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OPEN-ENDED WORKING GROUP OF THE  
PARTIES TO THE MONTREAL PROTOCOL

Tenth meeting  
Nairobi, 5 - 8 July 1994

REPORT OF THE TENTH MEETING OF THE OPEN-ENDED WORKING GROUP  
OF THE PARTIES TO THE MONTREAL PROTOCOL

I. OPENING OF THE MEETING

1. The tenth meeting of the Open-ended Working Group of the Parties to the Montreal Protocol was held at the headquarters of the United Nations Environment Programme, Nairobi, from 5 July to 8 July 1994.

2. The meeting was opened at 10 a.m. on Tuesday, 5 July 1994.

3. In her opening statement Ms. Elizabeth Dowdeswell, the Executive Director of the United Nations Environment Programme, welcoming the delegates to Nairobi, recalled that since the Working Group had met in Nairobi five years previously, in 1989, the implementation of the Montreal Protocol had gone from strength to strength. According to the Washington-based World Watch Institute the total worldwide production of CFCs had declined by 60 per cent since 1988 and that was one of the key indicators measuring the health of the planet. She was also pleased to report a steady increase in the number of Parties to the Montreal Protocol; the Protocol had been ratified by 137 Parties, the London Amendment by 88 Parties and the Copenhagen Amendment, which had entered into force on 14 June 1994, by 28 Parties. She urged all States which were non-Parties to those three legal instruments to ratify them as soon as possible. The need for immediate ratification was particularly urgent because of two important developments, the phase-out of halons on 1 January 1994 and the planned phase-out of CFCs by January 1996, in which all States should play a part, in the international efforts to restore the ozone layer.

4. She paid tribute to the Co-Chairs and members of the Technical Options Committees and the Technology and Economic Assessment Panel for producing the extensive report which was to be considered by the Working Group. Referring to nominations for essential-use exemptions for the production and consumption of controlled substances, she proposed that recommendations for exemptions should only be allowed for those Parties who had submitted complete data on production and consumption of ozone depleting substances before the due dates as provided under Article 7 of the Protocol.

5. Another issue on the agenda was the classification and reclassification of developing countries as operating under Article 5; late reporting by the Parties from developing countries had given rise to several practical problems, in relation to the continuation of assistance from the Multilateral Fund. She hoped that the Working Group at its current meeting could find viable solutions to some of those problems.

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6. With reference to the evaluation of the Multilateral Fund, she said /...

that the Working Group had been authorized by the Fifth Meeting of the Parties to take decisions on the modalities and terms of reference of the evaluation and advise the Secretariat appropriately.

7. Referring to Parties with economies in transition, who had requested special status under the Protocol, UNEP and the other implementing agencies of the Global Environment Facility would be attempting to assist those countries. As a first step a three-day workshop on the implementation of the Montreal Protocol for the 15 countries of the former Soviet Union would be held in Belarus from 15-17 August 1994. She would like to encourage bilateral assistance and also assistance from GEF for those countries and other countries of Eastern Europe, in order to implement the Protocol.

8. Finally, she referred briefly to the issue of unpaid contributions to the Trust Funds under the Montreal Protocol, and appealed to the Parties to meet their commitments and pay their contributions in full and in good time, so that all the programmes to phase out ozone-depleting substances could be fulfilled and the Ozone Secretariat be supported appropriately.

## II. ORGANIZATIONAL MATTERS

### A. Attendance

9. The following Parties to the Montreal Protocol were represented: Algeria, Argentina, Australia, Austria, Bahamas, Bangladesh, Belgium, Benin, Botswana, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, Central African Republic, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Denmark, Dominica, Ecuador, Egypt, European Community, Finland, France, Gambia, Germany, Ghana, Greece, Hungary, India, Iran (Islamic Republic of), Israel, Italy, Japan, Jordan, Kenya, Kuwait, Malawi, Malaysia, Maldives, Mauritania, Mauritius, Mexico, Netherlands, New Zealand, Niger, Norway, Pakistan, Panama, Peru, Philippines, Poland, Republic of Korea, Romania, Russian Federation, Saint Lucia, Samoa, Saudi Arabia, Senegal, Seychelles, Slovakia, South Africa, Sri Lanka, Sweden, Switzerland, Thailand, Tunisia, Turkey, Uganda, Ukraine, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Viet Nam, Zambia, Zimbabwe.

10. The following States not Parties to the Protocol were also represented: Estonia, Holy See, Mongolia, Morocco.

11. Observers of the following United Nations Secretariat units, bodies and specialized agencies were also present: General Agreement on Tariffs and Trade (GATT), International Civil Aviation Organization (ICAO), International Maritime Organization (IMO), United Nations Development Programme (UNDP), United Nations Environment Programme (UNEP), United Nations Industrial Development Programme (UNIDO), World Bank.

12. The following other organizations were also represented: African Centre for Technology Studies (ACTS), Alliance for Responsible Atmospheric Policy (ARAP), Association of Home Appliance Manufacturers (AHAM), Centre for International Environmental Law, Centre for Science and Environment (ESAC), Climate Network Africa (CNA), Colombia University, Eco<sup>2</sup>Terra, Environmental Defense Fund, Danish Halon Banking System, Dupont Canada, Inc., European Chemical Industry Council (ECFIC), GFL Limited, Great Lakes Chemical Corporation, Green Africa Society International, Greenpeace International, International Council of Environmental Law (ICEL), Halozone Technologies, Inc., Industrial Technology Research Institute (ATRI), International Pharmaceutical Aerosol Consortium (IPAC), Japan Flon Gas Association (JFGA), Japan Industrial Conference for Ozone Layer Protection (JICOP), Japan Refrigeration and Air Conditioning Industry Association (JRAIA), Kenya Energy and Environmental Organization (KENGO), Marco/Ashrae (Saudi Arabia Chapter), Safety Hi-Tech, The Charles Stark Draper Laboratory, Inc..

### B. Election of officers

13. Mr. J. Carstensen (Denmark) and Mr. A. Gonzalez (Mexico) (acting in the absence of Mr. J. Mateos (Mexico)) served as Co-Chairmen, in accordance

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with the decision of the Fourth Meeting of the Parties to the Protocol.

14. On the proposal of the Co-Chairman from Denmark, Mr. Jose Ampeso (Philippines) was elected Rapporteur.

C. Adoption of the agenda

15. After proposals from the floor, the meeting adopted the provisional agenda contained in document UNEP/OzL.Pro/WG.1/10/1 as amended, as follows:

1. Opening of the meeting.
2. Organizational matters:
  - (a) Election of officers;
  - (b) Adoption of the agenda;
  - (c) Organization of work.
3. Terms of reference and modalities for a report to meet the requirement of section II, paragraph 4 of decision IV/18 of the Fourth Meeting of the Parties to the Montreal Protocol (decision V/12).
4. Provision of information on the supply of controlled substances to Parties operating under paragraph 1 of Article 5 of the Montreal Protocol (decision V/25 and paragraph 59 of UNEP/OzL.Pro.5/12, report of the Fifth Meeting of the Parties to the Protocol).
5.
  - (a) Classification of certain developing countries as not operating under Article 5 and reclassification of certain developing countries earlier classified as not operating under Article 5 (decision V/4).
  - (b) Situation of the country Parties with economies in transition.
6. Consideration of the report of the Scientific Assessment Panel on the impact on the ozone layer of continued use of recycled controlled substances (decision IV/24, paragraph 6).
7. Consideration of the report of the Technology and Economic Assessment Panel on:
  - (a) Nominations for essential uses, for 1995, of halons (decision V/18 and decision IV/25);
  - (b) Nominations for essential uses of controlled substances other than halons (decision V/18 and decision IV/25);
  - (c) Supply of halons to Parties operating under paragraph 1 of Article 5 of the Protocol (decision V/16);
  - (d) Total emissions resulting from trace impurities, emission during manufacture, etc. (decision IV/12, paragraph 3);
  - (e) Recycling of controlled substances (decision IV/24, paragraph 7);
  - (f) Evaluation of alternatives to HCFCs (decision IV/30, paragraph 1);
  - (g) List of products containing controlled substances from Annex B (paragraph 3 *bis* of Article 4 of the Montreal

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Protocol and decision IV/28);

- (h) Recommendations of the TEAP regarding methyl bromide;
  - (i) Options for refrigeration and the role of hydrocarbons.
8. Other matters.
  9. Adoption of the report.
  10. Closure of the meeting.

D. Organization of work

16. The Working Group decided that it would begin its work by considering agenda item 3 and would take up the remaining items in the order in which they appeared in the agenda.

17. During his first intervention in the discussion, the representative of Australia said that he was pleased to report that his country had, on 30 June 1994, deposited the instrument of ratification of the Copenhagen Amendment to the Montreal Protocol.

III. REVIEW UNDER SECTION II, PARAGRAPH 4 OF DECISION IV/18  
OF THE FOURTH MEETING OF THE PARTIES TO THE  
MONTREAL PROTOCOL (DECISION V/12)

18. Opening the discussion of agenda item 3, the Chairman drew attention to documents UNEP/OzL.Pro/WG.1/10/2 and UNEP/OzL.Pro/WG.1/10/CRP.1, prepared, respectively, by the Ozone Secretariat and jointly by the United States and Venezuela. He asked the Ozone Secretariat first and then the United States to introduce those documents.

19. The representative of the Ozone Secretariat said that, in order to meet the deadline of 31 March 1995 for the evaluation and review of the financial mechanism, it was important that the Open-ended Working Group take a decision at the present meeting regarding the terms of reference, modalities, organization and mode of financing of the evaluation. The financing of the review was not in the budget of the Ozone Secretariat, since it had been mandated as a separate review by the Fifth Meeting of the Parties. He suggested that a possible procedure for financing would be to obtain a loan or grant from the Multilateral Fund, leaving the final decision on funding to the Sixth Meeting of the Parties.

20. The representative of the United States thanked the Ozone Secretariat for preparing a document on this issue and stated that, in order to facilitate a thorough review of the financial mechanism, his country, in consultation with others and together with Venezuela, had prepared a document with an alternative set of terms of reference for the review. Two key issues were the need to undertake the review as soon as possible, in order to complete it before the meeting of the Working Group in 1995, and the establishment of a steering committee of the Open-ended Working Group to oversee the review as it was being carried out. In that context, he appealed to the Open-ended Working Group to select for that committee members with experience in evaluating multilateral assistance programmes.

21. All the representatives who spoke thanked the Ozone Secretariat and the United States and Venezuela for preparing documents UNEP/OzL.Pro/WG.1/10/2 and UNEP/OzL.Pro/WG.1/10/CRP.1, respectively, and many of them said both papers were useful in providing a good basis for preparation of final terms of reference. All representatives also agreed that it was necessary to undertake the review of the financial mechanism as a matter of urgency.

22. One representative considered the document prepared by the

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United States and Venezuela to be particularly useful and drew attention to elements contained therein such as the ODS impact of the use of the incremental cost criteria in sectors tending to be inherently cost-effective and the assessment of how a project was selected and the steps, costs and time involved in its development. One other representative considered the document prepared by the Secretariat and the proposals developed therein to be most suitable. One other representative said that the detail to be incorporated in the terms of reference had to be appropriate to ensure that the review team could explore all avenues required. Finally, one representative stressed the need for as specific terms of reference as possible in order to ensure an appropriate focus for the review

23. Many representatives said that the two papers before the Working Group included vital issues which should be in the final report. One representative said the review would help to determine the best long-term needs of the Multilateral Fund. The scope of the review needed to examine not just where the financial mechanism was today, but also where it was going, and thus had to be forward-looking. In addition, he continued, the review should examine the experience and lessons from other reviews of similar financial mechanisms. One other representative said the evaluation of the pilot phase of the Global Environment Facility (GEF) was important in that context. One representative believed it was necessary for the terms of reference to address the issue of cost-effectiveness and how to have the biggest possible effect on ODS phase-out with the limited money available. He also wished to see included the issue of cooperation between the implementing agencies, the Executive Committee and the two committees under the Protocol. One other representative, referring to the issue of cost-effectiveness in the review, believed it was necessary to study the link between approval and implementation of projects and between reporting of data by countries operating under Article 5 and to include that issue in the terms of reference to be decided. One other representative supported the need for such an examination. One representative wished to see included in the terms of reference an examination of the extent to which the activities of the Multilateral Fund were in conformity with the activities of other similar funds such as GEF, as well as an assessment of the degree of implementation of not-in-kind alternatives.

24. On the question of financing the review, several representatives said they believed it should not be funded from the Multilateral Fund. One of them believed such funding would be outside the core functions of that Fund. One other representative said that, due to its urgency, the financing of the study of the review was a question of expediency. The Multilateral Fund was larger than the Trust Fund of the Protocol, and therefore funds might be easier to obtain from that source. Article 10 of the Protocol, he pointed out, did state that the Multilateral Fund was responsible for related support costs and such a review could be said to fall under that category. Several representatives supported the idea of a loan from the Multilateral Fund, to be repaid from the Trust Fund. A number of representatives held the view that funding from the Trust Fund would be preferable, and some accepted that this could mean extra costs for them. The representative of Australia doubted that the Trust Fund would be able to fund the review, in view of its low level. He suggested that voluntary contributions might be possible and his country would be prepared to contribute in such a case. The representative of Norway supported that idea. The representative of France, while pointing out that his country would also be prepared to contribute to such voluntary funding, said he would prefer contributions to be compulsory rather than voluntary.

25. With reference to the appointment of consultants for the review, one representative said that the consultants could be provided by the implementing agencies out of the budget which existed for the services they provided. One representative said the selection of consultants was important in order for their evaluation to be as independent as possible. Another representative considered it important that clear criteria should be established regarding the choice of consultants. Several representatives pointed to the need for impartiality and integrity in the

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candidates and transparency in their selection. One representative stressed the need for there to be adequate geographical representation in the selection of consultants. One other representative wished to know how the consultants would be selected and if the Open-ended Working Group would have a say in their appointment; the Chairman responded that it would be an issue to be discussed by the small working group. Another representative was of the opinion that the issue, including the choice of consultants, could best be handled by the Ozone Secretariat.

26. With regard to the question of a steering group or panel of experts to guide the process of the review, some representatives agreed with the proposal of the United States that the members of the panel needed skills in a number of areas. One of them said that, in the search for the right combinations of expertise, it might even be necessary to look outside the membership of the present Working Group, and he himself had specific individuals in mind whom he would like to nominate for positions on the panel. Supporting that view, and suggesting that those nominations be further examined, one other representative urged countries to cast their nets as wide as possible in order to assemble the best possible team for the task. A number of representatives from developing countries stressed that the panel of experts should comprise equal participation of both countries operating under Article 5 and others. One representative pointed to the need for the panel to have equitable geographical and regional balance.

