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OPEN-ENDED WORKING GROUP OF THE PARTIES
TO THE MONTREAL PROTOCOL
Twelfth meeting
Geneva, 28 August - 1 September 1995

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

I. OPENING OF THE MEETING

1. The twelfth meeting of the Open-ended Working Group of the Parties to the Montreal Protocol was held at the Geneva International Conference Centre from 28 August to 1 September 1995.

2. The meeting was opened at 10 a.m. on Monday, 28 August 1995.

3. In her opening statement, Ms. Elizabeth Dowdeswell, Executive Director of the United Nations Environment Programme (UNEP), said that the implementation of the Montreal Protocol had reached a historical juncture. The considerable achievements of the Protocol in controlling ozone-depleting substances (ODS), culminating in the cessation of production and consumption of such substances except for essential uses in all industrialized countries by the end of 1995, should not conceal the need for a further serious effort to sustain the commitment to the protection of the ozone layer. There were a few people expressing scepticism regarding the scientific consensus, the situation in countries with economies in transition continued to pose specific problems with the expected assistance of the Global Environment Facility (GEF) so far not received in full, and there was a disturbing increase in ODS consumption in some developing countries.

4. In her view, the Open-ended Working Group had two important issues to discuss at its current meeting, namely, the proposed adjustments and amendments to the Montreal Protocol and the review of the Financial Mechanism. It would have to select the phase-out scenario for HCFCs and methyl bromide in the industrialized countries and consider the control of those substances in the developing countries: a freeze by developing countries was the minimum

necessary, pending more measures later. The Working Group must recommend a scenario for phasing out the consumption of Annex A and B substances in developing countries and deal with other important issues such as the trade in used ODS, the status of recycled controlled substances under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal, essential uses, process agents, exports from Article 5 countries, and the dumping and illegal movement of ODS.

5. Progress in ratification of the Copenhagen Amendment was still painfully slow and there were even some Parties that had not yet ratified the London Amendment. The reporting of data to the Ozone Secretariat was greatly overdue, despite repeated reminders and assistance to the developing countries from the Multilateral Fund in that regard. Contributions to the Multilateral Fund and the trust funds were very much in arrears and many worthwhile projects could not be financed.

6. Efforts to enhance awareness of the importance of protecting the ozone layer had slackened in recent years and sensitization programmes directed to the general public and officials were still very necessary. In that connection, the designation by the United Nations General Assembly of 16 September as the International Day for the Preservation of the Ozone Layer was particularly appropriate and should furnish the occasion for wide-ranging activities by Governments, the scientific and academic community and the non-governmental organizations (NGOs) to mobilize public opinion in defence of the ozone layer.

II. ORGANIZATIONAL MATTERS

A. Attendance

7. The following Parties to the Montreal Protocol were represented: Algeria, Argentina, Australia, Austria, Bahamas, Bangladesh, Belarus, Belgium, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Democratic People's Republic of Korea, Denmark, Ecuador, Egypt, Ethiopia, European Community, Finland, France, Germany, Ghana, Greece, Guinea, Iceland, India, Indonesia, Iran (Islamic Republic of), Israel, Italy, Japan, Jordan, Kenya, Kiribati, Kuwait, Malawi, Malaysia, Maldives, Malta, Mauritius, Mexico, Netherlands, New Zealand, Nigeria, Norway, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Saint Lucia, Saudi Arabia, Senegal, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Syrian Arab Republic, Thailand, Tunisia, Turkey, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Viet Nam.

8. The following States not party to the Protocol were also represented: Armenia, Georgia, Holy See, Kyrgyzstan, Morocco.

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9. Observers for the following United Nations Secretariat units, bodies and specialized agencies were also present: Economic Commission for Europe (ECE), Global Environment Facility (GEF), International Civil Aviation Organization (ICAO), Secretariat of the United Nations Framework Convention on Climate Change, United Nations Development Programme (UNDP), United Nations Industrial Development Organization (UNIDO), World Bank, World Meteorological Organization (WMO), World Trade Organization (WTO).

10. The following other organizations were also represented: Aer Inc., Agricultural Research Consulting (ARC), Air Conditioning and Refrigeration European Association (AREA), Alliance for Responsible Atmospheric Policy (ARAP), Association of Methyl Bromide Industry Japan (AMBIJ), APAMJ, California Walnut Commission (CWC), Crop Protection Coalition (CPC), Dehon Group, Dupont Europe, Eastman, Elf Atochem, EMBA, Environmental Defense Fund (EDF), Environmental Liaison Centre International (ELCI), Eurobrom B.V., European Chemical Industry Council/European Fluorocarbon Technical Committee (CEFIC/EFCTC), FPMAJ, Friends of the Earth (FOE), Gallex, Greenpeace, Han Joo Chem., Halon Alternatives Research Corporation (HARC), Industrial Technology Research Institute (ITRI), Institut de recherche sur l'environnement (IREC), International Council of Environmental Law (ICEL), International Institute for Applied Systems Analysis (IIASA), International Pharmaceutical Aerosol Consortium (IPAC), Inter-State Ecological Council, Irnox Ltd., Japan Association for Hygiene of Chlorinated Solvents (JAHCS), Japan Fluorocarbon Manufacturers Association (JFMA), Japan Industrial Conference for Ozone Layer Protection (JICOP), Japan Refrigeration and Air Conditioning Industry Association (JRAIA), KSCIA, 3M Pharmaceuticals, Medeva Inc., Medisol Labs Inc., Methyl Bromide Global Coalition (MBGC), Methyl Bromide Working Group (MBWG), Pesticide Action Network North America (PANNA), PIMA, Refrigerant Gas Manufacturers' Association (REGMA), Royal Institute of International Affairs (RIIA), S.A.F.E., Schering-Plough Corporation, Spradley and Associates.

B. Officers

11. Mr. J. Carstensen (Denmark) and Mr. N.R. Krishnan (India) served as Co-Chairmen, in accordance with the decision of the Sixth Meeting of the Parties to the Protocol.

12. It was agreed that Mr. J. Kozakiewicz (Poland), the elected Rapporteur of the Sixth Meeting of the Parties to the Protocol, would continue in that function for the meeting of the Working Group.

C. Adoption of the agenda

13. The following agenda was adopted on the basis of the provisional agenda contained in document UNEP/OzL.Pro/WG.1/12/1:

1. Opening of the meeting.
2. Adoption of the agenda and organization of work.
3. Consideration of the proposed further adjustments and amendments to the Montreal Protocol, including the report of Technology and

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Economic Assessment Panel on: (a) the full economic implications of trade in Annex A and B substances during the phase-out and grace periods; (b) the assessment of the possibilities of countries with economies in transition to comply with the provisions of the Montreal Protocol; and (c) technical implications of the proposals for control measures of halons and other agents used for fire suppression and explosion inertion purposes; and the report of the small support group on the various phase-out scenarios.

