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Non-Compliance Procedure

The following procedure has been formulated pursuant to Article 8 of the Montreal Protocol. It shall apply without prejudice to the operation of the settlement of disputes procedure laid down in Article 11 of the Vienna Convention.

1. 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 to the Secretariat. Such a submission shall be supported by corroborating information.
2. The Secretariat shall, within two weeks of its receiving a submission, send a copy of that submission to the Party whose implementation of a particular provision of the Protocol is at issue. Any reply and information in support thereof are to be submitted to the Secretariat and to the Parties involved within three months of the date of the despatch or such longer period as the circumstances of any particular case may require. The Secretariat shall then transmit the submission, the reply and the information provided by the Parties to the Implementation Committee referred to in paragraph 5, which shall consider the matter as soon as practicable.
3. Where the Secretariat, during 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 of the case may require or the matter is not resolved through administrative action or through diplomatic contacts, the Secretariat shall include the matter in its report to the Meeting of the Parties pursuant to Article 12(c) of the Protocol and inform the Implementation Committee accordingly.
4. Where a Party concludes that, despite having made its best, bona fide efforts, it is unable to comply fully with its obligations under the Protocol, it may address to the Secretariat a submission in writing, explaining, in particular, the specific circumstances that it considers to be the cause of its non-compliance. The Secretariat shall transmit any such submission to the Implementation Committee which shall consider it as soon as practicable.

5. An Implementation Committee is hereby established. It shall consist of ten Parties elected by the Meeting of the Parties for two years, based on equitable geographical distribution. Outgoing Parties may be re-elected for one immediate consecutive term.

The Implementation Committee shall elect its own president and vice-president. Each shall serve for one year at a time. The vice-president shall in addition serve as the rapporteur of the Committee.

6. The Committee shall, unless it decides otherwise, meet twice a year. The Secretariat shall arrange for and service its meetings.

7. The functions of the Committee shall be:

- (a) To receive, consider and report on any submission in accordance with paragraphs 1 and 2;
- (b) To receive, consider and report on any information or observations forwarded by the Secretariat in connection with the preparation of the reports referred to in Article 12(c) of the Protocol and on any other information received and forwarded by the Secretariat 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 undertake, upon the invitation of the Party concerned, information gathering in the territory of that Party for fulfilling the functions of the Committee;
- [(e) To maintain [, in particular for the purposes of drawing up its recommendations,] an exchange of information with the Executive Committee of the Multilateral Fund related to the provision of financial and technical cooperation, including the transfer of technologies to Parties operating under Article 5, paragraph 1, of the Protocol.]

8. Where a Party that is not a member of the Implementation Committee is itself identified by a Party in a submission under paragraph 1, or itself makes such a submission, it shall be entitled to participate in the consideration by the Implementation Committee of that submission.

9. No Party, whether or not a member of the Implementation Committee, involved in a matter under consideration by the Implementation Committee, shall take part in the elaboration and adoption of recommendations on that matter to be included in the report later.

10. The Committee shall 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.

11. The Committee shall report to the Meeting of the Parties, including any recommendations it considers appropriate. The report shall be made available to the Parties not later than six weeks before their Meeting. After receiving a report by the Committee the Parties may, taking into consideration the circumstances of the case, 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.

12. The Parties involved in a matter referred to in paragraph 7 shall inform, through the Secretariat, the Meeting of the Parties of the results of proceedings taken under Article 11 of the Convention regarding possible non-compliance, about implementation of those results and about implementation of any decision of the Parties pursuant to paragraph 11.

13. The Meeting of the Parties may, pending completion of proceedings initiated under Article 11 of the Convention, issue an interim call and/or recommendations.

14. The Meeting of the Parties may request the Committee to make recommendations to assist the Meeting's consideration of matters of possible non-compliance.

15. The members of the Committee and any Party involved in its deliberations shall protect the confidentiality of information they receive in confidence.

[16. The report, which shall not contain any information received in confidence, shall be made available to any person upon request. All information exchanged by or with the Committee that is related to any recommendation by the Committee to the Meeting of the Parties shall be made available by the Secretariat to any Party upon its request; that Party shall ensure the confidentiality of the information it has received in confidence.]