27. One representative, supported by a number of others, suggested that it might be worthwhile to establish a small working group to consider both sets of proposed terms of reference in detail. In reply, the Chairman of the Open-ended Working Group said that he first wished to seek views from the floor concerning both drafts. As almost all representatives that took the floor requested to be considered for membership of the small working group, the Chairman proposed that a group of 12 countries be established to amalgamate the proposals included in both texts. That group should consist of Canada, China, Colombia, France, Germany, India, Kenya, Mauritius, Poland, United Kingdom, United States and Venezuela. The merged text resulting from that group's discussions would serve as a basis for further consideration by a larger group. The mandate of the small working group would also cover consideration of the funding of the review and the composition of the steering committee or panel of experts that would guide the review. One representative suggested the small working group might wish to address the implementing agencies' accountability to Article 5 countries, particularly concerning the flow of funds and the volume of funds reaching the project.

28. The small working group subsequently submitted to the Working Group had before it newly prepared draft terms of reference for a study on the financial mechanism, prepared by the small working group. Introducing the draft, the Chairman of the small working group said that there were three main topics contained in the terms of reference. First, a study of the financial mechanism; second, the composition of the steering panel; third, the budget for the study. A timetable for the study, setting out indicative milestones, was included as an annex to the document. The relevant provisions concerning a steering panel had also been detailed. The Chairman said that the names of the experts to sit on the steering panel had to be approved by the present meeting of the Open-ended Working Group and he requested the regional groups to provide appropriate names as soon as possible. He stressed that, in view of the tight schedule, each group of Parties should submit the names of candidates who were not only eminently qualified and experienced, but who would also be available to attend the appropriate meetings when necessary.

29. Turning to the budget of the study, the Chairman of the small working group said that a ceiling of US\$ 450,000 has been set. That imposed some limits, but it was hoped that the consultants could find a way to remain within the agreed costs. It had been agreed that the Open-ended Working

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Group should request a loan of US\$ 450,000 from the Multilateral Fund. That issue would be decided at the next Meeting of the Parties.

30. The observer from the Environmental Defense Fund, also speaking on behalf of Greenpeace and of the Centre for Science and Environment (India), said that Parties should consider the inclusion of representatives from NGOs in the evaluation, as had been the case in the evaluation of GEF. None of the agencies, he said, should be tasked with doing their own evaluation through consultants: it should be conducted independently of each agency. The evaluation should examine use of the term "cost-effectiveness of full ODS phase-out", keeping in mind the twin objectives of Rio, environment and equity. It should examine whether the Fund had been successful in funding ODS phase-out with the highest possible environmental benefit. It should assess how effective, in both environmental and economic terms, the original definition of incremental costs had been, as well as how that had been implemented. It should include an assessment of how arrangements between the Executive Committee and each implementing agency had developed, as well as between agencies. It should include an analysis of the role of NGOs at every stage of the project's cycle. It should consider the need for ongoing regular reviews of the Fund's activities. It should focus on how the evaluation would interface with the ongoing review, under Article 5, paragraph 8, of the Protocol. Finally, it should make recommendations for future activities, with a focus on recommending modifications to the Fund's operations.

31. After an exchange of views on the document, it was agreed that it would be adopted, with a minor verbal amendment. The terms of reference and the modalities of the review are attached as annex I to the present report of the Working Group.

32. The Working Group also selected the following members of the Steering Panel for the evaluation and review of the operation of the Financial Mechanism: from the non-Article 5 Parties, Mr. Jean Quesnel (Canada), Ms. Monique Barbut (France) and Mr. Paul Horwitz (United States); from the Group of Latin American and Caribbean States, Mr. Juan Mateos (Mexico); from the Group of Asian States, Mr. Vinay Shankar (India); from the Group of African States, Mr. Sateev Seebaluck (Mauritius).

33. The representative of Australia said that in nominating the members of the Panel, it was the intent of the non-Article 5 Parties that the Panel members would be available for consultations with non-governmental organizations during the course of the study. Those countries hoped that individual Panel members being selected by the Article 5 countries would also be open to such consultations. It was also the belief of the non-Article 5 countries that the Panel should elect its own Chairman after it had met as a group.

34. In nominating the Panel member from the Group of Latin American and Caribbean States, the representative of Venezuela said that the Group of Latin American and Caribbean States had opposed the financing of the review of the financial mechanism by means of a loan from the Multilateral Fund to the Ozone Secretariat. Its opposition was based on the lack of foresight on the part of the Secretariat, the fact that, in not making a provision in its budget for the costs of the review, a solution had been proposed which went against Article 10 of the Protocol, since it was not envisaged in that Article the resources of the Multilateral Fund should be employed for such purposes. The Group wished to place on record its intention to bring up its views at the thirteenth meeting of the Executive Committee of the Multilateral Fund, to the effect that the Fund's resources should only be used for authorized purposes, and that the Working Group's request should not set a precedent but should be considered only as an exceptional and once-only request. The Group also wished to draw attention to the offer made of voluntary contributions to cover the costs of the review, and expressed the hope that those offers would eventually be quantified and definite.

35. Referring to the remarks of the representative from Venezuela, made /...

on behalf of the Latin American and Caribbean Group, regarding the alleged lack of foresight on the part of the Secretariat, the Secretariat clarified that it had, with considerable foresight, placed the issue of the review before the Fifth Meeting of the Parties in November 1993, two years in advance. The Secretariat had not suggested any financial provision in the budget of the Secretariat for the review since it had recommended that the review should be managed by the Executive Committee in view of the many common elements with the review under Article 5, paragraph 8, of the Protocol being conducted by the Executive Committee. The Fifth Meeting considered the budget and the issue of the review in two different subgroups. The subgroup that considered the issue of the review had recommended the review to be managed by the Secretariat and not by the Executive Committee whereas the subgroup on the budget, unaware of this decision, did not provide for the costs of the review in the budget of the Secretariat. The reports of the subgroups had come in the last moments of the Bangkok meeting and had been approved by the Fifth Meeting of the Parties.

36. The Working Group thus concluded its consideration of agenda item 3.

IV. PROVISION OF INFORMATION ON THE SUPPLY OF CONTROLLED SUBSTANCES TO PARTIES OPERATING UNDER PARAGRAPH 1 OF ARTICLE 5 OF THE MONTREAL PROTOCOL (DECISION V/25 AND PARAGRAPH 59 OF UNEP/OZL.PRO/5/12, REPORT OF THE FIFTH MEETING OF THE PARTIES TO THE PROTOCOL)

37. Introducing agenda item 4, the Chairman referred to the notes prepared by the Ozone Secretariat as contained in document UNEP/OzL.Pro/WG.1/10/2, paragraphs 14-18. In particular, he referred to paragraph 17, which set out some questions with respect to decision V/25, adopted by the Parties at their Fifth Meeting, on the provision of information on the supply of controlled substances to Parties operating under paragraph 1 of Article 5 of the Montreal Protocol.

38. The representative of the United States said that while his country supported the intent of decision V/25, it was concerned that it might not be currently possible to fulfil its requirements. At the Fifth Meeting of the Parties, his country had proposed an alternative system to that set out in the decision, but time constraints had not allowed a full consideration of that proposal. The proposal had envisaged the use of contracts for the sale of Annex A and B substances as the main reporting documents. The Chairman requested the proposal in writing and the representative agreed to produce the text. Another representative, while agreeing with the previous speaker, said that he preferred the idea of a model letter rather than a contract, stating the volume and nature of the substance supplied, to be the basis for the reporting of information.

39. Several representatives expressed the view that the provisions of decision V/25 were not really workable. Many representatives said that greater flexibility should be granted to developing countries in meeting the provisions of the decision. Several representatives said that they shared a concern regarding the pre-certification provisions of the decision and believed that post-certification procedures would be more workable.

40. One representative said decision V/25, in changing the basis of trade from "enterprise to enterprise" to "Government to Government", caused hardship to users and interference in trade, as Governments might have to allocate requests for controlled substances to individual private suppliers. He was in favour of leaving the trade in controlled substances to the internal regulating mechanisms of individual Governments, particularly since the reporting of data for such trade had already been covered by other reporting requirements. Finally, he stated that his country was in favour of dropping decision V/25 entirely. Several representatives supported this view, and some of those representatives said that a simpler procedure should be found instead of the procedure envisaged

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in decision V/25.

41. The Chairman said he noted that there were representatives in favour of dropping decision V/25 and asked whether other representatives supported the retention of that decision. Several representatives took the floor in support of retaining the decision. The Chairman then stated that he believed it was clear that the Working Group had to look into decision V/25 to see whether better measures could be found to regulate the supply of controlled substances to Parties operating under paragraph 1 of Article 5 of the Montreal Protocol.

42. He believed that would be useful to establish a small working group to discuss guidelines for the implementation of decision V/25, perhaps along the lines of the proposal by the representative of the United States, in order to see how that decision could be adjusted to satisfy the concerns of Article 5 countries. He asked the Secretariat to distribute the text of the United States proposal to all delegates as soon as it was available, at least in the English version. He proposed, therefore, to leave this agenda item for the time being and to establish a small subgroup. This would comprise the representatives of Venezuela, Australia, Malaysia, the United States, Republic of Korea, Norway, India, Netherlands, Egypt and France. He hoped that the subgroup could produce a paper on how guidelines for the implementation of decision V/25 might look.

43. The Chairman of the subgroup on decision V/25 subsequently introduced a draft proposal which had been prepared in response to the concerns of some Parties that the requirements placed on Article 5 Parties by the current version of the decision were excessively burdensome and constituted a barrier to free trade. Many countries welcomed the proposal as a good response to the concerns of the developing countries. Many of the developing countries, however, mentioned that their concerns regarding bureaucratic delays hampering trade necessary for them were still not fully alleviated though they would not stand in the way of the adoption of the proposal by the Working Group.

44. Following a discussion of the draft proposal, the Working Group agreed to recommend the following draft decision for the consideration of the Sixth Meeting of the Parties:

In order to facilitate implementation of the Protocol's provisions concerning the supply of controlled substances to meet the basic domestic needs of Parties operating under Article 5, paragraph 1, the Parties decide to substitute the following for decision V/25:

1. In cognizance of the basic domestic needs provisions of Articles 2A to 2E and Article 5, [and decision I/12C\*] and for the purpose of the reporting requirements under Article 7, Parties will instruct companies exporting controlled substances from their countries to notify, within [30] [60] days after the time of export, the focal points of both the concerned Governments of the names of exporting and importing countries and the quantities exported [and the names of companies to which exported].

2. [For each Party operating under Article 5 who imports or produces controlled substances under these provisions, the report required under Article 7 shall describe the steps undertaken to ensure that such imports and/or production have been used to satisfy its basic domestic needs.]

3. The Secretariat shall prepare and distribute to the Parties examples of letters that could be used by companies for the purposes described in paragraph 1 above[, and shall publish the data provided in paragraph 2 as part of its reports under Article 7].

[\* Decision I/12C states: "Basic domestic needs" referred to in Articles 2 and 5 of the Protocol should be understood as not to allow production of products containing controlled substances to expand for

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the purposes of supplying other countries.]

45. Following the adoption of the decision, the Chairman stated that the issue of the practicality of paragraph 1, on which concerns had been expressed by a number of delegations, could be considered in the time before the Sixth Meeting of the Parties and taken up again at that Meeting, if necessary.

46. The Working Group thus concluded its consideration of agenda item 4.

V. CLASSIFICATION OF CERTAIN DEVELOPING COUNTRIES AS NOT OPERATING UNDER ARTICLE 5 AND RECLASSIFICATION OF CERTAIN DEVELOPING COUNTRIES EARLIER CLASSIFIED AS NOT OPERATING UNDER ARTICLE 5 (DECISION V/4), and

SITUATION OF THE COUNTRY PARTIES WITH ECONOMIES IN TRANSITION

47. Before offering agenda item 5 for discussion by the Working Group, the Chairman gave the floor to the President of the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol, to allow him to make a brief presentation on the conclusions of the Committee's meeting the previous day which he considered would be of relevance to the discussion.

48. The President of the Implementation Committee said that the discussion in that meeting had revolved around three main themes: data reporting by both Article 5 and non-Article 5 countries; aspects of classification and reclassification of Parties operating under Article 5; and a proposal made by the representative of the Russian Federation concerning the granting of special status under the Montreal Protocol to those countries with economies in transition. Concerning the provision of data by Parties which, he said, was the basis of information provided by the Secretariat, the President said the situation in general had improved, but there was still serious concern about the lack of, or delay in, the reporting of data by both Article 5 and non-Article 5 Parties. The Committee had analysed the relative situation of certain Article 5 countries that had received support from the Multilateral Fund. After discussion among the members of the Committee and the representatives of the implementing agencies, it had been agreed that large numbers of countries still had problems with reporting. It had also been agreed that it would be necessary to have a meeting of the Implementation Committee back-to-back with the Sixth Meeting of the Parties to which the Ozone Secretariat could invite non-reporting countries so that they could explain their situation and difficulties to the Committee. There had also been discussion within the Committee about whether it would be useful or possible to link the provision of support to Parties with their performance in reporting data. No clear recommendation had been arrived at, and it had been decided to bring the subject to the attention of the Open-ended Working Group.

49. Concerning the reclassification of certain countries as to whether or not they were operating under Article 5, paragraph 1, the President of the Implementation Committee referred to the questions contained in paragraphs 21 (a) to (d) of document UNEP/OzL.Pro/WG.1/10/2. He said that discussions had highlighted two sets of views on the issues raised. The implementing agencies had stressed the need for clear guidelines with regard to eligibility for assistance from the Fund and implementation of projects in the reclassified countries. However, the need to be flexible had been noted, taking into account the problems and difficulties faced by certain countries. Regarding paragraph 21 (a), it had thus been agreed that the answer should be yes. Anything else was a policy matter to be decided by the Open-ended Working Group. It had to be pointed out that a Party's failure to provide data could lead to a situation of non-compliance. In addition, the Committee had raised the question of considering a time-cap on how long Parties could be temporarily classified in the absence of the reporting of data by them.