4. Review of the Financial Mechanism, including the report of the subgroup on examination of the study of the Financial Mechanism established by Article 10 of the Protocol.
5. Consideration of draft decisions:
 - (a) Further adjustments and amendment of the Protocol;
 - (b) Definitions of "quarantine" and "pre-shipment" applications;
 - (c) Clarification of decision I/12C on the definition of "basic domestic needs";
 - (d) Recommendations of the Technology and Economic Assessment Panel on essential use nominations, including those by the Russian Federation for halons and by Poland for CFC-12;
 - (e) Continued use of chemical process agents after 1996 and the recommendations of the Chemical Process Agents Working Group, including the report of the Technology and Economic Assessment Panel on continued consumption of controlled substances to be used as chemical process agents;
 - (f) Laboratory and analytical uses;
 - (g) Export and import of controlled substances to be used as feedstock;
 - (h) Control measures concerning halons and other agents used for fire suppression and explosion inertion purposes;
 - (i) The status of recycled CFCs and halons under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;
 - (j) Authorization of the Executive Committee of the Multilateral Fund to provide funding for methyl bromide projects for the purpose of evaluating alternatives;
 - (k) Provision by the Executive Committee of the Multilateral Fund of specific financial support for projects in low-volume ODS-consuming countries;

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- (l) Dumping, illegal traffic and uncontrolled production of substances in Annexes A and B and products containing them;
 - (m) Control measures on methyl bromide;
 - (n) Reorganization of the Technology and Economic Assessment Panel and the Technical Options Committees;
 - (o) Illegal imports of controlled substances;
 - (p) Review of the Financial Mechanism established by Article 10 of the Protocol;
 - (q) Eligibility for payment by the Multilateral Fund of facilities used for export production.
- 6. Other matters.
 - 7. Adoption of the report.
 - 8. Closure of the meeting.

III. PROPOSED ADJUSTMENTS AND AMENDMENTS TO THE MONTREAL
PROTOCOL TOGETHER WITH THE RELEVANT DRAFT
DECISIONS UNDER AGENDA ITEM 5

A. Phase-out of Annex A and Annex B substances in
Article 5 countries and hydrochlorofluorocarbons
(HCFCs)

14. The representative of the United Kingdom, co-convenor of the subgroup on scenarios for Article 5 countries for Annex A and B substances presented the subgroup's report. He said that, in accordance with its terms of reference, the subgroup had considered the seven scenarios contained in the Legal Drafting Group's report on the proposals made in the report on the review under paragraph 8 of Article 5 of the Montreal Protocol. It had examined each of the scenarios in respect of the relative environmental benefits, technical feasibility, the likely speed of and possible barriers to the necessary technology transfer, the role of recovery and recycling, the technical assumptions, the costs and the rates of disbursement. As a result of that examination, it had eliminated four of the seven scenarios and recommended that the Open-ended Working Group should restrict its consideration to the remaining three, namely, 2006 with a service tail, 2010, and 2010 with a service tail.

15. In reply to questions by a number of representatives, the co-convenor clarified that the subgroup had not considered the possibility of accelerated tails other than those examined by the Consultant who had carried out the study for the review and that it had decided that Fund costs with a 0 per cent discount constituted the most likely reflection of actual costs.

16. Several representatives suggested an accelerated service tail in respect

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of the scenarios with a year other than 1999 for the cessation of the use of ODS in the production of new refrigeration and air-conditioning equipment. The co-convenor said that the subgroup had no information that would enable it to assess those possibilities. One representative stated, however, that his delegation had conducted such an analysis and would be happy to submit its findings to the Working Group. Some representatives said that the questions of the transfer of technology, actual costs and likely funding should be considered in greater depth with regard to the recommended scenarios. The Open-ended Working Group then decided that the subgroup should continue its work, with particular reference to the questions that had been raised and the information offered.

17. One representative, speaking on behalf of the Group of 77 and China, said that those countries recognized the importance of the Financial Mechanism as the basis for the fulfilment of the ultimate objective of the Montreal Protocol and felt that in order to consider any new commitment to the goals of the Protocol, the following concerns should be addressed:

(a) The number of projects submitted at present to the Multilateral Fund should be seen as Article 5 Parties' strong commitment to fulfil the goals of the Protocol;

(b) Considering that projects already submitted that were necessary to continue to achieve such action, and that were not likely to be immediately funded, the Group of 77 and China was of the view that the shortfall of funding should be first addressed and an adequate level of resources accordingly provided;

(c) Any further consideration of new commitments, such as those relating to methyl bromide, HCFCs, or any new phase-out scenario, would require a corresponding action regarding provision of funding.

Moreover, the Group of 77 and China were of the view that funding alone was not the only constraint to implementation of commitments. Appropriate levels of technology transfer, and on most favourable terms, had to be ensured. It was a matter of major concern to the Group of 77 and China that that was not now occurring. In the light of the foregoing, the position of the Group of 77 and China was that additional commitments, whether on substance or timeframe, could be discussed only when those operational problems were satisfactorily resolved. The Group of 77 and China therefore could not support any action to institute any such controls at the current point in time.

18. The same representative, also speaking on behalf of the Group of 77 and China, subsequently added that the Executive Committee should be asked to prepare a report with a financial plan emphasizing the three qualities of transparency, foreseeability and certainty. The best formula would be a three-year one with the possibility of annual review, since it would provide for a continuous revision process. An improved mechanism for the transfer of appropriate and viable technology on the most favourable possible terms should also be devised.

19. The representative of the European Community stated that it had met its

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phase-out commitments ahead of schedule and had set a cap of 2.6 per cent on HCFCs with a target date of 2015 and not 2030. He added that the issues before the Group went beyond the question of methyl bromide. He believed that complacency was out of order, stressing that the danger in the short-term ODP of HCFCs should not be ignored, particularly since alternatives were available.

20. The representative of Denmark said that he was submitting and distributing to all delegations a number of reports, including a consultant's study on alternatives and the financial implications of possible freeze and phase-out scenarios for HCFCs in Article 5 countries.

21. One representative strongly opposed any adjustment to the present schedule of control measures on HCFCs since such adjustments would be of little benefit to the ozone layer according to the analysis of the Scientific Assessment Panel. For Article 5 countries, he would support a freeze in 2000 at the 2000 levels, thereby eliminating the potential increase in their use. Industry would then be able to allow its investments in HCFCs to run their full economic life. He saw no reason for adjusting the Protocol regarding HCFCs. The proposed controls regarding production were unnecessary. A control of consumption would be more appropriate. He could, however, support the proposal on HBFCs for all countries.

22. One representative, on a point of order, supported the proposal that the question of funding should be addressed first.

23. One representative, speaking on behalf of member countries of the Organisation for Economic Cooperation and Development (OECD) operating under Article 2, stated that those countries stood by their undertakings contained in Article 5, paragraph 5, and Article 10 of the Montreal Protocol. He pointed out that 1996 was the year for deciding on the replenishment of funds for the period 1997-1999. He believed that the interests of all would be served if indicative costs on any new control measures could be ascertained in advance. He expressed his appreciation of the speedy progress made by developing countries, but drew attention to the fact that current funding was under a three-year budget. The Fund was one of the United Nations most successful funds, with 86 per cent of projected contributions paid up. He regretted that one or two of the OECD countries and countries with economies in transition had not paid. OECD countries, he added, were keen to show their commitment, but replenishment was not on the current year's agenda. He added that a three-year rolling business plan being prepared by the Project Review Subcommittee of the Executive Committee might meet the requirements of the Group of 77 and China. It was doubtful if the Executive Committee could otherwise prepare the report requested prior to the Seventh Meeting of the Parties. As for the requested new mechanism for the transfer of technology, he recalled that a comprehensive study on the subject had recently been completed and generally welcomed.

B. Methyl bromide

24. The representative of Kenya introduced his country's proposal regarding proposed controls on methyl bromide. Pointing out that the use of methyl bromide was a matter of survival for some Article 5 countries, he urged that no further controls on methyl bromide should be adopted until the remaining scientific, technical, and economic uncertainties surrounding the issue were resolved and alternatives clearly identified. There should be no linking of access to the resources of the Multilateral Fund for methyl bromide alternatives demonstration projects to a country's acceptance of control measures for methyl bromide. Nor should Article 2H cover methyl bromide used for quarantine purposes. He stated that Kenya would be willing to cooperate when scientific evidence was clear and the alternatives offered the same advantages.

