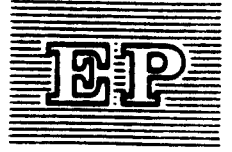




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AD HOC GROUP OF EXPERTS
ON THE REPORTING OF DATA

First meeting
Nairobi, 6 and 7 December 1990

REPORT OF THE FIRST MEETING OF THE
AD HOC GROUP OF EXPERTS ON THE
REPORTING OF DATA

I. INTRODUCTION

1. The first meeting of the Ad Hoc Group of Experts on the Reporting of Data took place at the headquarters of the United Nations Environment Programme in Nairobi on 6 and 7 December 1990. In accordance with decision II/9 of the Second Meeting of the Parties to the Montreal Protocol, which took place in London from 27 to 29 June 1990, it was held to consider the reasons leading to the difficulties faced by some countries in reporting data as required by article 7 of the Protocol, and to recommend possible solutions to the parties concerned.

II. ORGANIZATIONAL MATTERS

A. Opening of the meeting

2. The Executive Director of UNEP opened the meeting and welcomed the participants to Nairobi. He emphasized the importance of reporting by each party of complete data on each individual controlled substance, and two interlinked issues: (a) consideration of non-reporting as possible non-compliance with the Protocol, and (b) monitoring of the implementation of the Protocol's control measures by each party. He noted that the main issues to be discussed by the Working Group included consideration of the difficulties faced by several countries, especially developing countries, in reporting the required data, an examination of the reasons and the recommendation of solutions to the problems; and discussion of the confidentiality of data on production, imports and exports. He pointed out that the results of the Working Group's meeting would influence the work of the Implementation Committee under the non-compliance procedure which was scheduled to meet the following week.

B. Attendance

3. The meeting was attended by representatives of Australia, Burundi, Canada, Chile, Colombia, Congo, Egypt, Finland, France, Germany, Ghana, Greece, Guinea, Japan, Kenya, Malawi, Mexico, the Netherlands, Nigeria, Pakistan, Singapore, South Africa, Sweden, Thailand, Uganda, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, the United States of America and the European Economic Community.

C. Election of officers and adoption of the agenda

4. The meeting elected the following officers:

Chairman: Mr. Stephen Andersen (United States of America)
Vice-Chairman: Mr. Phua Kia Chew (Singapore)
Rapporteur: Mr. Henry Aryamanya-Mugisha (Uganda)

5. The meeting adopted the following agenda, as contained in document UNEP/OzL.Pro/WG.2/1/1:

1. Opening of the meeting:

Statement by the Executive Director of UNEP.

2. Organization of the meeting:

(a) Election of officers;

(b) Adoption of the agenda.

3. Substantive matters:

(a) Report of the Secretariat on data:

(i) Status of reporting - 1986 data;

(ii) Status of reporting - 1989 data;

(b) Problems faced by some parties in reporting the data and possible solutions to those problems;

(c) List of Parties operating under paragraph 1 of article 5 and decision II/10 of the Second Meeting of the Parties to the Montreal Protocol (London, 27-29 June 1990);

(d) Confidentiality of data with regard to data on production, imports and exports;

(e) Harmonized commodity systems;

(f) Reporting formats under the amendment to the Protocol;

(g) Reporting of data by the parties to the Vienna Convention in accordance with decision 2 of the First Meeting of the Conference of the Parties to the Vienna Convention (Helsinki, 26-28 April 1989).

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4. Other matters.
5. Adoption of the report.
6. Closure of the meeting.

III. SUBSTANTIVE MATTERS

A. Status of reporting by the parties

6. The Secretariat outlined the status of reporting of data by the parties, introducing the report of the Secretariat (UNEP/OzL.Pro/WG.2/1/3), its addendum, and data reported since publication of the addendum, emphasizing the importance of timely reporting of complete data from the parties. The Secretariat pointed out that several parties had not been able to report complete data for 1986, and that very few had reported 1989 data.

7. Several representatives reported that data from their countries would be submitted to the Secretariat in the near future. Some reported on the successful reduction of consumption and production that had been achieved by their countries since 1986: Canada had reduced total consumption of controlled substances by 19 per cent; in the former Federal Republic of Germany production of CFCs had been reduced by 15.4 per cent and that of halons by 3.3 per cent; and the United Kingdom had reduced its production of controlled substances by approximately a third, while consumption of controlled substances had halved since 1986. The representative of Kenya stated that his country was now in a position to report the required data, since a country study had been carried out. The representative of Chile said he hoped to have a response soon from the Secretariat to the request for a country study.