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50. With regard to paragraph 21 (b), the President said the Committee had also agreed that the answer should be yes. It had considered the status of the Party at the time of approval of a project to be the decisive factor in continuing to implement the project. If the status of a country were to change, that should not interfere with the implementation of a project already approved. In connection with paragraph 21 (c), the President reported that the Committee had decided that this involved two questions, which should be clearly separated. The first, concerning whether the Parties should be allowed to correct their data, should be answered yes, if only for reasons of the need for accurate data. The second part, concerning reclassification on the basis of corrected data, had met with no clear consensus. The necessity of a clear and firm basis for the work of the financial mechanism would ensure that the situation should not be changed retroactively. With regard to paragraph 21 (d), the President reported that the Committee had not explicitly addressed that point, although one member had expressed the view that, in dealing with Parties seeking a waiver of past contributions, the way they were dealt with should depend on whether or not data had been submitted in time.

51. With regard to the granting of special status to countries with economies in transition, the President reported that the representative of the Russian Federation had raised the matter, but no detailed discussion on the subject had taken place, since it had not been clear what the Russian Federation wanted the Committee to do. As the question had also been raised elsewhere previously, the President suggested that one way to address it would be to use the possibilities included in the terms of reference of the Implementation Committee, whereby a country could submit to the Committee details of the problems it was experiencing in complying with the obligations of the Protocol.

52. Finally, he stressed his personal opinion that it was necessary to have continuity among the members of the Committee as that was the basis that made its work possible. It would be useful if, in future, countries seeking a position on the Committee could already suggest one designated individual to fulfil the tasks, so that continuity could be maintained. He wondered whether a specific recommendation could be made to the Meeting of the Parties in that connection.

A. Classification of certain developing countries as not operating under Article 5 and reclassification of certain developing countries earlier classified as not operating under Article 5 (decision V/4)

53. Introducing item 5 (a) of the agenda, the Chairman referred to the note prepared by the Secretariat contained in document UNEP/OzL.Pro/WG.1/10/2. The representative of the Republic of Korea pointed to a factual error contained in paragraph 20 (c) of that document, and asked the Secretariat to correct or delete that subparagraph. It was agreed that the representative's clarification would be recorded in the report of the Working Group.

54. One representative, supporting the idea of temporary classification, said that 34 such countries currently came into that category. Many could fully meet the criteria of operating under Article 5 if information were forthcoming. In that connection, the provisions of decision II/10 were relevant and the Implementation Committee had in fact recommended a revision to that by the Sixth Meeting of the Parties. He suggested that there should be no further temporary classifications, since it was not clear that the countries remaining to be classified and not on the list of 34 had the characteristics considered necessary for inclusion under Article 5. Some representatives considered that it would be appropriate that when reclassified those countries continued to meet the phase-out schedules applicable to Parties not operating under Article 5 and that it would not be appropriate for them to call upon the resources of the Multilateral Fund. Several representatives agreed that there should be a time limit on temporary classifications. One representative said that a

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time-cap already existed, since specific time frames were already set out under the Protocol. Some representatives doubted whether countries could continue to be classified by the Secretariat if no data had been made available. Several representatives said that data reporting was becoming more and more important, and expressed concern about the fact that information was lacking, since compliance was an important question. One of them said Parties should experience no advantages in failing to report or in reporting late. The submission of incomplete or estimated data, he said, might be acceptable and dealt with differently. Agreement on non-compliance rules had been reached at the Fourth Meeting of the Parties.

The role of the Implementation Committee clearly showed how to follow-up on this. One other representative wondered if it were possible for the Secretariat to prepare a document, listing Parties that were not in compliance with the obligations of the Protocol, and outlining how they could be regarded as non-Parties after a certain time period. After that period trade with them could be suspended. In reply, the President of the Implementation Committee said that the only way Parties could be found to be not in compliance would be through a non-compliance procedure approved by the Fourth Meeting of the Parties.

55. With regard to whether the Executive Committee of the Multilateral Fund should continue to consider projects in the absence of data-reporting, some representatives said it was necessary to look at the Parties temporarily classified as operating under Article 5 that were not providing data. One of them said there was no justification for considering projects if a country provided no data after a country programme had been put in place.

56. One representative from a developing country stated that his country had started to implement the Protocol in 1992. Information on ozone-depleting substances had been collected and could be submitted to the Ozone Secretariat at the Sixth Meeting of the Parties.

57. Several representatives said that countries should be allowed to be reclassified on the basis of clarified data. However, several added, the new data had to be carefully evaluated. Several representatives said that perhaps a new methodology was needed. Corrected data had to be subject to defined conditions, and the Implementation Committee should be evaluating such data closely. One other representative doubted whether reclassification should be allowed, saying it seemed against the spirit of the Protocol.

58. One representative referring to paragraph 21 (d), said that, as governed by Article 7, paragraph 3 of the Protocol, if a Party had submitted data and had been reclassified it had the right to request a waiver of its contributions. His own country had submitted data for 1993, during which year consumption of Annex A substances had fallen below 0.3 kg per capita. Therefore, it was no longer under an obligation to contribute to the Multilateral Fund. One representative said that a country reclassified as operating under Article 5 should be able to follow the new time frame set out in that Article and should not contribute to the Multilateral Fund. One other representative, supporting that statement, said that the basic fact was that the Protocol itself did allow for reclassification. Two questions were involved: first, a budgetary question. Countries may have been expected to contribute, but had not as yet. That was an accounting question and perhaps not a major one. Second, there was always the consideration that those countries should be allowed to draw on the Fund and exercise the 10-year period of grace allowed to countries operating under Article 5. Another representative said it was very important to decide whether countries be allowed to draw from the Fund and use the 10-year grace period.

59. The representative of the Ozone Secretariat said that he sought guidelines for the Secretariat and for the Secretariat of the Multilateral Fund. All Parties had to submit base data within three months of the entry

into force of their status, and the data for the year within nine months of the completion of the year. As decided by the Second Meeting of the Parties, to enable quick action, the Ozone Secretariat could temporarily classify countries in the absence of a data report. In a few cases, the classification had been incorrect, as the country had turned out to be using either more or less than the threshold figure of 0.3 kg per capita. Where the classification of countries changed after receipt of data, the Secretariats needed to take many actions and the questions raised in document UNEP/OzL.Pro/WG.1/10/2 need to be answered urgently to enable the Secretariats to proceed further.

60. The Chairman subsequently introduced draft principles he had prepared regarding treatment of classified and reclassified developing country Parties. He said the draft was an attempt to synthesize the discussion held on the subject earlier and attempted to bring out most of the points of view expressed.

61. The President of the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol said that many points raised at the last meeting of the Committee and in the Working Group's debate had been included in the draft and it represented a good base for going forward. He believed, however, that the document set out a slight modification to the present regime which was guided by decision II/10. Therefore, he expressed concern on behalf of the Implementation Committee which, he said, held a specific mandate with regard to data reporting. In reply, the Chairman reassured him that the draft intended there to be no change in reporting requirements such as they existed under the Montreal Protocol. Those requirements should of course be adhered to, but his draft represented an attempt to come to terms with the reality of a difficult situation.

62. There was general agreement that the Chairman should be congratulated for the excellent job of work he had done in preparing the draft. A number of representatives said he had succeeded in producing a very delicately balanced draft, which they recommended for adoption with the sole amendment made. One of them said that, concerning paragraph 1, his understanding was that the data used for temporary classification was the incomplete or estimated data provided by the Party and supported, if necessary, with information from other sources, and, concerning paragraph 2, the approved projects to be paid for would be country studies that would help to improve the situation with regard to provision of data.

63. Some representatives expressed reservations concerning paragraph 5 and mentioned that reclassified countries were eligible for assistance and that the paragraph should be either deleted or amended. Access to the benefits of the Multilateral Fund, as well as the phase-out schedule, should be subject to the stipulations contained in the Articles of the Montreal Protocol. One other representative suggested further amendment to the paragraph.

64. In summing up, the Chairman said that, in view of the general support for the language of the paper, he considered it should be passed on to the next Meeting of the Parties, with an indication of the reservations expressed by some countries. He therefore proposed that square brackets be inserted around the disputed words. It was agreed that the document as amended as given below be adopted for transmission to the Sixth Meeting of the Parties:

PRINCIPLES REGARDING TREATMENT OF CLASSIFIED AND  
RECLASSIFIED DEVELOPING COUNTRY PARTIES

1. The Secretariat should continue to classify, in absence of complete data, developing countries temporarily as operating or not operating under Article 5 based on the information available to the Secretariat, subject to the conditions that:

(a) The Secretariat encourages these Parties to approach the Executive Committee and the Implementation Committee for

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assistance in establishing accurate data;

(b) A country may only be classified temporarily as operating under Article 5 for a period of two years applicable from the time of adoption of this decision. After this period, Article 5 status can no longer be extended without data reporting as required by the Protocol unless the country has sought the assistance of the Executive Committee and the Implementation Committee;

(c) A developing country temporarily classified as operating under Article 5 would lose the status if it does not report data as required by the Protocol within one year of the approval of its country programme and its institutional strengthening by the Executive Committee.

2. The Executive Committee will consider projects from Parties temporarily classified as operating under Article 5. The projects approved when such temporary classification is operative will continue to be funded even if the countries subsequently are reclassified as not operating under Article 5 on receipt of data. However, no project will be sanctioned during a period during which the country is classified as not operating under Article 5.

3. Parties may be allowed to correct their data in the interest of accuracy for a given year but no change of classification will be permitted for that year pertaining to which the data has been corrected. Any such corrections should be accompanied by an explanatory note to facilitate the work of the Implementation Committee.

4. Regarding developing country Parties which are initially classified as not operating under Article 5 and then reclassified, any outstanding contribution to the Multilateral Fund will be disregarded, only for the years in which they are reclassified as operating under Article 5. Any Party reclassified as operating under Article 5 will be allowed to utilize the remainder of the 10-years grace period, but is encouraged not to do so.

5. Any Party initially classified as non-Article 5 but reclassified subsequently as operating under Article 5 shall [not] be requested to contribute to the Multilateral Fund [and will not be eligible for assistance from the Fund.] This will not apply if the initial classification of the Party as non-Article 5 made in the absence of complete data, is subsequently proved to be wrong on the basis of complete data.

65. The Working Group thus concluded its consideration of agenda item 5 (a).

B. Situation of the country Parties with economies in transition

66. The representative of the Russian Federation said that the question of granting special status to the countries with economies in transition had already been raised at the Fifth Meeting of the Parties to the Montreal Protocol and he referred to the proposed draft decision contained in paragraph 66 of the report of that meeting (UNEP/OzL.Pro/5/12). Recalling the substance of the matter, he said that no decision had been reached at that meeting, and he had also raised the issue at the most recent meeting of the Implementation Committee, in Nairobi. He wished to explain why he considered the subject of importance. In her opening address the Executive Director of UNEP had pointed out that within the Montreal Protocol there were no provisions for countries with economies in transition. While that statement was factual, it did not mean that such countries were not a

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reality. Indeed, at the United Nations Conference on Environment and Development, a special definition for that group of countries had been adopted. Provisions for that group existed in the Convention on Biological Diversity and in the United Nations Framework Convention on Climate Change.

The Parties to the Montreal Protocol were thus free to amend the Protocol to take into account the special needs of the group of countries with economies in transition. That would show goodwill, he said, and would be seen as a special gesture towards that group in the same way as criteria had been created for a special status for developing countries under Article 5, paragraph 1. The Russian Federation, he said, would assume the responsibility of preparing a report and a draft text on the subject of special status and could have that distributed for consideration by the Open-ended Working Group and at the Sixth Meeting of the Parties to the Montreal Protocol. Experts from the Russian Federation and from other countries who had been examining the question believed that, because of the prevailing economic crisis, the Russian Federation would not be able to phase out products under Annex A fully within the available time frame, even if it was provided with the full amount of finance required to implement a country programme. Thus, a special status was required to help the Russian Federation meet its obligations over a period of time, at least up to 1998. With regard to halons and substances for basic domestic needs, it was necessary for the country to produce those substances in the next year. Other countries were in a similar situation. His group of countries found themselves in a difficult situation concerning the implementation of country programmes and the phasing out of ozone-depleting substances. International aid was needed. The countries in question generally had a very high potential for action to deal with the problem of ozone depletion.

They had the ideological and technological basis to phase out CFCs. He asked the Working Group, the Executive Committee of the Multilateral Fund and the group dealing with finance mechanisms to take into account the fact that, although countries with economies in transition wished to help countries operating under Article 5, paragraph 1, not all of them could give the aid needed on the required scale and within the time frame set out at the Fifth Meeting of the Parties. The Russian Federation was expected to be the fourth largest donor to the Multilateral Fund, and its total contribution determined for the period 1991-1996 amounted to one quarter of all the funding it required to carry out its own natural ODS phase-out programme. Yet the amount of contributions set was far beyond the possibilities of the country to pay, because of the economic crisis. Thus, he requested special consideration for those countries with economies in transition and special attention to the question of contributions in kind to the Multilateral Fund in order to determine the most feasible ways for them to fulfil their obligations. He concluded by saying that he would hand in a draft paper on the subject to the Ozone Secretariat.

67. The representative of Poland said he fully supported the statement made by the representative of the Russian Federation and stressed that several Eastern European countries were in a similar situation and thus wanted to discuss the problem of contributions as a group. He pointed out that the General Assembly of the United Nations had also defined the countries with economies in transition as a group with common problems. To date, he said, there were US\$ 32 million in unpaid contributions from that group. The countries wished and hoped to make their contributions, but a way had to be found of contributing in kind. He concluded by expressing the hope that it would be possible to find some kind of solution.

68. One representative, addressing the statements made by the representatives of the two countries with economies in transition, said that he considered the situation involved two distinct problems. The first, as the statement by the representative of the Russian Federation had made clear, involved the question of non-compliance with the obligations entered into under the Protocol. The second centred upon the problem of financial contributions. It was important to differentiate between those two issues. A case of non-compliance concerned a specific country. But the question of contributions required a more general discussion.

69. The Chairman subsequently drew attention to a proposal circulated by  
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Bulgaria, Hungary, Poland, Russian Federation and Ukraine, regarding contributions to the Multilateral Fund by Parties with economies in transition. He said that, following informal consultations, it had been decided that the Executive Committee should be urged to meet with the countries concerned in order to discuss the issues contained in the proposal. It had been felt that an appropriate time would be during or immediately before the Sixth Meeting of the Parties. In addition, Poland, as a member of the Executive Committee together with the Russian Federation which would attend on behalf of other countries with economies in transition, would bring up the issue at the forthcoming meeting of the

Committee in July 1994. It was also clear that the basis for the meeting would be the formal response by those countries to a letter addressed to them by the Secretariat of the Multilateral Fund regarding contributions to the Fund.