25. A large number of countries expressed support for the statement. Many stressed that key export products on which their economies depended required the use of methyl bromide and expressed concern regarding the existence and availability of ready substitutes. Several said that additional controls on methyl bromide would be possible only if accompanied by increased replenishment of the Multilateral Fund and assured technology transfer. Some of those representatives noted that the Fund was already overburdened and that the introduction of new control measures for Article 5 Parties had always been paired with new funding measures. Many stated that additional controls on methyl bromide could occur only after additional studies had clearly determined the extent of the threat to stratospheric ozone posed by methyl bromide, the existence of reliable and proven alternatives, and the level of additional funds and technology transfer needed to implement such controls.

26. Several representatives of Article 2 countries said that their countries had committed themselves to phasing out methyl bromide by the year 2001. One of those representatives expressed strong support for phase-out action on a global basis. With respect to alternatives, that representative felt that a phase-out target of 2001 would provide for flexibility, the introduction of market-based measures, and exemptions for quarantine and pre-shipment purposes and requested that the definition of "pre-shipment" should remain in square brackets. Funds could also be provided for the search for alternatives. Finally, he said that his delegation supported exemptions for critical agricultural uses and was submitting a proposal on that subject at the meeting.

27. Several representatives expressed support for elements of that proposal, particularly the need to control methyl bromide on a global basis and noted that increased scientific knowledge of the threat posed by methyl bromide and the continuing development of alternatives meant that additional controls were both necessary and possible. Some of those representatives expressed support for alternative dates for phasing out methyl bromide. A number of representatives offered proposals for specific intermediate reductions with the discussion of final phase-out to be brought up in future. Several representatives supported the proposal for developing exemptions for critical agricultural uses of methyl bromide in conjunction with more stringent

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controls. Some representatives supported a freeze on methyl bromide use in Article 5 countries. The representative of the European Community stressed the importance of controlling methyl bromide emissions because of their contribution in the short term to the destruction of the ozone layer. Representatives expressed a preference for the definitions of "quarantine" and "pre-shipment" found in decision VI/11 rather than that in the annex to document UNEP/OzL.Pro/WG.1/12/2. One delegation expressed a reservation concerning the proposed amendment relating to methyl bromide trade restrictions and reserved its position.

28. Several representatives noted the importance of developing confidence in using alternatives. Several other representatives noted that to that end they were currently supporting methyl bromide alternative projects in Article 5 countries. That was being done through both aid programmes and bilateral projects under the Multilateral Fund.

29. A representative of UNDP, also speaking on behalf of UNEP, reported on methyl bromide alternatives demonstration projects in the African, South-East Asian, and Latin American regions. That study, which included data collection on the availability, technical feasibility, effectiveness and cost of alternatives, would be completed before the next meeting of the Executive Committee so that it could be considered by the Seventh Meeting of the Parties.

30. The Co-Chair of the Scientific Assessment Panel, Mr. Albritton, stated that the ODP of methyl bromide was estimated at 0.6 and that the Panel's view was that it was unlikely to be lower than 0.3 or higher than 0.9. More recent scientific evidence supported the estimate of 0.6.

31. After extensive comment on those and related issues and a suggestion from the Co-Chairman, the Working Group decided to form a small group to look at the various proposals, the relationship between funding issues, technology transfer and control measures, the issue of critical agricultural use exemptions, and continued questions surrounding the definition of "quarantine" and "pre-shipment applications".

C. Halons and other agents used for fire suppression and explosion inertion purposes, including the report of the Technology and Economic Assessment Panel on the proposals on the subject submitted at the eleventh meeting of the Open-ended Working Group

32. Mr. Kuijpers, Co-Chair of the Technology and Economic Assessment Panel presented the Panel's report on the technical implications of the proposals for control measures on halons and other agents used for fire suppression and explosion inertion purposes, submitted to the Working Group at its eleventh meeting, in the form of an amendment to Article 2B of the Protocol as well as a draft decision.

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33. Mr. Kuijpers said that the Halons Technical Options Committee had reviewed the technical materials submitted by the sponsors of the proposals and had found that the assumptions on which they were based could not be supported by the evidence before it. The Technology and Economic Assessment Panel and its Halons Technical Options Committee wished to emphasize that sufficient halon stocks had enabled an early phase-out; that the need for recovery and banking kept the system alive; that there was no evidence that recovered halons were used at present for non-critical uses; that substitutes were used where possible; that forcing HCFCs in wrong applications would result in frivolous or unnecessary uses without benefit or protection to life or property; and that a limitation in the use of recovered halons could backfire if owners released halons into the atmosphere because they anticipated liability to destroy halons, which were needed for the halon bank. Therefore, the Panel and its Halons Technical Options Committee was unable to recommend acceptance of the proposals.

34. One of the sponsors of the proposals said that the sponsors were disappointed by the response received from the Technology and Economic Assessment Panel. The proposals were no more than a reflection of current practice in many countries. By enshrining that practice within the Montreal Protocol regime, the Parties could send out an important signal that the will was there to start a process to stop the use of halons.

35. One representative expressed the view that the current measures to phase out halons were successful and that there was no need for additional ones. Another representative cautioned against the type of micro-management that the proposals seemed to represent: the policy-level approach should be through specific controls on ozone-depleting substances, rather than specific actions. Yet another representative expressed concern at the expense of decommissioning along the lines proposed in paragraph 1 (b) (ii) of the draft decision.

36. Subsequently, one representative, a sponsor of the original proposal, speaking on behalf of the member States of a regional economic integration organization, introduced a revised draft decision. She also informed the Group that the proposed amendment to Article 2B of the Montreal Protocol contained in the annex to UNEP/OzL.Pro/WG.1/11/10 would have been withdrawn by its sponsors if the original draft decision had been accepted.

37. One representative expressed concern that, if adopted, the draft decision would send a counter-productive message to Parties and pointed to specific items within the draft decision that appeared to conflict with specific conclusions in the August 1995 TEAP report on the proposal. Another representative expressed concern that the draft decision equated "essential uses" and "critical applications", which could have unintended, harmful impacts on the work of the TEAP.

38. Several representatives expressed support for the proposal, noting both its voluntary basis and its important goal of encouraging Parties to move away from the use of halons wherever possible.

39. The Working Group decided to resume its consideration of the revised

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draft decision at a later stage.

D. Process agents

40. Mr. Kuijpers, Co-Chair of the Technology and Economic Assessment Panel, introduced the report on elaboration of options for process agent applications of controlled substances. He stated that current global emission from process agent applications are approximately 10,400 ODP-weighted tonnes, including approximately 230 tonnes from facilities in Japan, Western Europe, and North America, 660 tonnes from facilities in countries with economies in transition (CEITs); and 9,500 tonnes from facilities in Article 5 countries. That total represented approximately 2.7 per cent of total global emissions of controlled substances. Under an unconstrained growth scenario, annual use was expected to increase from the current 40,000 tonnes to between 70,000-170,000 tonnes by 2005, mainly in Article 5 countries and CEITs. The Panel believed that emissions from process agent applications in North America, Western Europe and Japan would be further reduced by 1998 and subsequently remain constant or decrease. The report put forward six options for consideration if Parties wished to allow some continued production of controlled substances for these applications. Implications for Article 5 and non-Article 5 countries were established for each option from the perspective of environmental and economic impact, technical feasibility and administrative requirements.

41. In response to questions from several representatives, Mr. Kuijpers clarified that table II on page 9 of the report represented eventual emissions of ODS from total 1996 production and that the figures given for methyl bromide were likely to be too high. He also confirmed that the table was an indicative one, designed to convey the relative orders of magnitude of ODS emissions from various sources, including process agent applications.