8. The representative of Uganda reiterated his country's request for technical and financial assistance to accomplish the implementation of the Protocol.

9. The Group of Experts recognized the importance of timely reporting of complete data.

B. Problems faced by some parties in reporting data and possible solutions to those problems

10. The Group of Experts identified the following problems in data reporting as the most important to be overcome:

(a) The Harmonized Commodity System is not presently adequate for proper data reporting because it does not distinguish between individual substances;

(b) Experience shows that data from customs statistics are not accurate enough or not complete. Customs officers often do not have sufficient information and training to identify controlled substances. Controlled substances are often imported under different trade names as bulk chemicals and in mixtures;

(c) Information from importing companies is often not available because they treat the data as confidential;

(d) In some cases importing companies do not have enough knowledge to provide accurate data;

(e) In some countries the authorities lack technical know-how and finance to carry out data-gathering.

11. Specific cases of problems in reporting data included:

(a) The case of South Africa, which has a customs union with neighbouring countries, which are non-parties;

(b) The refilling of ships' systems with controlled substances in foreign ports.

12. The following different options for facilitating data reporting were identified:

(a) Import control with the help of custom regulations and the Harmonized Commodity System codes;

(b) Licensing of imports and exports of controlled substances;

(c) Legislation on the reporting of data;

(d) A special survey of consumption carried out by a consultant or official body, preferably with the co-operation of industry;

(e) A special survey of data as a part of a country study in a developing country;

(f) An international panel of manufacturing companies which can supply data for larger regions consisting of many countries.

13. The Group of Experts concluded that parties should not rely solely on the Harmonized Commodity System for gathering data now or in the near future. For developing countries the best way of gathering data was generally to have special surveys carried out. Special legislation and licensing was thought to be more difficult to implement in the short run. There would, however, be a need for legislation in order to comply with the control measures of the Montreal Protocol.

Recommendations

14. The Group of Experts adopted the following recommendations:

(a) The UNEP secretariat should gather and distribute experience in data collection in countries that have successfully fulfilled the task, focusing especially on developing countries (such experience is readily available from Fiji and Kenya, and also from the United States);

(b) The UNEP secretariat should compile and distribute a list of trade names of chemical products, including mixtures containing controlled substances;

(c) Substances listed in annexes B and C should be taken into account by the Customs Co-operation Council in its revision of the Harmonized Commodity System. This process has already been initiated by the UNEP secretariat;

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(d) In the country studies carried out under the Interim Multilateral Fund, a special effort should be made to involve local experts and authorities in order to facilitate further reporting during subsequent years;

(e) In view of the fact that only a few developing countries have reported complete data on their production, imports and exports of controlled substances, the Secretariat, as an interim measure, had temporarily categorized some developing countries as operating under article 5, paragraph 1. Developing countries should inform the Ozone Secretariat of any difficulties they face in reporting data, so that suitable measures can be taken to rectify the situation. Developing countries with a per capita consumption figure which the Secretariat estimates to be below 0.3 kg should be able to meet their obligation to report 1986 data by reporting to the Secretariat that they accept the Secretariat's estimate;

(f) Countries with free trade zones inside their territory should make a special effort to include consumption figures for those zones in their data reporting;

(g) The quantities of controlled substances used for refilling refrigeration and fire-extinguishing systems in ports should be included in the consumption figure of the country with jurisdiction over the port;

(h) The Group of Experts considered the issue of trans-shipment in response to a request made by the fifth meeting of the Open-ended Working Group of the Parties to the Montreal Protocol, and in view of the fact that the parties had taken no firm position in earlier meetings on definitions of export and import. The Group recommended that the country of origin should be regarded as the exporter, and the country of final destination the importer. That would apply in cases of trans-shipment (as opposed to imports and subsequent re-exports) through a third country. For such cases the responsibility for reporting data would lie with the country of origin as the exporter and the country of final destination as the importer. Cases of import and re-export should be treated as two separate transactions; the country of origin would report shipment to the country of intermediate destination, which would subsequently report import from the country of origin and export to the country of final destination, and the country of final destination would report the import;

(i) It has been reported that some developing countries have not been able to purchase adequate quantities of controlled substances. The following recommendation was adopted by the Group of Experts as a provisional text for discussion in capitals:

In the light of the situation mentioned above, some manufacturers of controlled substances in countries parties to the Protocol may wish to use the provision for production to be increased by up to 10 per cent to meet the basic domestic needs of article 5, paragraph 1 countries. Before they do so, they must obtain confirmation from the article 5, paragraph 1 country that such production is for basic domestic needs, and they must obtain approval from their national government certifying that controlled substances can be produced within the national limit including the 10 per cent allowance. The Government of the exporting country must submit the chemical name, quantity and destination to the Secretariat as part of the required reporting, indicating that the shipment is for the basic domestic needs of article 5, paragraph 1 countries.