70. In the light of the explanation by Chairman, the Working Group agreed that there was no need to consider the proposal further.

71. The representative of the Russian Federation drew attention to a forthcoming meeting that had been arranged in Minsk to discuss the functioning of the Vienna Convention and the Montreal Protocol in those countries that had been part of the former Soviet Union. He asked whether it would be possible for the Secretariat to consider enlarging representation by helping in funding the participation of at least one representative from each concerned Eastern European country. The options for contributions to the Multilateral Fund would also be discussed in Minsk, where he hoped some conclusions would be reached. He also hoped that a specific agreement could be reached at the Sixth Meeting of the Parties.

72. The representative of South Africa asked whether the conclusions would also apply to other countries that considered themselves to have economies in transition.

73. The Chairman clarified that the proposed meeting was for those countries that had specially asked to discuss the situation with the Executive Committee. The conclusions would be provided to the Sixth Meeting of the Parties for its consideration.

74. The Working Group thus concluded its consideration of agenda item 5 (b).

VI. CONSIDERATION OF THE REPORT OF THE SCIENTIFIC ASSESSMENT PANEL  
ON THE IMPACT ON THE OZONE LAYER OF CONTINUED USE OF RECYCLED  
CONTROLLED SUBSTANCES (DECISION IV/24, PARAGRAPH 6)

75. On behalf of the Chair of the Scientific Assessment Panel, a representative of the Ozone Secretariat presented the report of the Scientific Assessment Panel on the impact on the ozone layer of continued use of recycled controlled substances (UNEP/OzL.Pro/WG.1/10/4). He pointed out that, for any CFC, halon or methyl bromide to cause damage to the ozone layer, it must first be released into the atmosphere. Consequently, recycled compounds which were not released would have no impact on ozone depletion, while any that were, accidentally or deliberately, would cause such depletion. The Panel's study compared the impact of destroying CFCs with that of recycling and reusing them, in which case they would ultimately be released into the atmosphere. The comparison was based on the global production of CFC-11 and CFC-12 for various applications, assuming a four-year average lifetime for the release of those CFCs from such applications and the complete recapture and destruction of all the gases stored in 1994. The calculations showed that the difference between the total effective atmospheric chlorine in the two scenarios was less than 0.65 per cent. The report concluded that the impact on the ozone layer of the continued use of recycled controlled substances was minimal.

76. One representative enquired as to how the difference in effect on the ozone layer between the two methods could be so minimal.

77. The representative of the Ozone Secretariat explained that the regulated release of the substances resulting from recycling led to that minimal difference.

78. In response to another question by a representative, on the impact on the ozone layer of by-products created in the destruction of CFC-11 and CFC-12, the representative of the Ozone Secretariat explained that, 98-99 per cent efficiency could be achieved in the destruction of CFCs and hence the process of destruction would have little impact on the ozone

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layer.

79. In response to a question asked by an observer, the representative of the Ozone Secretariat agreed that serious efforts to implement recycling as well as destruction at an appropriate stage were needed in all countries.

80. One representative said that the phase-out of ozone-depleting substances did mean a halt to emissions of CFCs into the atmosphere since there were no strict limits in the framework of the Montreal Protocol to the use of large quantities of ozone-depleting substances that had been stored, especially with regard to fire-extinguishing substances containing CFCs. Noting that the purpose of the Protocol was to protect the ozone layer, he said that the Protocol should be refined to include fuller protection measures, with the possible inclusion of national emission quotas, thus ensuring gradual reduction. That regime should be as strictly enforced as the regime pertaining to nuclear material, involving such measures as international inspections and sanctions etc.

81. The representative of the European Community, referring to the lack of any mandatory requirement for recovery or recycling under the Protocol, noted that a European Community regulation due to enter into force later in the year required countries to take all practical measures to recover and recycle ozone-depleting substances and to prevent the leakage of ozone-depleting substances. He hoped that other countries would consider the adoption of similar legislation.

82. The representative of Sweden informed the Working Group that regulations on the recycling and recovery of ozone-depleting substances had been enforced in her country since 1989. In addition, she asked for further clarification on action by the Scientific Assessment Panel taken in response to the request from Parties that it should compare the impact of the use of CFCs with the impact of the use of alternative available environmentally sound substances.

83. The representative of the Ozone Secretariat said that the question would be taken up by the Panel at its next meeting.

84. One representative asked how the Panel had arrived at such a high rate of success for recycling. In addition, with regard to the need for mandatory measures, he wondered whether consideration had been given to those practical measures which were already in place in different countries.

85. The representative of the Ozone Secretariat suggested that the question regarding the success levels of recycling would be more appropriately answered by the Technology and Economic Assessment Panel.

86. One representative stressed that the options of recycling and destruction should only be considered when there were no feasible alternatives to ozone-depleting substances. He also pointed out that a combination of recycling and destruction could be very costly and it might therefore be preferable for countries to select an alternative approach.

87. The Working Group thus concluded its consideration of agenda item 6.

#### VII. CONSIDERATION OF THE REPORT OF THE TECHNOLOGY AND ECONOMIC ASSESSMENT PANEL

88. In considering agenda item 7, the Working Group first heard presentations from members of the Technology and Economic Assessment Panel and its Options Committees.

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89. Dr. Andersen, Co-Chair of the Technology and Economic Assessment Panel, introduced the report of the Panel.

90. Dr. Tope, the alternate Co-Chair of the Aerosols, Sterilants, Miscellaneous Uses and Carbon Tetrachloride Technical Options Committee reported on the work of that Committee. In response to the question by one representative, as to whether solvents used in the purification of pharmaceuticals could be seen as process agents, she drew attention to the concept of process agents used by the Technology and Economic Assessment Panel.

91. Dr. Kuijpers, as Chair of the Refrigeration, Air Conditioning and Heat Pumps Technical Options Committee and Mr. Taylor, Chair of the Halons Technical Options Committee, reported on the work of their respective committees, regarding essential use nominations.

92. One representative asked what progress had been made in research into alternatives to the use of halons in fire prevention and how much longer halons would continue to be used for such purposes.

93. Mr. Taylor said that alternatives to halons were already available for many - but not all - uses. As additional alternatives were developed, pressure on the existing halon bank was lessened, releasing more halons for the remaining essential uses for which there were no adequate alternatives.

94. The representative of the Russian Federation said that his country had still failed to find a satisfactory solution to the problem posed by the continued use of halons and intended to continue production of halons in the foreseeable future. While large quantities of halons were available in banks, they could not be recycled and production would continue to be necessary for certain strategic uses. The Russian Federation requested the Technology and Economic Assessment Panel and its Halons Technical Options Committee (HTOC) to review materials to be submitted by the Russian Federation by the end of July 1994 concerning essential halon uses for the year 1995. Furthermore, the Russian Federation accepted the offer of HTOC to propose alternatives and substitutes to halon uses now considered as essential. The Russian Federation also welcomed any assistance of HTOC in identifying sources of recycled halons to supply essential uses. It was the intention of the Russian Federation to submit by 1 January 1995, nominations for essential halon use in 1996. The Russian Federation reserved its right to revert to the issue at the Sixth Meeting of the Parties.

95. Mr. Taylor said that the Committee had had discussions earlier in the year in Warsaw with experts from the Russian Federation on the use of halons. The 440 tons of halons mentioned represented a 90 per cent reduction of previous levels. That was a significant achievement but the Russian Federation should move to meet all its requirements from halon banks. The Halons Technical Options Committee would help in this respect.

96. The Ozone Secretariat said that the Parties had decided on the procedure for essential use nominations and those relating to 1995 had already been submitted. Any further nominations could not be processed for

the current year but would be processed for being placed before the Seventh Meeting of the Parties to the Protocol in 1995. The fruitful cooperation between the Russian Federation and the Technology and Economic Assessment Panel would continue in the meantime.

97. The representative of France said that France was now able to withdraw the nomination it had made concerning halon requirements. In addition, she asked for clarification concerning one halon which, she understood, was not covered by the Montreal Protocol.

98. Mr. Taylor clarified that the substance in question had an ozone-depleting potential of approximately 0.4 and its use was limited to highly specialized areas. His Committee would investigate the matter further.

99. The representative of Canada said that his Government would host a workshop on laboratory and analytical uses in order to bring together key players, including regulators, producers, laboratory users and organizations that determined reference methods and standards. Canada would discuss the matter of participation with other countries, especially those that had nominated laboratory uses. It would also urge any interested country to consider informing it of any national experts who might be able to contribute. Although no date had yet been fixed for the workshop, his Government would do its utmost to hold it before the Sixth Meeting of the Parties.

100. The representative of the United Kingdom withdrew his country's nominations for the use of CFC-113 as a solvent for the purposes of fingerprinting and membrane manufacturing. He was, however, concerned about the Panel's suggested alternative to CFC-113 in fingerprinting applications, which was flammable and did not meet existing standards. The United Kingdom would therefore welcome information on other alternatives. In the meantime, it would use existing stocks of CFC-113 for fingerprinting purposes but might revisit the issue at some later date.

101. Dr. Andersen said that the Panel would publish a technical note on fingerprinting describing the system used in the United States and other systems. Efforts to find alternatives would be increased, with seminars being organized, if necessary. Dr. Andersen further informed the Working Group that the Panel would publish a technical note on alternatives for the cleaning of live electrical equipment and was also planning a workshop on gyroscope uses.

102. Dr. Van Slooten, as a member of the Technology and Economic Assessment Panel, recalled the request made by the Fifth Meeting of the Parties for the Panel to assemble and distribute a handbook on essential uses nominations (decision V/18, para. 5). He noted that some of the nominations had been incomplete, or had been received in languages other than the working language of the Panel. He said that it was important for Parties to require their industries to complete the nomination document and that criteria that must be met would be established. On the final point, the Panel proposed that translation services should be provided through UNEP for nominations submitted in languages other than the working language of the Panel. The Panel was considering the draft handbook and would circulate it to the Parties in time for the next round of nominations.

103. Dr. Kuijpers, Co-Chair of the Technology and Economic Assessment Panel, introduced the Panel's report on inadvertent production (see UNEP/OzL.Pro/WG.1/10/3, section ES.6, and UNEP/OzL.Pro/WG.1/10/2/Add.1, para. 16), which had been prepared in accordance with decision IV/12 of the Fourth Meeting of the Parties. He said that the worst-case estimate for inadvertent emissions would be approximately 7,200 ODP-weighted tons in 1994 falling to 5,800 ODP-weighted tons by the year 2000. Those figures were broken down by source of emission in chapter 9 of the Panel's report.

Since those levels amounted to about 0.5 per cent of the amount of controlled substances produced in the baseline years, the Panel had

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concluded that global inadvertent production was very low. It did, however, recommend that Parties work with their respective Governments and industries to take steps to reduce such emissions, including such steps as avoidance of creation of such emissions, reduction of emissions using practicable technologies, containment or destruction. Finally, the Panel had stressed the importance of technology transfer to developing countries.

104. One representative said that she believed that, for global emissions rather than just emissions from developed countries, the figures given in the worst-case scenario were a gross underestimate.

105. Mr. Reed, Senior Advisor to the Technology and Economic Assessment Panel, introduced the conclusions of the Panel on recovery and recycling (UNEP/OzL.Pro/WG.1/10/3, section ES.4, and UNEP/OzL.Pro/WG.1/10/2/Add.1, paras. 17-18).

106. One representative noted that the Panel had suggested that recovery and recycling of methyl bromide used in fumigation in chambers appeared likely to be feasible with recovery of methyl bromide at a rate of about 90 per cent and it was expected that equipment for that application would be generally available soon. It was also stated that commercially demonstrated and effective technologies were available for the recovery, recycling, containment and leakage control of methyl bromide. However, his delegation considered that there was a need for further consideration of the development and extension of such technology. He would therefore appreciate it if the Panel clarified the reason for its statement. Emphasizing the significance of methyl bromide for agricultural production and plant quarantine, he expressed serious concern about the possible impacts on such production and quarantine if no consideration was given to the difficulty regarding the availability of alternatives and further regulation was imposed on methyl bromide uses. Accordingly, regulatory measures should be in step with the development of alternative leakage control technologies. The Panel should suggest the technology development targets, such as efficiency of recovery and tolerable residual emissions.

107. Dr. Banks, Chair of the Methyl Bromide Technical Options Committee said that the Panel had stated that the overall scope of recovery of methyl bromide from fumigation was low and might be feasible only in a few specific situations, with some potential recoveries as listed in chapter 6, page 13, of the Panel's report. Technologies were currently under development but were not available. Recovery was dependent on the specific situation or commodity.

108. In response to a question from one representative, Mr. Reed, Senior Advisor to the Technology and Economic Assessment Panel, said that, although trade in recycled and recovered CFCs was encouraged by decision IV/24 of the Fourth Meeting of the Parties, he did not believe that there was the same need to manage activities by establishing a bank similar to that of halons. In response to further questions, he said that there was no practical way of distinguishing between virgin and recycled substances since it was always possible to contaminate virgin material to make it look like used stock. He did not, however, believe that that was an impediment to the implementation to the Protocol. He further pointed out that, in any case, by 1996, there would be no newly produced materials in the developed countries.

109. Speaking in response to a question from a representative concerning the geographical distribution of pilot methyl bromide projects and on the way in which developing countries could benefit, the Chief Officer of the

Secretariat of the Multilateral Fund said that the Executive Committee had, to date, approved one such project, which related to data collection in China.

110. Dr. Kuijpers, Co-Chair of the Technology and Economic Assessment Panel, introduced the Panel's work on the evaluation of alternatives to HCFCs, carried out pursuant to decision IV/30 of the Fourth Meeting of the Parties (UNEP/OzL.Pro/WG.1/10/3, section ES.3, and UNEP/OzL.Pro/WG.1/10/2/Add.1, paragraphs 19-22).

111. In response to a question from one representative, Dr. Kuijpers said that the Panel had not investigated the quantities of HCFCs that would be required. It was, however, endeavouring to produce a report by the end of the year in which consumption forecasts would be made.