42. A number of representatives expressed a variety of concerns regarding the accuracy of the figures in table II.

43. The representative of New Zealand said that her country had been incorrectly listed in the report of the Panel as a sponsor of one of the draft decisions on process agents before the Working Group.

44. With regard to the draft decisions on continued uses of controlled substances as chemical process agents after 1996, a number of representatives expressed their support for one or other of the draft decisions already before the Working Group. One of those representatives emphasized the linkage between the question of chemical process agents and the need for a clear definition of feedstock uses. Another representative said that there was a need to agree on which chemical process agent applications qualified as essential uses. Yet another representative said that, when speaking of "best environmental practice" and "best available techniques", the language used must reflect the fact that standards varied from country to country.

45. One representative, speaking also on behalf of two other delegations, introduced a conference room paper containing an alternative draft on the issue, by which the Seventh Meeting of the Parties would, inter alia, urge Parties to continue their efforts to reduce emissions in keeping with decision

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IV/12 and consistent with nationally determined best available techniques, would decide that data should continue to be collected on the use of ODS as process agents and would request the Technology and Economic Assessment Panel to compile and make available information on existing technologies to reduce emissions. He further stated his delegation's view that a decision was all that was required on the issue from the Seventh Meeting of the Parties.

E. Exports from Article 5 Parties and basic domestic needs

46. The Co-Chairman called the Meeting's attention to the proposed amendments relevant to exports from Article 5 Parties and basic domestic needs and to the relevant draft decision, stating that it would be useful to consider them together.

47. One representative, speaking on behalf of the Group of 77 and China, stated that the proposed amendment by many OECD countries sought to limit the supply of ODS to Article 5 countries by disallowing ODS supplies from Article 5 countries and would have far-reaching adverse consequences. She noted that the Protocol permitted non-Article 5 countries to produce up to 15 per cent of their 1986 level of production after their phase-out for meeting the needs of the Article 5 countries, with a view to ensuring continued availability of controlled substances during their grace- and phase-out period, but that that did not imply exclusive supply rights to non-Article countries. The Group of 77 and China recognized that the availability of ODS to all Article 5 countries during the grace and phase-out period should be assured and available from all existing sources and at fair prices. Therefore, the Group of 77 and China could not agree to the amendment proposed by the OECD countries to Article 5 and concluded that it and the other relevant proposed amendments would create an unnecessary imbalance in the spirit as well as the smooth implementation of the Protocol and should be withdrawn.

48. Many representatives expressed opposition to the amendment and the draft decision proposed by Australia and other OECD countries citing, inter alia, that the proposal would create an unacceptable, de facto monopoly for Article 2 suppliers of ODS, that trade in ODS between Article 5 Parties did not, in itself, violate the phase-out schedule or the definition of "basic domestic needs" in the Protocol, that individual Parties were free to market ODS as they saw fit provided they adhered to the control schedules established in the Protocol, and that the only way for Article 5 countries to issue an adequate supply of ODS at a fair cost was to maintain adequate production capacity, which required the ability to export.

49. One of those representatives also noted that the definition of consumption in the Protocol was both clear and equally valid for all Parties and supported the call that all the proposed amendments under this item be withdrawn. She also stressed that the continuity of exports of ODS by Article 5 producer countries was necessary to allow an orderly transition to ODS-free technologies.

50. A representative of the OECD countries operating under Article 2 of the Protocol, speaking in relation to the proposed amendment, stated that while

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there should be an adequate supply of ODS for developing countries during the grace- and phase-out periods, there was a genuine concern that producers in some developing countries were aggressively marketing their production in a manner that was undermining the phase-out efforts of other developing countries. He noted that Article 2 of the Montreal Protocol reflected the Parties' concern that there must be adequate supplies of ODS to meet the basic domestic needs of developing countries during their phase-out period, including the provision for developed countries to continue to produce ODS beyond the Article 2 phase-out dates to meet those needs. In addition, Article 5 of the Protocol allowed developing countries to produce ODS to meet their own needs. Yet it was clear to the sponsors of the proposal that the Protocol never envisaged that developing country producers would be exporting to other developing countries.

51. Continuing his statement, the same representative said that there was now uncertainty regarding the ability of the remaining developed country producers to meet the basic domestic needs of developing countries. In addition, the producers in developing countries were using their capacity to supply not only their own needs but also those of other developing countries. The proposed amendment recognized and accommodated these changed circumstances and ensured the maintenance of a multiplicity of sources of supply to ensure that monopolies were not created in the market. Clearly any provision allowing developing countries to expand their production should enable a reduction in the level of compensation provided by the Multilateral Fund when those facilities were eventually closed. That was reflected in the second part of the proposal.

52. Finally, he said that the proposed amendment was not an attempt to corner the market for ODS producers from developed countries. The industry of his country did not have a vested interest in the outcome because it would not be producing ODS at all.

53. In responding to the OECD statement, one representative, who was also the proposer of the other amendment to Article 5, observed that the issue of basic domestic needs had been conclusively settled by decision I/12 C, based on the provisions of Article 1, paragraph 6, and Article 4, paragraph 2, of the Protocol, which should be read as a harmonious whole. He further said that the phase-out schedule of a country was controlled by the Government of that country, based on its country strategy, and in accordance with the provisions of the Protocol. To suggest that exports from any other Party, whether Article 5 or non-Article 5, could influence phase-out strategy, implied that it would be appropriate to create shortages of ODS on the world market in order to accelerate phase-out, notwithstanding the chaos and dislocation that would cause by throwing the planned and gradual phase-out programmes of Article 5 countries completely out of gear. He reiterated that the production of ODS by Article 5 countries would not, in any case, increase limitlessly. Article 5 country producers were committed to a cap on production by the year 2000 at the average of 1995-1997 levels, and they would adhere to that production cap schedule. There was no limit or restriction to export by Article 5 countries in the Protocol, only consumption and production controls. On the issue of "cornering the market" and "monopolies", the same

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representative held that the adoption of the OECD amendment would itself lead to monopolies, since if the right of Article 5 countries to export was restricted, it would ensure that their production facilities would fold up within a year or two, and that situation would result in a monopoly, unlike the present situation in which there was a wide spectrum of supplies. The representative held that if any Party, whether Article 5 or non-Article 5, was infringing the provisions of the Protocol, then a mechanism existed for taking action against that Party; amending the Protocol to re-define "basic domestic needs", or to limit the right to export Article 5 countries was not the right way.

54. Several representatives supported the amendment proposed by Australia and others, noting that its intent was not truly to limit competition but actually to ensure adequate supply without threatening the goals of the Protocol. Indeed, it was the other proposed amendment to Article 5 that would limit the market. One representative noted further that under the Protocol, Parties operating under paragraph 1 of Article 5 could increase their production of ODS during the grace-period to meet their own basic domestic needs. Following the grace-period, Article 5 Parties, like Parties not enjoying the grace-period, could increase production by 15 per cent above the control requirements to meet the basic domestic needs of other Article 5 Parties.

55. Subsequently, many representatives reiterated their support for the draft amendment to Article 5, noting that their intention was to address critical concerns they believed were shared by Parties operating under both Article 2 and Article 5 and not to favour any one set of ODS producers. However, they were prepared to discuss and negotiate the substance of the amendment further.

56. Many representatives of Article 5 Parties expressed opposition to that amendment, proposing that both it and a related amendment be withdrawn.

57. Nearly all those representatives noted that the two amendments and the discussion under that item had provided opportunities for changing and clarifying important viewpoints. Many cited the common ground among delegations concerning the need to ensure adequate supply of ODS to Article 5 countries at fair and stable prices while also protecting the ozone layer. Many expressed a willingness and intention to continue discussing the issues raised by the proposed amendments in preparation for the Seventh Meeting of the Parties. Several sponsors of the proposed amendment to Article 5, noted their willingness to explore alternatives to the proposed text which would address the common interests of the Parties.