One delegation said that the practical implications of those provisions should not call into question the freedom of industry in a country operating under article 5, paragraph 1 to select its suppliers.

C. Action required under decision II/10 of the
Second Meeting of the Parties

15. Echoing the Open-ended Working Group of the Parties that had just concluded its fifth meeting, the Group of Experts also noted that the Technology Review Panel had been requested to include in its work programme an analysis of the quantities of controlled substances required by parties operating under article 5, paragraph 1 for their basic domestic needs, both at present and in the future, and the likely availability of such substances. It also noted that the Panel would be assisted in that task by country case-studies. The Group of Experts therefore endorsed the conclusion that, pending the completion of that work, no further action by the Ozone Secretariat was needed at the present stage.

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D. Confidentiality of data with regard to data on
production, imports and exports

16. Some representatives reported that production data from their countries must be kept confidential, especially when the data were reported to Governments on condition that they would be treated as confidential. Others said that confidentiality was not required, but could not say whether that would be so for transitional (and newly controlled) substances. One representative mentioned that in his country producers had a strong interest in publishing figures that reflected the voluntary reductions that they would be effecting over the period to 1995.

17. The Group of Experts recommended that the production data for each substance should be reported as public data where possible, while not compromising existing confidentiality agreements under national law or undertakings given by Governments as a condition of receiving corporate data.

18. The Group of Experts requested the Secretariat to ask whether producers of controlled substances would be willing to report export and destination data to a third party accounting firm that could combine and report trade data in such a way as to serve the management needs of parties in their efforts to protect the environment while protecting the confidentiality of corporate data. Such data might be particularly useful in determining imports to developing countries.

E. Harmonized commodity systems

19. The Group of Experts noted the progress that had been made with regard to the Harmonized Commodity System.

F. Reporting formats under the amendment to the Protocol

20. The Group of Experts suggested the following improvements to the reporting formats which were provided to the meeting (UNEP/OzL.Pro/WG.2/1/3/Add.1, annex II):

(a) Each format should be accompanied by the stipulation that the data should be reported by weight and not multiplied by the ozone depletion potential (ODP);

- (b) Reminders should appear on the formats that isomers should be included on each reporting;
- (c) The columns on amounts recycled and reused should be struck out;
- (d) Instructions and definitions should be included with each package of formats;
- (e) A reference number should be assigned to each form;
- (f) The formats should include reporting entries for the name, quantity and destination of controlled substances produced as part of the 10 per cent allowable increase for the purpose of satisfying the basic domestic needs of the countries operating under article 5, paragraph 1.

G. Formats for reporting data under the Vienna Convention

21. The Group of Experts noted the provisions in paragraph 2 of annex II of the Vienna Convention, which states that "the Parties to the Convention, in deciding what information is to be collected and exchanged, should take into account the usefulness of the information and the costs of obtaining it. The Parties further recognize that co-operation under this annex has to be consistent with national laws, regulations and practices regarding patents, trade secrets, and protection of confidential and proprietary information". Against this background, the desirability of collecting some of the data requested by the format was questioned. However, one representative noted the usefulness of reporting, for example, data on use patterns and information on regulations on trade.

22. The formats for reporting data under the Vienna Convention were presented to the meeting (UNEP/OzL.Pro/WG.2/1/3/Add.1, annex I). The Group of Experts felt that they were too extensive and detailed; it would be very difficult to collect data in accordance with the formats, and some data might serve no useful purpose. The Group recommended that the formats be substantially simplified and corrected so as to be more descriptive in nature. It was suggested that scientists and policy makers should confirm the usefulness of the data before they were collected.

23. The Group of Experts noted that the issue would be more appropriately discussed within the context of the Vienna Convention, for example during the preparatory meeting for the second meeting of the Conference of the Parties to the Vienna Convention, rather than by a body set up under the Montreal Protocol. The Group also noted that a Science Research Managers' Meeting under the Vienna Convention was scheduled to be held in March 1991.

IV. ADOPTION OF THE REPORT AND CLOSURE OF THE MEETING

24. The Group of Experts adopted the present report, on the basis of the draft report contained in document UNEP/OzL.Pro/WG.2/1/L.1, on 7 December 1990.

25. After the customary exchange of courtesies, the Chairman declared the meeting closed at 2 p.m. on Friday, 7 December 1990.