112. One observer raised serious doubts about the accuracy of the information and the rigour of the Assessment Panel's evaluation of the alternatives to HCFCs pursuant to decision IV/30. Not-in-kind alternatives were commercially available for a wide variety of current uses. His organization did not believe that HCFCs were technically or commercially necessary for the transition in the majority of refrigeration or air-conditioning applications or in the manufacturing of insulating foams. He urged Parties to recall Article 2 F of the Protocol and consider the Panel's recommendations in that light.

113. In response, Dr. Kuijpers said that the phasing-in of non-ozone depleting substances in the sectors referred to by the observer depended, inter alia, on the energy efficiency standards in the country concerned. HCFCs could be used as a transitional substance to obtain the energy efficiency required by current standards. Domestic refrigeration, for which non-ODS alternatives did exist, only represented a small part of the whole sector, and, therefore the Panel statement concerning the majority of refrigeration and air-conditioning applications was valid.

114. In response to a further question from a representative, Dr. Kuijpers said that while, in principle, the Panel had looked at all substitutes including not-in-kind alternatives, most of such methods had not been commercialized and had therefore not been considered. In response to a further question, he said that it was difficult to generalize about safety standards. In addition, he said that the Economic Options Committee was considering the issue of technology transfer and would submit its report by the end of 1994. On a further point he clarified that the values in table 4-1 of the Panel's report were averages over a number of applications. The purpose of the table was to show the disadvantage in terms of increased energy consumption in moving from full CFC-11 to water-blown CFC-11 technologies. HFC-134a had not been included in the table because its energy consumption index was even higher. It was clear from the averages that the use of cyclopentane did imply reduced energy efficiency.

115. Mr. Reed, Senior Advisor to the Technology and Economic Assessment Panel, introduced the report and recommendations of the Panel on destruction technologies (UNEP/OzL.Pro/WG.1/10/3, section ES.5). Chapter 10 of the report of the Panel gave a detailed elaboration of specific issues.

116. Dr. Banks, Chair of the Methyl Bromide Options Technical Committee, introduced the recommendations of the Panel on problems of Protocol definitions and methyl bromide control (see UNEP/OzL.Pro/WG.1/10/3, section ES.7, and UNEP/OzL.Pro/WG.1/10/2/Add.1, paragraph 28). The full recommendations of the Panel were contained in Appendix 3 to its report, which also contained two alternative sets of definitions of the words "quarantine" and "pre-shipment" for the consideration of the Working Group.

117. Dr. Andersen, Co-Chair of the Technology and Economic Assessment Panel, introduced the recommendations of the Panel on the list of products containing controlled substances from Annex B of the Protocol

(UNEP/OzL.Pro/WG.1/10/2/Add.1, paragraphs 22-27).

118. Dr. Kuijpers, Co-Chair of the Technology and Economic Assessment Panel, elaborated on the use of hydrocarbons, particularly for domestic refrigeration, and summarized future activities concerning the issue. In particular, he drew attention to paragraph 21 (c) of the note by the Secretariat (UNEP/OzL.Pro/WG.1/10/2/Add.1). The Refrigeration Options Committee was conducting a thorough analysis of the potential for using hydrocarbons in refrigeration and its report would be produced by the end of 1994.

119. Dr. Carvalho, Co-Chair of the Technology and Economic Assessment Panel, introduced the report of the Assessment Panel on developing country concerns, especially with regard to public awareness, technology cooperation, technology choices, availability of technical information, supplies and cost of alternative substitutes and technologies, servicing of existing equipment, estimates of quantities needed, recovering, recycling and reclamation, and HCFCs (UNEP/OzL.Pro/WG.1/10/3, section ES.2). Concluding her statement, she cautioned that the success of a phase-out in developing countries would require concentrated efforts from all. It was therefore essential to ensure that, once phase-out was completed in developed countries, those countries did not lose interest in the whole process.

120. In reply to one representative, who felt that the implementing agencies were not properly briefed on the issues, she said that Parties could both obtain information and convey their concerns through the Panel members from developing countries.

121. One representative drew attention to the problem faced in developing countries resulting from the import of second-hand equipment containing controlled substances. Such imports not only affected those countries' calculations regarding their domestic consumption but also posed the problem that such equipment would eventually become useless.

A. Nominations for essential uses, for 1995, of halons  
(decision V/18 and decision IV/25)

122. Introducing the discussion of agenda item 7 (a), the Chairman recalled that the only nomination for essential uses of halons in 1995 had been withdrawn at the current meeting of the Working Group.

123. The representative of the Russian Federation said that, in the period since the Fifth Meeting of the Parties, his country had still not managed to solve the problem regarding the production or acquisition from international halon banks of its need for 400 tons of halons for essential uses in 1994. In addition, the Russian Federation required a large amount of additional production of halons for the security of strategically important objects in military application (200 tons), in the atomic industry and for nuclear power stations (about 70 tons), for the protection of gas-pumping stations and equipment against explosions (about 60 tons), for the safe operation of civil aircraft and vessels (about 100 tons) and for the protection of cultural treasures of national and international importance (about 20 tons), making a total of about 450 tons for the year 1995. That was why the Russian Federation was unable fully to renounce production of halons for 1995. He reiterated his earlier offer to provide full information to the Halons Technical Options Committee before January, so that it could review the requirements of the Russian Federation. In the light of suggestions by Dr. Taylor and Dr. Andersen, he said that total production requirements might in fact be somewhat lower than 450 tons but that some production would still be necessary in 1995, since the consequences, in terms of atmospheric impacts, of the lack of halons could be worse than those caused by halons that were produced.

124. The Chairman suggested that the report should reflect the concerns of the Russian Federation and, if needed, the issue could be considered by the Sixth Meeting of the Parties.

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125. The Working Group agreed to recommend that the Sixth Meeting of the Parties should decide that no level of production or consumption is necessary to satisfy essential uses of halon in Parties not operating under paragraph 1 of Article 5 of the Protocol, for the year 1995 since there are technically and economically feasible alternatives and substitutes for most applications, and since halon is available in sufficient quantity and quality from existing stocks of banked and recycled halon.

126. The Working Group thus concluded its consideration of agenda item 7 (a).

B. Nominations for essential uses of controlled substances other than halons (decision V/18 and decision IV/25)

127. In the course of the Working Group's discussion of agenda item 7 (b), many representatives concurred with the recommendations of the Technology and Assessment Panel on essential uses of controlled substances other than halons. Some representatives pointed out various errors in the Panel's report.

128. The representative of Poland, referring to his country's nomination for 300 tons for refrigeration-servicing purposes, pointed out that in his country there was an eight-year obligation period for insurance servicing of refrigeration equipment. In addition, his country had no national system for recycling of CFCs, lacked the new equipment and trained personnel required for retrofitting and had insufficient stocks of CFCs. As a result, it risked losing the use of much of its refrigeration equipment, with serious social consequences. He undertook to submit further information and Poland's future nominations for essential uses. In that context, Poland would like to ask for a final decision regarding essential use nominations for refrigeration-servicing to be taken by the Seventh Meeting of the Parties.

129. The representative of the European Community said that the scope of metered dose inhalers (MDIs) should be limited to asthma and chronic obstructive pulmonary disease (COPD) - the scope within which the European Community had made its MDI nominations.

130. One representative expressed the belief that it was inadvisable to narrow the scope of MDIs.

131. One representative suggested that a global exemption might be granted for MDIs, in view of the large number of countries submitting nominations. The situation could be reviewed as and when commercially acceptable substitutes became available.

132. One representative stressed the need to limit the number of exemptions. Her delegation believed that rapid advances in technology meant that no new exemptions should be adopted beyond 1997.

133. Noting that the issue of process agents raised in paragraph 10 of the Secretariat's note (UNEP/OzL.Pro/WG.1/10/2/Add.1) had not been taken up, one representative said that her delegation considered the recommendation to be contrary to the spirit of the Protocol. It understood that some Parties might have difficulties in that area, however, and therefore proposed that a subgroup should be formed under the Panel with a view to preparing recommendations for the consideration of the Open-ended Working Group on that issue.

134. One representative suggested that, since laboratory and analytical methods had to be internationally accepted by competent standards organizations, the issue of such uses should also be referred to such international organizations as the International Union of Pure and Applied Chemistry and the International Standardization Organization (ISO).

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135. One representative suggested, with regard to analytical uses, that a two-year time limit should be considered. Another representative had reservations about the proposed two-year limitation as an across-the-board measure, since in some cases there was good reason for a longer exemption.

136. One representative, supported by another, pointed out that when the nominations had been prepared the concept of multiple-year exemptions had not been fully understood and he wondered, therefore, whether single-year nominations which were deemed to be complete might be considered as multiple-year nominations. In response to a question from the Secretariat, he confirmed that the countries concerned would, in any event, repeat their nominations.

137. With regard to essential use nominations for all controlled substances other than halons, the Working Group agreed to recommend that the Sixth Meeting of the Parties should decide:

1. To note with appreciation the work done by the Technology and Economic Assessment Panel and its Technical Options Committees pursuant to decision IV/25 of the Fourth Meeting of the Parties;
2. That, for 1996 and subsequent years for Parties not operating under paragraph 1 of Article 5 of the Protocol, levels of production or consumption necessary to satisfy essential uses of CFCs and 1,1,1-trichloroethane for metered dose inhalers (MDIs) and the Space Shuttle are authorized as specified in annex II to the present report, subject to annual review of quantities and biennial review of whether the use remains essential [and the possible further consideration of the MDI exemption referred to in paragraph 138 below];
3. That for 1996, 1997, [and 1998] for Parties not operating under paragraph 1 of Article 5 of the Protocol, production or consumption necessary to satisfy essential uses of ODSs for laboratory and analytical uses are authorized as specified in annex III to the present report;
4. That Parties shall endeavour to minimize use and emissions by all practical steps. In the case of metered dose inhalers, these steps include education of physicians and patients about other treatment options and good-faith efforts to eliminate or recapture emissions from filling and testing, consistent with national laws and regulations.

138. The Chairman noted that, at their Sixth Meeting, Parties would have an opportunity to review whether the scope of the essential use recommendations for MDIs should include treatment of non-asthma and non-chronic obstructive pulmonary diseases.

139. With regard to process agents, the Working Group decided to recommend that the Sixth Meeting of the Parties should decide:

Taking into account

That some Parties may have interpreted use of controlled substances, in some applications where they are used as process agents, as feedstock application;

That other Parties have interpreted similar applications as use and thereby subject to phase-out;

That the Technology and Economic Assessment Panel has been unable to recommend exemption, under the essential use criteria, to Parties submitting applications of such uses nominated in 1994;

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That there is a pressing requirement for elaboration of the issue and need for appropriate action by all Parties;

1. To request the Technology and Economic Assessment Panel:

(a) To identify uses of controlled substances as chemical process agents;

(b) To estimate emissions of controlled substances when used as chemical process agents and the ultimate fate of such emissions and to evaluate emissions associated with the different control technologies and other process conditions under which chemical process agents are used;

(c) To evaluate alternative process agents or technologies or products available to replace controlled substances in such uses; and

(d) To submit its findings to the Open-ended Working Group of the Parties to the Montreal Protocol not later than March 1995, and to request the Open-ended Working Group to formulate recommendations, if any, for the consideration of the Parties at their Seventh Meeting.

[2. That Parties, for an interim period of 1996 only, treat chemical process agents in a manner similar to feedstocks, as advanced by the Technology and Economic Assessment Panel, and take a final decision on such treatment at their Seventh Meeting.]

140. The Working Group thus concluded its consideration of agenda item 7 (b).

C. Supply of halons to Parties operating under paragraph 1 of Article 5 of the Protocol (decision V/16)

141. During the Working Group's consideration of agenda item 7 (c), one representative said that, in times of scarcity, supplies of halons might be hard for developing countries to obtain. He requested, therefore, that the Panel should examine the issue in greater depth.

142. Another representative drew attention to the provisions of paragraph 4 of Article 5 of the Protocol, to the effect that controlled substances must be available in adequate quantities during the grace and phase-out period, and stressed that the availability and economic feasibility of alternatives must be given due attention, particularly with regard to fire-fighting applications. For that reason, he found it difficult to accept the contention that recycled halon should be the sole source of supply.

143. In addition, he said that each country should have its own halon banking system appropriate to its needs and conditions and that there should be a transparent accounting system of banked halon. The Parties might consider whether, to that end, it was necessary to revise the data format and the matter could also be reviewed by the Implementation Committee. In addition, software costs should be taken into consideration in assessing incremental costs for such a banking system.

144. One representative, noted that, according to the report of the Halons Technical Options Committee, there was a large stock of halons in existence and that the efforts made by UNEP in that regard should be sufficient to meet the concerns of developing countries.

145. The Chairman drew attention to the decision adopted by the Fifth Meeting of the Parties on the halon bank support system. Nonetheless, the concerns of developing countries with regard to the supply of halons should be taken into account. The need for UNEP, IE/PAC and the Panel to keep the

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issue under constant review was obvious.

146. The Working Group thus concluded its consideration of agenda item 7 (c).

D. Total emissions resulting from trace impurities, emission during manufacture, etc. (decision IV/12 paragraph 3)

147. During the Working Group's consideration of agenda item 7 (d), one representative noted that the figures relating to such emissions were global estimates and her delegation believed that they could be grossly underestimated. She therefore requested the Panel to review the figures and advise Parties accordingly.

148. Dr. Andersen, Chairman of the Technology and Economic Assessment Panel, said that he would be pleased to consider any additional information on the issue and would incorporate any necessary supplement in the Panel's next report.

149. One representative, noting the difficulty of quantifying such emissions, expressed satisfaction with the quality of the Panel's work but placed on record his serious concerns regarding the alarmingly high level of inadvertent emissions of methyl bromide. His recommendation that countries should give their urgent attention to the issue and should make efforts to minimize such emissions was supported by another representative who recommended in addition that developing countries should be encouraged to adopt appropriate technologies and to tailor them to local conditions for effective performance.

150. The Working Group thus concluded its consideration of agenda item 7 (d).

E. Recycling of controlled substances (decision IV/24, paragraph 7)

151. During the Working Group's consideration of agenda item 7 (e), one representative said that all options, such as recovery, recycling, retrofit and others should be properly evaluated and Parties encouraged to adopt those which were technically and economically feasible in the specific situation of their countries. In addition, Parties should be encouraged to ensure that recycled substances were economical in comparison to newly produced controlled substances. The developing countries should be encouraged to establish their own recovery and recycling facilities. In particular, he stressed that the recovery and recycling of methyl bromide should be encouraged, including in those uses yet to be identified.