58. The representative from India welcomed the possibility of a dialogue, but said that, to be a meaningful exercise to identify common problems and decide how to solve them, that dialogue would have to be uncluttered with the amendment proposals on the table. That was the essence of the statement by the Group of 77 and China. He observed that it was common knowledge that the Indian proposal was intended to counter the attempt to modify the settled definition of "basic domestic needs", and to bring into sharp focus the real issues at stake. He felt that his country's proposal would have served its purpose of pointing out that re-defining "basic domestic needs" was not what was needed; rather, it was necessary to tackle the problems of dumping,

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illegal traffic, adequacy of supply to Article 5 countries, quality, fair prices and trade with non-Parties. In view of the foregoing, he suggested that his delegation was perfectly willing to withdraw its amendment proposal - but that the OECD proposal too would have to be withdrawn if the meaningful dialogue suggested by the Chair and enthusiastically supported by all delegations, including his own, across all interest groups, was to take place.

59. Many representatives of Article 5 countries welcomed the possibility of additional informal discussions, which would also touch upon their critical concerns about, inter alia, dumping, trade with non-parties, the needs of net-importing countries, a monitoring system to regulate prohibited trade, and the pricing, quality and adequate supply of ODS during the grace- and phase-out periods. However they viewed the proposed amendments as stumbling blocks whose withdrawal would facilitate productive discussions and emphasized their firm opposition to any discussion of redefining "basic domestic needs", as contained in the Protocol. One stated that the continuing development of the Montreal Protocol was at a crossroads which threatened its past achievements.

60. Some representatives suggested that the Ozone Secretariat should discuss the proposed amendments and the main points brought out in the discussion of the Working Group with the secretariat of the World Trade Organization and report back to the Seventh Meeting of the Parties. Other representatives opposed that suggestion.

61. The representative of the Group of 77 and China made a statement reiterating that the unity of those countries was solid. She made specific reference to the question of principle, namely, that any attempt to try to redefine basic domestic needs would not be possible. She reiterated the previous statement made by the Group and, in particular, its view expressed therein that the proposed amendments to Article 1, paragraph 5, would create an unnecessary imbalance in the spirit as well as the smooth implementation of the Protocol.

IV. CONSIDERATION OF OTHER DRAFT DECISIONS UNDER AGENDA ITEM 5

A. Review of the Financial Mechanism, including the report of the subgroup on examination of the study of the Financial Mechanism established by Article 10 of the Protocol

62. The representative of France, convenor of the subgroup examining the study of the Financial Mechanism of the Montreal Protocol, introduced the subgroup's report and outlined the group's deliberations and recommendations.

63. Many representatives expressed support for the report, some of them emphasizing the great importance they attached to what they saw as the inadequate size of the Multilateral Fund to support ODS control in developing countries and the failure by some Parties to meet their commitment to the Fund.

64. The Working Group decided to endorse the report of the subgroup and the recommendations contained therein and to transmit it to the Seventh Meeting of

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the Parties. The subgroup's report as endorsed is annexed to the present report.

B. Essential-use nominations for controlled substances for 1996 and beyond

65. Mr. Kuijpers, Co-Chair of the Technology and Economic Assessment Panel, introduced the Panel's report, drawing particular attention to essential-use nominations by the Russian Federation and Poland. The Russian nomination for halons had been recommended by the Panel but the Working Group had, at its eleventh meeting, decided to carry it forward in square brackets to the twelfth meeting because of the doubts expressed concerning the status of the Russian Federation's compliance with the control measures on ozone-depleting substances. The Panel had been unable to recommend the Polish nomination for CFC-12, to be used in servicing domestic refrigeration equipment, since the reasons for that nomination were financial ones and did not constitute one of the criteria contained in decision IV/25.

66. The representative of Poland stated that his country was in compliance with the Montreal Protocol and appealed to the Working Group to approve his country's nomination for 1996, recapitulating the arguments that his delegation had submitted to the eleventh meeting and pointing out that the lack of CFC-12 would force refrigerator owners to buy new equipment. In view of the high cost involved, many of them would be unable to do so and the result would be social deprivation and tensions. He gave an account of the steps being taken by his Government which, with the necessary financing from the Global Environment Facility (GEF), would ensure that the demand for CFC-12 would be greatly reduced or completely eliminated within a few years.

67. The Working Group then approved the recommendation of the Technology and Economic Assessment Panel concerning the nomination by the Russian Federation but decided not to remove the square brackets around the quantities for that country until the issues before the Implementation Committee had been resolved. It did not recommend the Polish nomination.

68. One representative commented that it appeared strange that a medical use by a country should not be regarded as essential when the Panel had recommended rocket and space-shuttle applications as essential uses but said that he did not press the point.

69. There was general agreement in the Working Group on an amended text of the draft decision on essential-use nominations.

70. The representative of a regional economic integration organization said, in connection with the footnote to the nominations list, there was general agreement that the reference to the quantities of ODS recommended for years well in advance did not apply to aerosols for metered-dose inhalers (MDIs), which would be approved for not more than two years at a time.

C. Laboratory and analytical uses

71. One representative, while expressing his agreement with the spirit of the

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draft decision on laboratory and analytical uses, introduced a number of amendments. He also proposed an addition, by which the Seventh Meeting of the Parties would authorize the Executive Committee to provide funding to Article 5 Parties for the activities referred to in the draft.

72. All representatives commenting on the draft decision and the amendments expressed broad support for it, subject to certain textual modifications.

73. The Co-Chairperson then proposed that the text could be redrafted by Canada in consultation with others.

D. Status of recycled CFCs and halons under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal

74. The Secretariat drew attention to the revised draft decision drafted by the Secretariat on the status of recycled CFCs and halons under the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

75. General support was expressed for the draft decision.

E. Dumping of substances in Annexes A and B and of products containing such substances

76. The Secretariat drew attention to the follow-up action taken on the Working Group's decision on the proposal on the dumping of obsolete technologies submitted to it at its eleventh meeting.

77. At the invitation of the Co-Chairman, the representative of the World Trade Organization (WTO) said that, after the Secretariat had sought its comments on the proposal, her organization had referred the matter to the WTO Committee on Trade and Environment, as the WTO secretariat had no authority to interpret the provisions of WTO or its Agreements. The matter was still before the Committee.

78. Some representatives suggested that the Secretariat should circulate the statement of the representative of the WTO secretariat, together with the attached questions, to all Parties to seek their views.

79. The representative of Mauritius, the sponsor of the original proposal, said that he could not understand the delay in arriving at a ruling on the matter. The original request was clear, dumping was occurring, and all that was required was a response from WTO as to whether or not the draft decision, as currently worded, was in conformity with the rules governing international trade.

80. He subsequently revised the draft decision, replacing the acronym ODS by the words "substances listed in Annexes A and B of the Protocol". The Working Group decided that the title given to the draft decision needed modification and the words "illegal traffic and uncontrolled production" be deleted therefrom.

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81. Many representatives expressed their support for the draft decision while some others stated that, while in favour of the objective of the draft decision, they had doubts concerning the legal implications in trade law of the word "dumping". One representative reserved his delegation's position on the proposal in order to give further consideration to its broader trade implications.

82. The Working Group then decided to place the word "dumping" in square brackets, note the reservations of various speakers and resume its consideration of the draft decision at a later stage.

