. In addition, given that the pandemic was ongoing, it was premature to assess its full impact. One representative proposed that the parties might consider undertaking such work separately or requesting the Technology and Economic Assessment Panel to do so at some point in the future. Another representative said that COVID-19 had not affected parties' phase-down obligations under the Kigali Amendment therefore such analysis was not needed.

33. Ms. Maranion expressed concern about the availability of information that would help the task force in such an endeavour and enable it to modify its estimates in any meaningful way. Ms. Carvalho said that she expected more information on the longer-term impact of COVID-19 to be available in future years and that, at present, the current model presented by the task force offered a robust middle-of-the-road view of situation.

34. In terms of the impact of COVID-19 on the implementation of activities under the Multilateral Fund, Mr. Ganem said that, since the eighty-fifth meeting, the Executive Committee had been kept informed of the issue, including by the bilateral and implementing agencies, and some of the activities had been adjusted to ensure that implementation would not be affected. The Executive Committee had been considering on a meeting-by-meeting basis which of the projects and activities that were under implementation, particularly those related to HFCs that had a fixed end date, could continue being implemented. The Committee would consider the matter again at its eighty-seventh meeting and consider extending, if necessary, the implementation of projects affected by the COVID-19 pandemic. At its eighty-seventh meeting, the Executive Committee was also due to consider a number of policy issues. Given the time constraints and limitations in terms of holding formal meetings, the Committee might wish to consider deferring consideration of some of the policy issues, as had been done in the past, to the following meeting, which was currently scheduled to be held at the end of November 2021.

35. The Secretariat was currently working with the chair of the Executive Committee to finalize the procedures for the eighty-seventh meeting and would inform the Executive Committee of those plans in due course. The Co-Chair thanked the Executive Committee for its outstanding work.

36. Regarding the proposal to offer some flexibility to the task force to provide alternative scenarios and additional analysis in a supplementary report, several representatives expressed concern that the guidance was too vague and that the parties themselves should be deciding what should be addressed in any such supplementary report. It was probably impractical for the task force to analyse all the comments by parties in the compilation by the Co-Chairs of the forty-second meeting of the Open-ended Working Group and to decide which ones to work on further. Two representatives proposed that the guidance should not ask the task force to consider alternative scenarios, but only additional analysis, with one pointing out that there was no definition of an "alternative scenario" to guide the task force. Another representative said that she was not comfortable obliging the task force

³ The need to allocate resources to the low-volume-consuming countries for the introduction of zero-global-warming-potential or low-global-warming-potential alternatives to HFCs and to maintain energy efficiency in the servicing/end-users sector, in line with any relevant decisions of the Executive Committee.

to prepare a supplementary report with insufficient guidance, having heard from the co-chair of the task force that more direction was needed.

37. Other representatives, including one speaking on behalf of a group of parties, considered that there could be significant added value for the replenishment negotiation process if the task force provided additional analysis or alternative scenarios. One of them stressed the need to be practical in the present climate, agreeing that under normal circumstances more specific guidance should be given. Another saw the vagueness of the guidance as a strength as it gave the task force more leeway.

38. One representative proposed sorting into categories 200-odd comments from parties in the co-chairs' compilation as a means of determining which were the most important and finding a way to address them. Another representative, speaking on behalf of a group of parties, proposed that the task force take into account issues for which there some kind of convergence among several comments. Another representative proposed that only comments relating to the terms of reference for the replenishment be taken into account. Ms. Maranion expressed regret that circumstances had meant that the task force had not been able to hold discussions with the parties on their comments.

39. Following the Co-Chair's ruling that, given the lack of consensus, the proposal in the draft guidance relating to the preparation of a supplementary report by the task force should be removed, one representative objected, suggesting that the text proposed by the representative of Canada should have been considered as a single piece, with agreement on everything or nothing, rather than the subparagraphs being considered as separate elements.

40. Responding to a request for clarification on the matter, the Senior Legal Officer for the Ozone Secretariat explained that proposals were considered as a whole when the elements were dependent on one another, while in the current situation the elements were independent and could be agreed separately. Had there been a subsequent opportunity to discuss the matter further, the disputed paragraph could have been left in place in square brackets. In situations like the current one, where there was no opportunity for further negotiations, the normal practice was to delete elements that were not agreed and to reflect the differing views on such elements in the report of the meeting. Alternatively, the paragraph could be left in place in square brackets, but it would not form the basis for action by the replenishment task force going forward. Following the clarification, the representative who had raised the objection suggested that the Secretariat's explanation be reflected in the report of the meeting.

41. The Working Group agreed on the guidance to be given to the task force of the Technology and Economic Assessment Panel on further work on its replenishment report, as set out in the annex to the present report, which was forwarded to the Technology and Economic Assessment Panel for its consideration.

IV. Adoption of the report

42. The parties adopted the present report on Monday, 24 May 2021, on the basis of the draft report that had been circulated. The Ozone Secretariat was entrusted with the finalization of the report.

V. Closure of the session

43. Following the customary exchange of courtesies, the forty-third meeting of the Open-ended Working Group was adjourned and the online session on the report on the replenishment of the Multilateral Fund was declared closed at 7.05 p.m. on Monday, 24 May 2021.

Annex

Replenishment of the Multilateral Fund: guidance to the TEAP task force on further work on the replenishment report

Update the May 2020 report, as needed, to take into account:

- (a) The corrections and clarifications identified in the Technology and Economic Assessment Panel task force responses document;
- (b) The decisions, rules and guidelines agreed by the Executive Committee up to and including at its eighty-seventh meeting.¹

¹ On the understanding that the year 2020 should be considered an abnormal year owing to the pandemic situation.