152. Another representative suggested that consideration should be given to a decision to establish more effective modalities to ensure that substances being imported or exported as used or recycled materials were indeed used or recycled. He believed that, by exempting imports and exports of such substances from the calculation of consumption, the Parties might have unwittingly created a loophole in the Protocol regime. He suggested that an ad hoc committee could be put together to consider a possible draft decision for consideration at the Sixth Meeting of the Parties.

153. The representative of Germany, speaking on behalf of the European Union, said that the Union would suggest that the Sixth Meeting of the Parties request the Technology and Economic Assessment Panel to report on the issues.

154. The representative of France suggested that the Secretariat might prepare a list of reclamation centres for circulation to the Parties. She said that she would raise the issue at the Sixth Meeting of the Parties.

155. The Working Group thus concluded its consideration of agenda item 7 (e).

F. Evaluation of alternatives to HCFCs (decision IV/30, paragraph 1)

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156. In the Working Group's discussion of the conclusions of the Technology and Economic Assessment Panel on alternatives to HCFCs, several representatives questioned the statement that HCFCs were technically and economically necessary in some of the sectors listed in paragraph 21(b) of the note by the Secretariat and, in particular, in the manufacture of insulating foam and in firefighting applications. Some of those representatives also stated that there was a need for an extensive evaluation of not-in-kind alternatives by the Panel. One representative, in stating that the Panel could reconsider the question of the use of HCFCs in sterilization, pointed to the general difficulty of giving a clear-cut answer on whether or not a substitute was acceptable, in view of the complex trade-offs involving such aspects as global warming potential, toxicity, flammability and energy efficiency. Another representative said she was unable to agree with the Panel's recommendation that HCFCs were necessary for efficiency requirements. One representative stressed the need for alternatives to be technically and economically feasible, as well as practical to implement. They should take into account national industrial structure, taxation systems, servicing methods and other local conditions. They had to be situation-specific and should not be generalized or prejudged. Some representatives were not in favour of controls and specific uses of HCFCs, suggesting that a tighter cap was a more effective mechanism for controlling HCFC consumption.

157. One representative, supported on some items by other representatives, asked the Panel to evaluate, in their next report: the amounts of HCFCs currently used, and the predicted use within 5 and 10 years; "not-in-kind" and alternative technologies in the foam sector; and the use of hydrocarbons in refrigeration. The same representative proposed that in its report to the Sixth Meeting of the Parties, the Panel should consider: changing the word "necessary" to "needed" in the first sentence of paragraph 21(b) in the note by the Secretariat; changing the words "The majority" to "Some" in paragraph 21 (b) (i); adding the words "for some limited applications" to paragraph 21 (b) (ii); and adding "as retrofit for CFC-12 in refrigeration" and "the majority of insulating foams" to the list in paragraph 21 (c).

158. With regard to paragraph 22 (d) (i) of the note by the Secretariat, one representative expressed concern about the identification of methylene chloride as an alternative in flexible foam blowing in view of its toxicity.

159. Several representatives supported a proposal by the European Community and its member States and Austria, Finland, Norway and Sweden that the Panel should be given a mandate to investigate an earlier phase-out of HCFCs. Some of those representatives referred to the two declarations made at the Fifth Meeting of the Parties. One representative said that an earlier phase-out of HCFCs would act as a good stimulus for the use of alternatives, which were preferable to recycled CFCs. Furthermore, he stressed the need to emphasize more the availability of alternative non-ozone-depleting substances and alternative technologies not harmful to the ozone layer, instead of recycled substances and HCFCs.

160. Other representatives, however, questioned the justification for an early phase-out of HCFCs, one stating that the question was basically an economic one. In that context, another of those representatives stressed the importance of HCFCs as a transitional substance in developing countries and the need for these countries to have guaranteed supplies. He also expressed concerns regarding the cost of an early phase-out. One representative said that any review must consider the economic and technical role and need for HCFCs. He further added that developing countries should not be excluded from the use of technologies available in the developed countries.

161. Following its discussion of this item, the Working Group asked TEAP to

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reconsider its evaluation in the light of comments made in the discussion and noted that further consideration of the Panel's conclusions could take place at the Sixth Meeting of the Parties. The Group also agreed on a bracketed proposal on HCFCs as part of a proposal on the mandate of the Assessment Panels (see para. 194 below).

G. List of products containing controlled substances from Annex B (paragraph 3 bis of Article 4 of the Montreal Protocol and decision IV/28)

162. Introducing the Working Group's discussion of agenda item 7(g), the Chairman drew attention to the difficulties faced in developing a list of products containing controlled substances from Annex B, as outlined in the report of the Technology and Economic Assessment Panel. He invited the Chairman of the Legal Drafting Group to present a legal opinion.

163. The Chairman of the Legal Drafting Group said that, although Article 4, paragraph 3 bis of the Protocol clearly stated that the list was to be established by a given date, there were reasons why the establishment of such a list would be both difficult and impractical. Having reviewed the relevant articles of the Vienna Convention on the Law of Treaties and their applicability in the current case, he suggested that the Meeting of the Parties should adopt a decision giving express consent as provided for in the Convention, which allowed for the termination of a provision of a treaty by consent of the Parties after consultation with other Parties in specified circumstances. In addition, since some Parties might not be represented at the Sixth Meeting of the Parties, he suggested that the consultation requirement of the Vienna Convention could be satisfied if the draft decision was brought to the attention of all Parties with the other documentation for the Meeting.

164. Another representative agreed with the Chairman of the Legal Drafting Group in principle. The issue should also be seen in the context of trade questions under the Montreal Protocol. The draft decision should consider three parameters: feasibility; efficacy; and the effectiveness of contributing to the environmental objective.

165. The Working Group then recommended that the Sixth Meeting of the Parties should decide that, in view of the tightening of the phase-out schedule for Annex B substances from 1 January 2000 to 1 January 1996, that the elaboration of the list called for in Article 4, paragraph 3 bis, of the Montreal Protocol would be of little practical consequence and that the work entailed in drawing up and adopting such a list would be disproportionate to the benefits, if any, to the ozone layer.

166. The Working Group thus concluded its consideration of agenda item 7 (g).

H. Recommendations of the Technology and Economic Assessment Panel regarding methyl bromide

167. Introducing the discussion of agenda item 7(h), the Chairman drew attention to the definitions of "bulk substances", "quarantine" and "pre-shipment" as related to methyl bromide contained in Appendix 3 of the report of the Technology and Economic Assessment Panel.

168. The Working Group approved the recommendation of the Technology and Economic Assessment Panel relating to the definition of "bulk substances" under decision I/12A, namely, that "trade and supply of methyl bromide in cylinders or in any other container in units greater than two kilogrammes net may be regarded as trade in 'bulk'".

169. Several representatives, some expressing concerns about the feasibility of proposed alternatives for methyl bromide, said that they did not support the recommendation of the Technology and Economic Assessment Panel that there should be no exemptions from controls on methyl bromide for quarantine and pre-shipment uses. One of those representatives stated  
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that the Parties should wait for the report of the Methyl Bromide Technical Options Committee, while another pointed out that a general control scheme was to be developed at the Seventh Meeting of the Parties and that therefore the recommendation was premature. The same representative asked why the Panel had recommended using the essential use process, which applied only after the phase-out date for a substance. He believed it was difficult to find any rationale to amend Article 2H of the Protocol.

170. Some representatives indicated their preferences regarding the proposed definitions of "quarantine" and "pre-shipment" in the Assessment Panel's report. One, however, suggested that the Parties should use the same definition of "quarantine" as that adopted by the Food and Agriculture Organization of the United Nations.

171. The Ozone Secretariat noted that the recommendations required an amendment to the Protocol, and that amendment would not enter into force before the time at which the 1995 amendments were being discussed.

172. One representative said that he was in favour of the continuation of general exemptions as contained in Article 2H of the Protocol. The Chairman said that, for the time being, he wished to confine the discussion to definitions, in particular of "pre-shipment" and "quarantine", and the meeting would return to the matter of the TEAP recommendations.

173. One representative said that he did not believe that the time was ripe for the removal of exemptions and preferred to follow the route of clarifying definitions. He believed that, as suggested by another representative, in respect of the definition of "quarantine", it was better to build on an existing international framework and existing established regimes of work, and, therefore, to tie in the definition of "quarantine" to the FAO definition would be better. For the definition of "pre-shipment", he believed that option C, as suggested by the TEAP report, was too broad. He suggested the establishment of a small working group to deal with those definitions. The minimizing of emissions to the atmosphere was also very important.

174. One representative said that his Government supported, and continued to support, the recommendation of the TEAP that the best way to ensure the necessary but controlled application of methyl bromide in pre-shipment and quarantine was through seeking exemptions by means of the essential use process. He further stated that he agreed with the proposal by another representative for the definition of "quarantine", which was to follow the FAO definition, since this had been accepted by most countries and worked well. For the definition of "pre-shipment", he welcomed the opportunity to offer the wording for a different definition, which he would submit to a subgroup if such a group was established.

175. One representative said that she foresaw a problem if "quarantine" and "pre-shipment" entered into the category of essential uses, since the procedures for that were necessarily slow, and emergency situations might require quick action. Another representative, while agreeing to the proposal to use the FAO definition for "quarantine", was also opposed to the "essential use" concept in respect of "pre-shipment" and would prefer a broader definition that expressed option C in the TEAP report. Another representative, while agreeing with the previous speaker on the use of the FAO definition for "quarantine", believed that for "pre-shipment" there ought to be a definition which mentioned the requirements of the importing country, otherwise the definition would be unclear.

176. The Chairman then said that he would ask Mr. Jonathan Banks to be the convener of the subgroup, which would comprise representatives from Japan, Kenya, Australia, Canada, New Zealand, Sri Lanka, United States, United Kingdom, Botswana, Bahamas, France and Malawi. The subgroup should report back on the definitions of "quarantine" and "pre-shipment".

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177. Dr. Banks, the convenor of the subgroup on methyl bromide definitions, subsequently introduced a proposed text of definitions of "quarantine" and "pre-shipment" treatments. As the subgroup had failed to reach consensus on several items, it had been necessary to leave sections of the text in square brackets.

178. In response to the question put by a representative, the Chairman said that he hoped to remove as many as of the brackets as possible and he urged representatives to seek the necessary instructions from their capitals now or at least before the Sixth Meeting of the Parties.

179. In order to provide guidance in the implementation of Article 2H, the Working Group recommended that the Sixth Meeting of the Parties should consider providing the following definitions of "quarantine" and "pre-shipment" treatments:

[Quarantine treatments, with respect to methyl bromide, are treatments to prevent the introduction, establishments and/or spread of quarantine pests (including diseases), or to ensure their official control, where:

- Official control is that performed by, or authorized by a national plant, animal or environmental protection, or health authority.
- Quarantine pests are pests of potential importance to the area endangered thereby and not yet present there, or present but not widely distributed and being officially controlled.]

[Pre-shipment treatments are those treatments applied [immediately] prior to export to meet the phytosanitary [or contractual] requirements of the importing country.]

alternatively,

[Pre-shipment treatments are those treatments applied to goods in trade (and their means of conveyance) [immediately] prior to dispatch.]

[When applying quarantine or pre-shipment treatment, Parties are urged to apply non-ozone-depleting technologies where possible. Where methyl bromide is used Parties are urged to minimize emissions and use of methyl bromide through containment and recovery and recycling methodologies to the extent possible.]

180. The Working Group also agreed on a bracketed proposal on methyl bromide as a part of a draft proposal on the mandate of the Assessment Panels (see para. 194 below).

#### I. Options for refrigeration and the role of hydrocarbons

181. During the Working Group's consideration of agenda item 7 (i), one representative, referring to chapter 7 of the TEAP report, said that, while the report dealt with the use of HFC-134a for domestic refrigeration and technology for the use of hydrocarbons in new refrigerator manufacture, it did not give any endorsement to the transfer of hydrocarbon technology, which could lead to obtaining of help for that from the Multilateral Fund. He noted that several reports on hydrocarbon options had been produced by various organizations, including UNEP IE/PAC and the World Bank Ozone Operations Resource Group (OORG), so that plenty of information was available. He also noted that, while 14 projects had been approved by the Multilateral Fund for conversions from CFCs to HFC-134a, there were no projects utilizing the hydrocarbon option. It would be useful if assistance could be obtained from the Multilateral Fund for this particular option, and for that reason he would like to know the final outcome of the

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TEAP's consideration of this issue.

182. At the request of the Chairman, Dr. Lambert Kuijpers, Co-Chair of the Technology and Economic Assessment Panel, made a statement clarifying certain issues concerning the application of hydrocarbons to refrigeration. He said that the Panel was aware that many sources of information were available and the Refrigeration, Air-Conditioning and Head Pumps Technical Options Committee was collecting this information for its assessment report to be completed by the end of 1994. He elaborated on the use of hydrocarbons in new and existing equipment. He underlined that isobutane was being recommended by the World Bank as an alternative for a large number of CFC-12 applications. He noted, however, that that recommendation only concerned conversions for new manufacture and required higher investments than the conversion from CFC-12 to HFC-134a. He said that an option existed of mixtures of hydrocarbons that had not, however, been applied to new equipment on any large scale. At the same time, he underlined that, in repairs, flammables should not be applied in equipment that had not been designed for such a use. The possible use of those mixtures needed further analysis, in order to minimize energy consumption and maximize reliability and that would be reflected in the 1994 Refrigeration Technical Options Committee report. He drew attention to the fact that the world was changing very rapidly and other hydrocarbon options were being studied, which might be easier to apply or might be less costly or less flammable and this had consequences for any conversions made at the present time. In reply to a question raised by the previous speaker, he stated that the Panel was aware of the activities carried out by UNEP

IE/PAC concerning hydrocarbons, but those activities only dealt with the random collection of data, and had not been endorsed by the Refrigeration Technical Options Committee of the Panel.

183. An observer of an NGO supported the request made by a previous speaker for more information of hydrocarbons in refrigeration. She deplored the fact that, under the Multilateral Fund, the only conversions being made were to HFC-134a and believed that one reason for this was the lack of information on hydrocarbons and the slowness of various institutions to provide this information. The Technology and Economic Assessment Panel should make more information on hydrocarbons available, particularly information from countries that had converted to hydrocarbons. She would like to see the TEAP accelerate the process by which it assessed information on hydrocarbons. She noted that a commercial firm in the United Kingdom had recently launched a programme involving the use of hydrocarbons for retrofitting purposes, which had received support from the United Kingdom Government.