F. Illegal imports of controlled substances, including the observations of the Secretariat on the trade in used/recycled substances

83. The Secretariat introduced its report on trade in used ozone-depleting substances, which had been prepared in accordance with decision VI/19 of the Sixth Meeting of the Parties.

84. The Working Group took note of the report of the Secretariat.

85. The Working Group then took up the draft decision on the subject. Some representatives drew attention to the action taken in their countries to stop illegal traffic in CFCs. Many representatives requested a clarification of the terms "dumping", because of its restrictive interpretation, "illegal traffic", since it was not clear whether it covered the trade between Parties and non-Parties, and "uncontrolled production", since the text could undermine the effectiveness of the Protocol. Some thought that the draft decision was similar to the one on dumping of Annex A and Annex B substances (see paras. 76-82 above) and the two might be merged. One representative pointed out that the draft decisions referred to different issues.

86. One representative drew attention to the fact that dumping could exist in terms of either price or quality and some representatives underlined the extremely subjective nature of the draft decision since its implementation would depend on the Secretariat's interpretation of what could undermine the effectiveness of the Protocol.

87. The Co-Chairman suggested that the draft decision should be carried forward with the reservations expressed, and that the proposer and other Parties interested should attempt to arrive at a consensus.

G. Reorganization of the Technology and Economic Assessment Panel and its Technical Options Committees

88. The Secretariat introduced a draft decision on the reorganization of the Technology and Economic Assessment Panel and its Technical Options Committee.

89. One representative said that the draft had implications that still needed to be discussed and his delegation would like to return to it at a later stage.

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V. CONSIDERATION OF THE REPORT OF THE TECHNOLOGY AND ECONOMIC ASSESSMENT PANEL ON THE BASIC PROBLEMS CONFRONTING COUNTRIES WITH ECONOMIES IN TRANSITION IN COMPLYING WITH THE MONTREAL PROTOCOL

90. Mr. Kuijpers, Co-Chair of the Ad Hoc Working Group of Technology and Economic Assessment Panel set up to investigate the specific aspects of countries with economies in transition (CEITs), presented the Group's report. He stressed the massive geopolitical and economic changes that had taken place in the former Soviet Union and Central and Eastern Europe in recent years and estimated that non-compliance was inevitable over the next three to five years. Data had been collected by the Ad Hoc Group on the basis of a questionnaire sent out to 24 countries, 14 of which had replied. Country visits had not been possible because of organizational difficulties. The conclusions reached by the Ad Hoc Working Group were that most Central European States were likely to have short periods of non-compliance; production of ODS occurred almost entirely in the Russian Federation; there was an inevitable interdependence in term of imports and exports between the CIS and the Baltic States, with the resulting non-compliance in almost all of them, and that assessment of the status of non-Party countries was likely to be difficult. Further evaluations were to be carried out by the Ad Hoc Working Group in the months ahead and a final report would be prepared before the Seventh Meeting of the Parties.

91. The President of the Implementation Committee said that the Committee had discussed the statement made by the Russian Federation to the Working Group at its eleventh meeting on behalf of itself and four other States and its subsequent letter to UNEP, on its own behalf, requesting extension of time for implementation of control measures in accordance with paragraph 4 of the non-compliance procedure. The Russian Federation was considered a special case, since it was a producer of controlled substances and was the only one of the five countries not to have reported data. Discussion relating to the other four countries by the Committee was left to a later stage.

92. He pointed out that the Russian Federation had not reported its data and thus failed to comply with Article 7 on the reporting of data. Some explanations had been forthcoming from the Russian Federation, but it was the Committee's view that the complete data should have been submitted. The information received was of a preliminary nature and could not serve as a basis for recommendations. In particular, information on production and consumption and a schedule for phasing out was required before the Seventh Meeting of the Parties to be held in November. Recommendations of the Committee to the Seventh Meeting could include a restriction on trade in controlled substances. A summary of the Committee's recommendations would be sent to the authorities of the Russian Federation.

93. Many representatives supported the position of the Implementation Committee in considering the information submitted by the Russian Federation to be inadequate and called for the additional specific data required under Article 7, paragraph 2, of the Protocol and a specific and comprehensive plan showing how the Russian Federation intended to bring about full compliance

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with its obligations under the Protocol. Special mention was made of the Russian Federation's failure to pay its contributions and its exports of CFCs to non-party countries.

94. The representative of the Russian Federation drew attention to his country's economic and social problems and its need for financial assistance in order to meet the high cost of compliance with the requirements of the Montreal Protocol. He pointed to the reductions in 1993 of 40 per cent of 1990 levels of CFCs as evidence of his country's commitment to the requirements of the Montreal Protocol. The collection of data had been time-consuming and the report would probably be ready by November 1995. He stressed that a four-year grace period was necessary for his country.

95. Several countries with economies in transition circulated a statement containing a draft decision that would permit them to extend until 2000 the time-limit for implementing the obligations in respect of consumption of CFCs for consideration by the Seventh Meeting of the Parties.

VI. ACTION TAKEN BY THE OPEN-ENDED WORKING GROUP

Instructions to the Technology and Economic Assessment Panel

96. One representative, speaking in his capacity as co-convener of a small consultation group established to examine the issues raised in the course of the meeting and also speaking on behalf of the second co-convener, reported that the group had agreed on the following:

(a) Studies of economic implications:

- (i) With regard to the proposals for controls on methyl bromide and HCFCs, the group recalled decision IV/23 of the Fourth Meeting of the Parties, and agreed that the financial and economic studies foreshadowed in that decision in relation to methyl bromide and similar studies in relation to HCFCs were an essential input to the Parties' deliberations at their Seventh Meeting. Accordingly, the group agreed that to recommend to the Open-ended Working Group that the Technology and Economic Assessment Panel should be asked to undertake the studies and provide a report in time (1 November 1995) for consideration by the Seventh Meeting of the Parties;
- (ii) With regard to the proposals for the phase-out schedules for already controlled substances, the group recognized that considerable work had already been undertaken by the Review under Article 5, paragraph 8, but considered that some work was required to present the economic implications of the scenarios remaining under consideration. Accordingly, the group agreed to recommend to the Open-ended Working Group that the Technology and Economic Assessment Panel be asked to undertake this study, taking into account the work already done by the Review under Article 5, paragraph 8, and provide a report in time (1 November 1995) for consideration by the Seventh Meeting of the Parties;

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(b) Financial planning in the Multilateral Fund. The group agreed that the Open-ended Working Group should request the Executive Committee to provide the Seventh Meeting of the Parties with a report that included:

- (i) An outline and framework for a three-year rolling business plan for the Fund for approval by the Parties;
- (ii) An indicative projection of demand for resources, based on scenarios under consideration for Annex A and Annex B substances, including the currently agreed control measures, over the full term of the scenarios;
- (iii) A detailed plan including projected cash flow for 1996.

The group also agreed the Open-ended Working Group should request the Executive Committee to provide to the Eighth Meeting of the Parties a full three-year rolling plan based on the outline and framework approved by the Parties at their Seventh Meeting.

(c) Technology transfer. The group noted that the Open-ended Working Group had adopted the report of the subgroup on the review of the Financial Mechanism, in particular its recommendation 21, relating to technology transfer. The group agreed that the Open-ended Working Group should request the Executive Committee to provide an interim progress report to the Seventh Meeting of the Parties and a final report to the Parties at their Eighth Meeting.

97. The co-convenor of the group noted further that, on the basis of this work, the informal friends-of-the-chair group had established terms of reference for the Technology and Economic Assessment Panel to conduct its work.

98. One representative, speaking on behalf of the Group of 77 and China, supported those agreements and noted that the work of the small group reconfirmed the common interest of all Parties in protecting the ozone layer. Another representative recalled that, at its eleventh meeting, the Open-ended Working Group had decided that the Technology and Economic Assessment Panel should study the full economic implications of trade in Annex A and Annex B substances during the grace- and phase-out periods.