184. The representative who had requested further information on hydrocarbons, thanked the Chair of the Assessment Panel for his statement and said that his country would keep its options open, while awaiting the TEAP report, before taking any final decision on this matter.

185. The Working Group thus concluded its consideration of agenda item 7 (i).

#### J. Draft proposal on the mandate of the Assessment Panels

186. A draft proposal, submitted by two countries, on the mandate of the Assessment Panels was considered at the meeting. One representative speaking on behalf of a number of others and two other representatives introduced amendments to the proposal.

187. Several representatives said that control of HCFCs was decided only recently by the Fourth Meeting of the Parties and it was too early to consider any acceleration of control measures. The development of alternatives to HCFCs was still under progress. HCFCs were necessary for phase-out of CFCs, which was the number one priority. It was necessary to wait and see how the phase-out of CFCs was progressing before examining any phase-out of HCFCs. The HCFCs had important applications in air-conditioning and refrigeration. One representative said that certain of them were 98 per cent more ozone-friendly than CFCs. Thus, there was no need for an earlier phase-out. The enormous replacement costs could not be imposed on the public without compensating benefits. That could even cause a backlash in terms of attitudes towards ODS. Parties needed to understand whether the environment or the economy would benefit from that. It was necessary to channel energies towards phasing out CFCs rather than HCFCs, which had an ODP of 0.2 per cent and 0.5 per cent, compared to CFCs. While it was agreed that the matter merited further attention, those countries felt that the proposal was premature and potentially damaging to the purposes of the Montreal Protocol. One other representative, opposing the acceleration of the phase-out schedule, believed that, at least, the reference to Article 5 countries in the draft proposal should be deleted. Another representative said that, with the ratification and entry into force of the Copenhagen Amendment, HCFCs were controlled substances and therefore should be assessed annually by TEAP without the need for a further mandate.

188. The representative of a non-governmental organization, who also spoke on behalf of another non-governmental organization, expressed shock at the opposition to the draft proposal: while it might be understandable to oppose an earlier phase-out, she found it inexcusable for Parties to oppose a recommendation that the Panel should investigate the matter.

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189. A number of other representatives supported the draft proposal, as it represented only a request to the Assessment Panels to evaluate the issue.

The outcome of the evaluations would put Parties in a better position to address the issue of a phase-out of HCFCs. The aim at the present point in time was not strictly to regulate a phase-out of HCFCs. In view of the forward-looking nature of the Montreal Protocol process, those representatives agreed that the concern of some countries for an earlier phase-out was in itself sufficient to warrant requesting the Assessment Panels to investigate the matter further.

190. One representative, while supporting the draft proposal, had reservations about the word "stringent" in paragraph (b), which it considered unnecessary.

191. One other representative said that, with regard to the phasing out of HCFCs, he would assume that the Assessment Panels and TEAP in particular, would already be assessing that issue. The matter should be put in such a way that an assessment was useful to the Meeting of the Parties and should not imply, in any way, a prejudgment. The question was how to ensure an objective and non-prejudicial assessment. In that context, he believed a whole list of factors, which he said was by no means exhaustive, should be given consideration. That list included: energy efficiency requirements; a scientific assessment and an assessment of comparative impacts on ozone; health and safety issues, especially flammability; other environmental issues and impacts; economic impacts and costs of controls. He believed that there was some kind of fear that a phase-out of HCFCs would somehow retard the developing countries' phase-out of CFCs and he asked that TEAP look into whether there might be some basis for that fear. With regard to methyl bromide, MBTOC was still working on the issue and he assumed that it would take into consideration the issues raised in the proposal. The law in his country to halt methyl bromide production after the year 2001 contained no provisions for intermediate reduction steps. However, there had to be a flexible approach during the interim period. He noted, in particular, the importance of methyl bromide to agricultural production. A flexible approach to full phase-out of methyl bromide was one idea, but the reality was that a full phase-out was scheduled to take place in 2001 in his country.

192. Dr Andersen, Co-Chair of the Technology and Economic Assessment Panel, said that the request contained in the draft proposal was fully consistent with the mandate of the Panel and within its current capabilities, and that the Panel would be happy to undertake such an investigation.

193. Noting that the Working Group was strongly divided on the proposal, the Chairman proposed that the entire text should be incorporated in the report of the meeting in square brackets. In response to the suggestion by one representative, that the report should not contain the text of the proposal, as the Group has been unable to reach agreement on it, but, instead, should reflect the substance of the debate so that the proposers could, if they so desired, resubmit the proposal to the meeting of the Parties, he said that it was consistent with the Working Group's practice to reflect any proposal put to the Working Group and, if it failed to obtain unanimous support, to put it in square brackets.

194. Accordingly, the Working Group agreed to include the following draft proposal on the mandate of the Assessment Panels in the report of the current meeting, with the text placed in square brackets:

[To request the Assessment Panels - as an inclusion in their ongoing work - to evaluate, without prejudice to Article 5 of the Montreal Protocol, the technical and economic feasibility and environmental, scientific and economic implications for non-Article 5 countries, as well as Article 5 countries, of:

/...

(a) An earlier phase out of HCFCs; in doing so the Technology and Economic Assessment Panel is also requested to consider the ODS substitution potential brought by the available not-in-kind alternatives and alternative technologies. In assessing this matter the Technology and Economic Assessment Panel should consider the implications of the use of available alternatives to HCFCs, including factors such as energy efficiency, global warming impact, potential flammability, and toxicity;

(b) More stringent control measures for methyl bromide, in time for consideration by the Open-Ended Working Group at its eleventh meeting, bearing in mind the contents of Annexes V, VI and VII of the report of the Fifth Meeting of the Parties (UNEP/OzL.Pro.5/12);

(c) In considering these matters, the Scientific Assessment Panel shall consider the atmospheric chlorine loadings and the impact on ozone depletion.]

#### VIII. OTHER MATTERS

195. In taking up agenda item 8, the Working Group had before it a letter dated 9 May 1994 from the Deputy Secretary (Ozone), Ministry of Environment and Forests, Government of India, to the Coordinator, Ozone Secretariat, United Nations Environment Programme, regarding a proposal by India on modifications in the indicative list of categories of incremental costs under the Montreal Protocol (UNEP/OzL.Pro/WG.1/10/5).

196. The proposal was introduced by the representative of India who said that it was also being submitted on behalf of Malaysia. He said that the proposal had been put forward to rectify deficiencies in the indicative list, which, despite its name, had tended to become an immutable, final list. The purpose of the proposal was to include, as an incremental cost, the cost of establishing new facilities or expanding existing facilities for the purposes covered in the indicative list in order to meet expanded demand, as permitted by the Protocol. The proposal was in the interest of protecting the ozone layer and, in the long run, would lower the overall cost to the Multilateral Fund.

197. Many representatives supported the proposal, expressing the view that it took account of the development in certain sectors. One of those representatives said that, if the proposal was not accepted, Article 5 Parties would be discouraged from accelerating the phase-out of ozone-depleting substances.

198. Other representatives, however, while recognizing the pertinence of the issue, felt that it would be ill-advised to amend the indicative list in isolation. They believed that the issue should be taken up by the Executive Committee in conjunction with the report on the evaluation of the operation of the Financial Mechanism.

199. In that connection, one representative asked whether other incremental costs would be taken into account in the review of the Financial Mechanism and, if deemed eligible for funding, whether such costs would be paid retroactively.

200. Following short discussion on which the Chairman of the Working Group concluded that the Working Group did not have a mandate from the Fifth Meeting of the Parties to make a recommendation to the Sixth Meeting of the Parties on the proposal the Working Group agreed that the different views expressed should be brought to the attention of the Sixth Meeting of the Parties.

201. The representative of Saint Lucia said that his delegation, which was participating in the Working Group for the first time, had got the feeling

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that the Montreal Protocol was of little relevance to the small island developing States. He believed that time was right for the small island developing States to be seen as a distinct subgroup of Article 5 countries within the framework of the Montreal Protocol. With regard to transfer of technology, he believed that a committee should be set up to look at the effects of the dislocation caused by the transfer of unsound technologies to developing countries and submit a report to the Meeting of the Parties.

202. The representative of Viet Nam raised some queries regarding the Protocol. The Chairman suggested the Secretariat could answer the queries bilaterally.

203. The Working Group thus concluded its consideration of agenda item 8.

#### IX. ADOPTION OF THE REPORT

204. The present report was adopted at the closing session of the meeting, on 8 July 1994 on the basis of the draft report as contained in document UNEP/OzL.Pro/WG.1/10/L.1 and Add. 1-3.

#### X. CLOSURE OF THE MEETING

205. After the customary exchange of courtesies, the Chairman declared the meeting closed at 1 p.m. on 8 July 1994.

Annex I

## TERMS OF REFERENCE FOR STUDY ON THE FINANCIAL MECHANISM

1. The Financial Mechanism was established to support developing countries' efforts to achieve the phase-out requirements of Articles 2A to 2E through the financing of the agreed incremental costs of related projects. Projects financed by the Financial Mechanism were to be cost-effective, taking into account the countries' national strategies. Unless otherwise decided, such projects were to be consistent with the indicative list of categories of incremental costs approved by the Parties.

In carrying out this mandate, the implementing agencies have had to establish new operational modalities, and the Executive Committee has been required both to develop guidelines for its work and to interpret and implement the Parties' broad instructions.

2. The Fourth Meeting of the Parties recognized the need to periodically review the operation of the Financial Mechanism in order to ensure maximum effectiveness in addressing the goals of the Protocol. Accordingly, in decision IV/18, the Parties requested a study to:

"evaluate and review, by 1995, the Financial Mechanism established by Article 10 of the Protocol and section I of the present decision, with a view to ensuring its continued effectiveness, taking into account chapters 9, 33 and 34 and all other relevant chapters, of Agenda 21 as adopted by the United Nations Conference on Environment and Development, held in Rio de Janeiro in June 1992."

3. The Fifth Meeting of the Parties recognized that in order to ensure the development of a thoughtful study and to provide sufficient time for meaningful dialogue on its results, the study should be initiated before the Sixth Meeting of the Parties. Accordingly, in decision V/12, the Parties:

"request(ed) the Open-Ended Working Group of the Parties at its 10th Meeting to prepare terms of reference and modalities for a report to meet the requirements of decision IV/18 of the Fourth Meeting of the Parties" (cited above).

4. Purpose

A study is required to examine the effectiveness of the Financial Mechanism in achieving its aim of providing financial and technical cooperation, including transfer of technologies to Parties operating under Paragraph 1 of Article 5 of the Protocol to enable their compliance with the control measures of the Protocol.

Accordingly, the study shall evaluate and review the operations, procedures and policies of the Financial Mechanism and its resulting effectiveness with a view to ensuring its continued effectiveness taking into account chapters 9, 33 and 34 and all other relevant chapters of Agenda 21 as adopted by UNCED; to consider the implications for the ozone layer and the Financial Mechanism of continuing with the current mode of operation; to make recommendations, where appropriate, to enhance the Fund's effectiveness (including cost-effectiveness) in achieving the goals of the Montreal Protocol; and to estimate the impact of the proposed recommendations on the time required for the development and implementation of project and on the cost of ODS elimination.

5. Matters related to the current operation and policies of the Multilateral Fund

In considering the current operation and policies of the Fund, the consultant's review shall consider:

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6. General matters

The organizational structure, division of responsibilities and interrelationship between the institutions involved: the UNEP Ozone Secretariat (including the Treasury), the Executive Committee, the Fund Secretariat and the implementing agencies (World Bank, UNDP, UNEP and UNIDO).

7. Implementing agency matters

- The organization and management of all Multilateral Fund activities within the implementing agencies, including an analysis of the strengths and weaknesses of each agency with respect to achieving ozone protection goals;
- The degree to which implementing agencies may presently complement, duplicate, overlap or work at cross purposes, and the potential for Fund improvement through the addition of new implementing agencies or the improvement of existing agreements;
- The project cycles of the implementing agencies and the quality, degree and timing of their interaction with Article 5 countries and the Fund Secretariat during project identification/selection, development and implementation;
- Bottlenecks and other impediments to the speedy development, availability and transfer of related technology and the execution of projects to promote the achievement of the greatest possible ODS reduction at the lowest possible cost;
- The adequacy and effectiveness of the level of delegation to and autonomy of the implementing agencies taking into account experience to date with implementing agencies in areas such as the implementation of lines of grant;
- The degree of accountability in respect of approved financial resources to recipient Parties;
- To assess the adequacy and effectiveness of UNEP clearing-house activities, including training, query response and on-line systems; information dissemination, workshops and related activities.

8. Article 5 country matters

- The status of ODS elimination policies/actions and regulations within the Article 5 Parties and the role and adequacy of the Fund-sponsored ODS offices in the country concerned in the development, implementation and monitoring of those policies;
- The degree to which the project identification, selection work of the implementing agencies has been driven by the guidance of the Article 5 countries in support of the development, implementation, and monitoring of articulated phase-out strategies;
- The usefulness of country programmes approved to date in articulating country phase-out policies/actions and regulations to achieve and monitor reduction targets; the subsequent use of country programmes by the country and the implementing agencies and the extent of involvement of potential beneficiaries in policy formulation and implementation;
- The extent to which institutional and legal framework and the impact of Structural Adjustment Programmes in Article 5 countries

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affect the implementation of projects approved by the Fund;

- The rate at which funds and technology are actually flowing to Article 5 Parties at shop floor through the Fund according to their needs;
- The use of multinational corporations, joint ventures and indigenous technology development efforts to achieve technology transfer to Article 5 countries taking into account chapter 34 of Agenda 21;
- The adequacy and effectiveness of the Fund in identifying and meeting the technical cooperation needs of Article 5 countries.

9. Executive Committee and Fund Secretariat matters

- The degree to which project selection is affected by Executive Committee guidelines; issues associated with the adoption of policy guidelines and setting of administrative arrangements by the Executive Committee;
- The use of the incremental cost criteria and its impact on the achievement of ODS reduction in sectors which tend to be inherently cost-effective (e.g. aerosols);
- Issues associated with financing in areas not originally included on the indicative list of incremental costs;
- The manner in which the Executive Committee is treating recurrent incremental costs (both positive and negative) and the implications for both project viability and availability of funds for other worthy projects;
- The manner in which the Executive Committee and its Secretariat are approving and monitoring the execution of projects, and the adequacy and effectiveness of the Committee and Secretariat in accomplishing and reporting this and all other objectives with which they have been entrusted according to their terms of reference;
- The adequacy of the interaction between the implementing agencies, the Fund Secretariat and related subsidiary bodies of the Montreal Protocol.

10. Contributing country and financial matters

- The use of bilateral assistance to date, its likely future, and impediments to its effective use; review of the adequacy of the current 20 per cent limit on bilaterals for smaller donors;
- The degree to which late contributions to the Fund have slowed down the approval or implementation of projects;
- The manner in which economies in transition can effectively contribute to the Multilateral Fund including the use of in-kind contributions;
- The manner and effectiveness which the treasury carries out its roles and responsibilities.

11. Matters related to the identification, selection, processing, and the progress made in the implementation of projects

In considering matters related to the identification, selection and processing of projects and progress made in their implementation, the consultant's review shall consider:

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- The portfolio of approved projects on a sector and subsector basis, considering the degree to which the projects are consistent with an expeditious cost-effective phase-out of ODS and enable the countries' compliance with the control measures;
- The manner in which different ODS alternatives are evaluated during the preparation of projects including their environmental impact;
- The variables that have led to significant differences in project costs between apparently similar projects;
- The presence or absence of an identifiable system to facilitate agency/country learning from past project successes/failures.

12. In undertaking the portfolio review, the consultant shall review in detail a subset of projects

- To assess how the project was selected and the steps, costs and time involved in its development, processing, disbursements, and implementation; to examine differences between agencies;
- To assess the effectiveness of the intervention in fulfilling stated project objectives and Protocol objectives;
- To compare the cost and time estimates provided to the Executive Committee upon project approval with the actual cost and time requirements and the variables which may make such factors different in similar conversion in other countries;
- To assess the adequacy and effectiveness of Fund expenditures on institutional strengthening and networking activities.

13. Source of information for the evaluation

The evaluation will be based primarily on the following sources:

(a) Written materials on the Fund, including the internal guidelines of the implementing agencies, guidelines established by the Executive Committee and independent articles written on the Fund;

(b) A file review of projects and country programmes;

(c) Structured interviews with representatives of selected Article 5 and non-Article 5 Parties, implementing agencies (including their evaluation officers) and Montreal Protocol bodies. Such consultations should be adequate and transparent taking into account the time available for the review;

(d) Site visits to a small group of projects where implementation is under way;

(e) Analysis available from the report being prepared by the Executive Committee in response to decision V/11 of the Fifth Meeting of the Parties and interaction with their consultant as appropriate;

(f) Consultations with relevant NGOs and representatives of enterprises;

(g) To examine practices and experience of other Financial Mechanisms to identify elements that may be of value to incorporate/adopt into the Financial Mechanism to ensure its effective operation in the long term.

14. Modalities for the initiation of the study

/...

(a) The independent evaluation and review of the operation of the Financial Mechanism shall be initiated in accordance with the indicative milestones laid out in the attached annex to this document;

(b) The OEWG shall create a Steering Panel to supervise the evaluation process and to select [a] consultant(s), to carry out this study, act as a point of contact for the consultant during the course of the study, and ensure that the Terms of Reference are carried out in the most appropriate manner possible;

(c) The OEWG shall endorse the selection of six experts to serve as the Steering Panel from among the Parties to the Protocol. This appointed Panel shall have equal representation of individuals selected by Parties operating under Article 5 and Parties not so operating. The Panel, members of which shall be selected for their experience, shall include diverse expertise including expertise in the evaluation of organizations and programmes, experience in multilateral and bilateral development assistance programmes and with a working understanding of the Montreal Protocol and the Financial Mechanism;

(d) The Ozone Secretariat shall initiate the procedure for the selection of [a] qualified consultant(s) consistent with the indicative milestones referred in paragraph 1. On the basis of submitted bids, the Secretariat shall prepare a short list of qualified bidders, and facilitate review of relevant proposals by the Steering Panel.

(e) In evaluating the bids, the Secretariat and the Steering Panel shall apply the following criteria:

The selected firm should demonstrate pertinent expertise in countries operating under Article 5 of the Protocol and in carrying out the evaluation of the effectiveness of technology transfer projects particularly from developed to developing countries. The technical proposal should demonstrate the proposed study team's financial, legal, technical evaluation, programme evaluation, organizational review and developmental competence. The firm must demonstrate past performance with respect to international studies of this nature and an understanding of the institutional capacities of Article 5 countries and the Fund's implementing agencies (the World Bank, UNDP, UNEP, and UNIDO). The proposal should demonstrate the study team's familiarity with the Montreal Protocol and its amendments, and the Multilateral Fund;

(f) Upon selection of the consultant(s) by the Steering Panel, the Panel shall meet with the consultant(s) initially, to review and approve the proposed work plan;

(g) Any meetings of the Steering Panel shall be organized by the Ozone Secretariat, with dates and venues selected, as much as possible, to coincide with other ozone meetings and thereby reduce related costs;

(h) Costs of the evaluation, which shall not exceed US\$ 450,000, shall include travel expenses for the participants of the Steering Panel. The evaluation shall be carried out in the most cost-effective manner possible. As there is no provision for the above costs in the approved budget of the Secretariat for 1994 or 1995, in the interests of speedy action, the above amount shall be met from the budget of the Multilateral Fund, initially as a loan to the Trust Fund for the Montreal Protocol and the question shall be finally decided by the Sixth Meeting of the Parties to the Montreal Protocol. Accordingly, the Open-ended Working Group requests the Executive Committee at its thirteenth meeting to approve a loan of US\$ 450,000 to the Ozone Secretariat.

Appendix

INDICATIVE MILESTONES

15 July	Invite Firms to bid.
12 August	Response Analysed.
19 August	Analysis of bids by Secretariat and recommendation dispatched to Steering Panel.
02 September	Firm selected by Panel.
09 September	Contract awarded.
16 September	Panel meets with consultant(s). - Discussion on terms of reference of the review and guidance.
04 November	Mid-term review. Consultant(s) meets with Panel.
16 January	Consultant(s) present final draft report for review by Panel.
1 February	Panel transmits final report to Secretariat for translation and distribution.
15 February	Report sent to members of Open-ended Working Group.

## Annex II

## A. ESSENTIAL USE NOMINATIONS: METERED DOSE INHALERS

COUNTRY	CATEGORY	CHEMICAL	YEAR	QUANTITY (TONNES)	USE	ACTION
AUSTRALIA	AEROSOL	CFC-11	1996	80	MDI	RECOMMENDED
AUSTRALIA	AEROSOL	CFC-114	1996	10	MDI	RECOMMENDED
AUSTRALIA	AEROSOL	CFC-12	1996	200	MDI	RECOMMENDED
CANADA	AEROSOL	CFC-11	1996	152	MDI	RECOMMENDED
CANADA	AEROSOL	CFC-114	1996	70	MDI	RECOMMENDED
CANADA	AEROSOL	CFC-12	1996	377	MDI	RECOMMENDED
EC-BELGIUM	AEROSOL	CFC-11	1996	90	MDI	RECOMMENDED
EC-BELGIUM	AEROSOL	CFC-12	1996	95	MDI	RECOMMENDED
EC-DENMARK	AEROSOL	CFCS	1996	<5	MDI	RECOMMENDED
EC-FRANCE	AEROSOL	CFC-11	1996	618	MDI	RECOMMENDED
EC-FRANCE	AEROSOL	CFC-113	1996	30.1	MDI	RECOMMENDED
EC-FRANCE	AEROSOL	CFC-114	1996	153	MDI	RECOMMENDED
EC-FRANCE	AEROSOL	CFC-12	1996	1063	MDI	RECOMMENDED
EC-GERMANY	AEROSOL	CFC-11	1996	178	MDI	RECOMMENDED
EC-GERMANY	AEROSOL	CFC-114	1996	178	MDI	RECOMMENDED
EC-GERMANY	AEROSOL	CFC-12	1996	417	MDI	RECOMMENDED
EC-IRELAND	AEROSOL	CFC-11	1996	145	MDI	RECOMMENDED
EC-IRELAND	AEROSOL	CFC-12	1996	264	MDI	RECOMMENDED
EC-ITALY	AEROSOL	CFC-11	1996	145	MDI	RECOMMENDED
EC-ITALY	AEROSOL	CFC-113	1996	5	MDI	RECOMMENDED
EC-ITALY	AEROSOL	CFC-114	1996	50	MDI	RECOMMENDED
EC-ITALY	AEROSOL	CFC-12	1996	340	MDI	RECOMMENDED
EC-PORTUGAL	AEROSOL	CFC-11	1996	3.63	MDI	RECOMMENDED
EC-PORTUGAL	AEROSOL	CFC-12	1996	8.38	MDI	RECOMMENDED
EC-PORTUGAL	AEROSOL	CFC-114	1996	1.2	MDI	RECOMMENDED
EC-SPAIN	AEROSOL	CFC-11	1996	146	MDI	RECOMMENDED
EC-SPAIN	AEROSOL	CFC-12	1996	362	MDI	RECOMMENDED
EC-SPAIN	AEROSOL	CFC-113	1996	1	MDI	RECOMMENDED
EC-SPAIN	AEROSOL	CFC-114	1996	39	MDI	RECOMMENDED

COUNTRY	CATEGORY	CHEMICAL	YEAR	QUANTITY (TONNES)	USE	ACTION	
EC-UK	AEROSOL	CFC-11	1996	1031	MDI	RECOMMENDED	
EC-UK	AEROSOL	CFC-113	1996	32	MDI	RECOMMENDED	
EC-UK	AEROSOL	CFC-114	1996	363	MDI	RECOMMENDED	
EC-UK	AEROSOL	CFC-12	1996	1762	MDI	RECOMMENDED	
FINLAND	AEROSOL	CFC-11	1996	6	MDI	RECOMMENDED	
FINLAND	AEROSOL	CFC-12	1996	16	MDI	RECOMMENDED	
JAPAN	AEROSOL	CFC-11	1996	75	MDI	RECOMMENDED	
JAPAN	AEROSOL	CFC-113	1996	1	MDI	RECOMMENDED	
JAPAN	AEROSOL	CFC-114	1996	22	MDI	RECOMMENDED	
JAPAN	AEROSOL	CFC-12	1996	142	MDI	RECOMMENDED	
POLAND	AEROSOL	CFC-11	1996	330	MEDICAL	RECOMMENDED	
	POLAND	AEROSOL	CFC-12	1996	330	MEDICAL	RECOMMENDED
	RECOMMENDED	POLAND	AEROSOL	1996	CFC-114	40	MEDICAL
	MEDICAL	RECOMMENDED	S.AFRICA	AEROSOL	CFC-11	1996	59
	MDI	RECOMMENDED					
S.AFRICA	AEROSOL	CFC-11	1997	67	MDI	RECOMMENDED	
S.AFRICA	AEROSOL	CFC-114	1996	7	MDI	RECOMMENDED	
S.AFRICA	AEROSOL	CFC-114	1997	9	MDI	RECOMMENDED	
S.AFRICA	AEROSOL	CFC-12	1996	123	MDI	RECOMMENDED	
S.AFRICA	AEROSOL	CFC-12	1997	138	MDI	RECOMMENDED	
SWITZERLAND	AEROSOL	CFC-11	1996	8	MDI	RECOMMENDED	
SWITZERLAND	AEROSOL	CFC-114	1996	8	MDI	RECOMMENDED	
SWITZERLAND	AEROSOL	CFC-12	1996	8	MDI	RECOMMENDED	
USA	AEROSOL	CFC-11	1996	749.8	MDI	RECOMMENDED	
USA	AEROSOL	CFC-11	1997	658.3	MDI	RECOMMENDED	
USA	AEROSOL	CFC-114	1996	343.7	MDI	RECOMMENDED	
USA	AEROSOL	CFC-114	1997	343.1	MDI	RECOMMENDED	
USA	AEROSOL	CFC-12	1996	2363.2	MDI	RECOMMENDED	
USA	AEROSOL	CFC-12	1997	2177	MDI	RECOMMENDED	

B. ESSENTIAL USE NOMINATIONS: SOLVENTS

COUNTRY	CATEGORY	CHEMICAL	YEAR	QUANTITY (TONNES)	USE	ACTION
USA	SOLVENTS	TCA	1996	56.8	SPACE SHUTTLE	RECOMMENDED
USA	SOLVENTS	TCA	1997	56.8	SPACE SHUTTLE	RECOMMENDED
[ USA	SOLVENTS	TCA	1998	56.8	SPACE SHUTTLE	RECOMMENDED
USA	SOLVENTS	TCA	1999	56.8	SPACE SHUTTLE	RECOMMENDED
USA	SOLVENTS	TCA	2000	56.8	SPACE SHUTTLE	RECOMMENDED
USA	SOLVENTS	TCA	2001	56.8	SPACE SHUTTLE	RECOMMENDED ]

Annex III

CONDITIONS APPLIED TO EXEMPTION FOR LABORATORY AND ANALYTICAL USES

1. Laboratory purposes are identified at this time to include equipment calibration; use as extraction solvents, diluents, or carriers for chemical analysis; biochemical research; inert solvents for chemical reactions, as a carrier or laboratory chemical and other critical analytical and laboratory purposes. Production for laboratory and analytical purposes is authorized provided that these laboratory and analytical chemicals shall contain only controlled substances manufactured to the following purities:

CTC (reagent grade)	99.5
1,1,1-trichloroethane	99.0
CFC-11	99.5
CFC-13	99.5
CFC-12	99.5
CFC-113	99.5
CFC-114	99.5
Other w/Boiling P>20° C	99.5
Other w/Boiling P<20° C	99.0

2. These pure, controlled substances can be subsequently mixed by manufacturers, agents, or distributors with other chemicals controlled or not controlled by the Montreal Protocol as is customary for laboratory and analytical uses.

3. These high purity substances and mixtures containing controlled substances shall be supplied only in re-closable containers or high pressure cylinders smaller than three litres or in 10 millilitre or smaller glass ampoules, marked clearly as substances that deplete the ozone layer, restricted to laboratory use and analytical purposes and specifying that used or surplus substances should be collected and recycled, if practical. The material should be destroyed if recycling is not practical.

4. Parties shall annually report for each controlled substance produced: the purity; the quantity; the application, specific test standard, or procedure requiring its uses; and the status of efforts to eliminate its use in each application. Parties shall also submit copies of published instructions, standards, specifications, and regulations requiring the use of the controlled substance.

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