99. Based on the foregoing, the Working Group requested the Technology and Economic Assessment Panel to assess the following, as well as the economic implications of trade in Annex A and Annex B substances during the grace- and phase-out periods, and submit its combined report, through the Secretariat, by 5 November 1995 at the latest, to the Seventh Meeting of the Parties. Parties understood that Technology and Economic Assessment Panel Co-Chairs would conduct a streamlined work schedule in order to complete their report within two months:

(a) Economic and financial implications of some illustrative control scenarios on methyl bromide production and consumption for Article 5

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countries:

- (i) A freeze by 1998 of production and consumption of methyl bromide at a base-year level calculated as an average of 1993-1995 with an exemption for quarantine and pre-shipment uses;
- (ii) A 25 per cent reduction by 2005 and a phase-out by 2011 of production and consumption of methyl bromide at a base-year level calculated as an average of 1993-1995 with an exemption for quarantine and pre-shipment uses, separately calculating the implications of each control step; and
- (iii) A phase-out by 2001 of production and consumption of methyl bromide with an exemption for quarantine and pre-shipment uses.

(b) Economic and financial implications of some illustrative control scenarios on HCFC consumption for Article 5 countries:

- (i) A freeze by 2000 in consumption of HCFCs at 1999 base-year levels, the Copenhagen schedule for non-Article 5 Parties plus 10 years; and
- (ii) A freeze by 2011 in consumption of HCFCs at 2010 base-year levels and phase-out by 2040, separately calculating the implications of each control step;

(c) Economic implications of the scenarios remaining under consideration for already controlled CFCs, halons, carbon tetrachloride, and 1,1,1-trichloroethane for Article 5 countries.

100. The report on each of the above scenarios should consider a range of financial and economic consequences (using realistic assumptions) including: employment; enterprise vitality (including small- and medium-sized enterprises (SMEs)); foreign exchange earnings; market share, technological dependence, and competitiveness; impact on national industrial strategies; and total and net costs. The report should specifically take into account the special circumstances of Article 5 countries concerning such topics as the importance of food storage and uniqueness of agricultural production practices; the requirements for infrastructure, institutional capacity, and training; relative national social-economic and environmental priorities; and the implications of the final transition to non-ODS technology, including energy efficiency.

101. In compiling the report, the Technology and Economic Assessment Panel would ensure that the work conformed with instructions from decision IV/23, paragraph 1 (c), and would take into consideration the work already undertaken under paragraph 8 of Article 5.

Next meeting of the Open-ended Working Group

102. The Working Group decided to meet in Vienna on the days that had been set aside for the Preparatory Meeting for the Seventh Meeting of the Parties. At

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that meeting, it would consider the outstanding issues before the current meeting, as well as the items on the agenda of the Preparatory Meeting.

Action on draft decisions

103. The Working Group decided that the Secretariat may place the draft decisions on all the issues currently before it for further consideration at its next meeting.

VII. ADOPTION OF THE REPORT

104. The present report was adopted on Friday, 1 September 1995, on the basis of the draft report contained in document UNEP/OzL.Pro/WG.1/12/L.1 and Add.1.

105. During the adoption of the draft report, the representative of the Russian Federation expressed his delegation's objections to the contents of paragraphs 57 and 59 of document UNEP/OzL.Pro/WG.1/12/L.1 (paragraphs 0 and 0 of the present report).

VIII. CLOSURE OF THE MEETING

106. After the customary exchange of courtesies, the Co-Chairman declared the meeting closed at 6 p.m. on Friday, 1 September 1995.

Annex

REPORT ON THE STUDY ON THE REVIEW OF
THE FINANCIAL MECHANISM

1. At its eleventh meeting, the Open-ended Working Group established a subgroup to identify the priority issues in the Study on the Financial Mechanism of the Montreal Protocol and requested the subgroup to consider the following topics and report thereon to the Working Group at its twelfth meeting:

(a) All observations/comments by Parties submitted to the Ozone Secretariat by 10 June 1995, which should be circulated to the members of the subgroup; and

(b) The Executive Committee's response to the report.

2. The following countries participated in the discussions of the review subgroup: Brazil, Canada, Colombia, Denmark, France, India, Japan, Kenya, Malaysia, Mauritius, Norway and the United Kingdom. The meeting examined the report of the Executive Committee to the twelfth meeting of the Open-ended Working Group (UNEP/OzL.Pro/WG.1/12/3) which responded to the recommendations of the study on the Financial Mechanism of the Montreal Protocol. The response of the Review Subgroup is contained in this document which reflects the Subgroup's discussions and 21 recommendations are put forward to the Working Group. Out of the proposals put forward by the Executive Committee (see document UNEP/OzL.Pro/WG.1/12/3), 19 recommendations have been developed by the subgroup, and three have been dropped. In addition to those 19 recommendations, the subgroup has drafted two more recommendations.

3. In addition, when discussing the operation of the Financial Mechanism, the Subgroup took the view that the provision of resources to assist Article 5 countries to achieve their objectives under the Montreal Protocol was an important consideration for the successful operation of the Financial Mechanism. The Parties may wish to consider this issue in their preparations for their Seventh Meeting.

4. In addressing its terms of reference, the members of the Subgroup considered that item 2 (b) (iii) "Innovative mobilization of existing and additional resources in support of Protocol objectives" had not been adequately addressed. The Parties may, therefore, wish to request the Executive Committee to consider this issue and any further action by the end of 1996 and to report to the Eighth Meeting of the Parties.

5. The Review Subgroup recommends to the Open-ended Working Group as follows:

Recommendation 1

With regard to paragraphs 90, 91 and 101 of the study, the Open-ended Working Group recommends:

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- (a) Completion of the development by the Executive Committee of (i) a systematic approach to policy development, (ii) monitoring and evaluation guidelines, bearing in mind that operational responsibility remains with Governments, financial intermediaries or the implementing agencies, (iii) project templates for all sectors, with a view to having a project evaluation system in place by the end of 1995;
- (b) That the Executive Committee examine the integration of Agencies' and Secretariat's project review activities no later than six months after it has concluded that the preconditions for increased delegation set out in the recommendations in paragraphs 90 and 91 have been met;
- (c) Further delegation in due course, with a view to achieving appropriate delegation on over time;
- (d) Evaluation of the Small Project Approval Process (SPAP) on completion of the current project group.

Recommendation 2

With regard to paragraph 92 of the study, the Open-ended Working Group recommends:

- (a) That the Executive Committee develop and take decisions on policy issues already identified, so that a satisfactory number of such issues have been clearly addressed by late 1996. New policy issues are likely to continue to emerge, but would be dealt with more expeditiously with refined administrative processes;
- (b) That a list of foreseeable policy issues be drafted with the help of the Implementing Agencies and the Fund Secretariat over the next two meetings;
- (c) That the Secretariat and designated consortia of Implementing Agencies produce consensus options for consideration by the Executive Committee;
- (d) That decisions proposed for the consideration of the Executive Committee should clearly indicate the implications for project proposals if the decisions were to be adopted.

Recommendation 3

With regard to paragraph 93 of the study, the Open-ended Working Group recommends:

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That Committee members should normally refrain from speaking on projects in which they have a direct interest. However, this should not apply to projects which present policy issues, on which the Chair may invite all members to speak, in order to expedite consideration of such projects. It should be evident from records of Meetings of the Executive Committee that all projects are given equal treatment by the Committee.

Recommendation 4

With regard to paragraphs 94, 95 and 109 of the study, the Open-ended Working Group recommends:

That the Executive Committee should oversee the completion by the implementing agencies and the Secretariat, jointly, by the end of 1995 of a comprehensive, integrated database common to all agencies and the Secretariat, in conjunction with the completion of standard project outlines (templates), with a view to achieving a decrease in the number of projects undergoing substantial revision or reduction in proposed project costs due to the project review process and review the database in mid-1996.

Recommendation 5

With regard to paragraphs 108 and 581 of the study, the Open-ended Working Group recommends that the Executive Committee:

- (a) Examine the effectiveness of its policy dissemination procedures in early 1996. The procedures should include the provision of practical examples of the application of policy decisions, with a view to reducing the extent of project revision during the review process, and also examine the degree to which national ozone protection units and consultants consider they have sufficient information to guide project development;
- (b) Develop operational guidelines for agencies and their consultants;
- (c) Consider a report on incremental costs for the production of CFC-substitutes at its Eighteenth Meeting and establish firm compensation policies with a view to completing incremental cost guidelines for the production of CFC-substitutes by mid-1996.

Recommendation 6

With regard to paragraphs 117, 119 and 120 of the study, the Open-ended Working Group recommends:

That, at its Eighteenth Meeting, the Executive Committee evaluate the regime adopted for 1995, taking into account the study's recommendations, including the recommendation that: "Cost-effectiveness norms should be prepared based on model projects of different capacities under standard conditions. Thereafter, projects should be assessed on their own merits." Nonetheless, all eligible projects shall continue to be funded overtime irrespective of their relative cost-effectiveness. In case of delayed funding, however, lump-sum payments could be considered.

Recommendation 7

With regard to paragraphs 110, 112 and 777 of the study, the Open-ended Working Group recommends:

- (a) That relevant Implementing Agencies review institutional strengthening experiences and present a combined paper to the Executive Committee at its Eighteenth Meeting, which will include guidelines on the possible proportionate commitment of Article 5 countries in such areas as financial, organizational and human resource support, with a view to enhancing the effectiveness of ODS phase-out strategies;
- (b) Institutional strengthening could include, at the request of Article 5 countries, assistance to meet their country programme goals relative to laws and regulations.

Recommendation 8

With regard to paragraph 114 of the study, the Open-ended Working Group recommends:

That the Executive Committee select a lead Agency to prepare the framework for a policy dialogue with Article 5 countries by the end of 1996, with a view to enhancing regulatory support to ODS phase-out in Article 5 countries.

Recommendation 9

With regard to paragraphs 111, 112, 113 and 121 of the study, the Open-ended Working Group recommends:

That the Executive Committee request a lead Implementing Agency, with the other Agencies and the Secretariat, to further develop, as appropriate, the guidelines for country programmes, taking into account these recommendations, for presentation at the Eighteenth Meeting with a view to the adoption by the Executive Committee of revised guidelines. The Executive Committee will consider these guidelines in the light of its experience to date taking into account as appropriate the sectoral approach to technology transfer. However, approval of eligible projects should not be made contingent upon revision of country programmes. Any revision of the country programme would be at the request of the Party concerned.

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Recommendation 10

With regard to paragraph 116 of the study, the Open-ended Working Group recommends:

That the study by the World Bank on the establishment of a concessional loan mechanism, requested by the Executive Committee at its Sixteenth Meeting, be completed as soon as possible, and analysed and discussed by the Executive Committee at its Nineteenth Meeting and that a decision on suitable future steps be taken by the Executive Committee by its Twentieth Meeting or by the Meeting of the Parties in 1996, as appropriate, with a view to starting the use of concessional loans by the end of 1996, to the extent that the need and demand exist.

Recommendation 11

With regard to paragraph 764 of the study, the Open-ended Working Group recommends:

That the Executive Committee examine the issue of industrial consolidation, taking into account national industrial strategies of Article 5 countries, with a view to achieving more effective approaches to ODS phase-out.

Recommendation 12

With regard to paragraphs 122 and 782 of the study, the Open-ended Working Group recommends:

Noting that the Executive Committee approved funding for Latin American and African Networks, that the Executive Committee review the existing similar networks and establish new networks, as appropriate.

Recommendation 13

With regard to paragraphs 102 and 660 of the study, the Open-ended Working Group recommends:

That the Implementing Agencies report to the Executive Committee at its Eighteenth Meeting on measures to include ODS phase-out issues into their ongoing dialogue on development programming and on measures they could to take to mobilize non-Fund resources in support of Montreal Protocol objectives, with a view to achieving an increase in the number of ozone-protection projects.

Recommendation 14

With regard to paragraph 96 of the study, the Open-ended Working Group recommends:

That the Executive Committee consider the need for new Implementing Agencies for loan programmes in the light of emerging sectoral strategy policies and for methyl bromide after the Seventh Meeting of the Parties.

Recommendation 15

With regard to paragraphs 97, 98 and 100 of the study, the Open-ended Working Group recommends:

That the Executive Committee urge the Article 5 countries concerned to select Implementing Agencies and mode of implementation keeping in mind the need to implement projects without delay.

Recommendation 16

With regard to paragraphs 98 and 99 of the study, the Open-ended Working Group recommends:

That the World Bank should report on the training and incentive structure and that, at its Nineteenth Meeting, the Executive Committee should consider this report and the relationship of the costs of training to total overhead costs, in order to ensure that the Executive Committee is fully informed about the role, resourcing and effectiveness of Financial Intermediaries.

Recommendation 17

With regard to paragraph 115 of the study, the Open-ended Working Group recommends:

That the Executive Committee request each Implementing Agency to report, as and when the issue arises, on legal and institutional impediments to project implementation and measures taken to address them as soon as possible.

Recommendation 18

With regard to paragraph 103 of the study, the Open-ended Working Group recommends that the Executive Committee should:

- (a) Call upon the World Bank and all other institutions associated with the Financial Mechanism to propose measures to assist UNEP in collecting contributions in arrears;
- (b) Urge the World Bank to review with UNEP the processes for acceptance of promissory notes.

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Recommendation 19

With regard to paragraph 104 of the study, the Open-ended Working Group recommends:

That the Executive Committee monitor the extent to which the available bilateral component is utilized.

Recommendation 20

With regard to paragraphs 540, 541, 542 and 567 of the study, the Open-ended Working Group recommends:

That the Executive Committee pay attention to training directly related to investment projects and consider training of technical experts from Article 5 countries, especially when addressing the needs of small-ODS users. Where the Fund supports eligible projects of research to adapt technology to local circumstances, it should encourage the involvement of Article 5 country technical experts in the discussions of technical options, and the effective involvement of local experts in field missions.

Recommendation 21

With regard to paragraphs 551, 556, 557 and 558 of the study, the Open-ended Working Group recommends that the Executive Committee be requested:

- (a) To prepare an itemized progress report on measures taken so far, in the context of Article 10 of the Protocol, to establish a mechanism specifically for the transfer of technology and the technical know-how at fair and most favourable conditions necessary to phase-out ODS; and at the same time,
- (b) To request UNEP to intensify its efforts to collect information from relevant sources, and to prepare an inventory and assessment of environmentally sound and economically viable technologies and know-how conducive to phase-out of ODS. This inventory should also include an elaboration of terms under which transfers of such technologies and know-how could take place;
- (c) To consider what steps can practicably be taken to eliminate any impediments in the international flow of technology;
- (d) To further elaborate the issue of the eligible incremental costs of technology transfer, including costs of patents and designs and the incremental costs of royalties as negotiated by the recipient enterprises.

The action in subparagraphs (a), (b) and (c) should be completed by its Nineteenth Meeting and updated periodically, and the action in subparagraph (d) be taken immediately.

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