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OPEN-ENDED WORKING GROUP OF THE PARTIES TO  
THE MONTREAL PROTOCOL ON SUBSTANCES THAT  
DEplete THE OZONE LAYER  
Thirteenth meeting  
Geneva, 26-29 August 1996

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

I. OPENING OF THE MEETING

1. The thirteenth meeting of the Open-ended Working Group of the Parties to the Montreal Protocol was held at the Geneva International Conference Centre from 26 to 29 August 1996.
2. The meeting was opened at 10 a.m. on Monday, 26 August 1996.
3. Speaking on behalf of the Executive Director of the United Nations Environment Programme (UNEP), Mr. John Whitelaw, Special Adviser to the Executive Director, welcomed participants and reviewed the successes under the ozone agreements over the previous ten years, noting the declining growth rates of many chlorofluorocarbons (CFCs) and halons and the fact that ozone layer depletion was finally reaching its peak. He regretted, however, that many countries still had not ratified the London Amendment and the Copenhagen Amendment, the number of Parties to which stood at 110 and 57, respectively, and urged Governments to expedite their ratification.
4. Mr. Whitelaw said that the major issue before the meeting was to ensure the continued effective support provided by the Multilateral Fund to developing countries. To that end, the Technology and Economic Assessment Panel (TEAP) had prepared its report on the funding requirement for the next replenishment of the Fund. In that report, particular importance was attached to the needs of developing countries that wished to accelerate their phase-out. The primary concern, however, was to ensure the most effective use of funds, and that objective would be significantly advanced through sound domestic policies and regulation.

5. The Working Group would also be called upon to address such important issues as essential-use exemptions, an international transition strategy on ozone-safe alternatives for metered-dose inhalers (MDIs) that used CFCs and the control of trade in methyl bromide. On the latter point, he suggested that the Working Group might recommend a deferred introduction of such control, until 1998 or 1999: the decision on trade measures could be taken at the Eighth Meeting of the Parties and the modalities decided at the Ninth Meeting. In addition, Parties could consider adopting, as an interim and voluntary measure, various options of modalities for critical-use exemptions for methyl bromide.

6. The Open-ended Working Group would also consider the recommendations of the Informal Advisory Group on the future organization and work of TEAP. In view of the extraordinary achievements of the Panels, the broad principles under which they had originally been set up remained valid. Consideration could also be given to the need to increase funding for the Panels.

7. In the area of implementation, he recommended that more Parties take steps to control illegal trade in controlled substances. He urged the implementing agencies under the Global Environment Facility (GEF) to develop more projects to assist countries with compliance.

8. Finally, he urged all Parties to make a concerted effort to maintain the impetus they had gained until their common objective was reached. To that end, they must give continued support to the Multilateral Fund and the Trust Funds for the Vienna Convention and the Montreal Protocol and must curb illegal trade; developing countries must develop legislation to implement control measures, and the Implementing Agencies of the Multilateral Fund must execute projects faster; and widespread support must be secured for work to protect the ozone layer.

## II. ORGANIZATIONAL MATTERS

### A. Attendance

9. The following Parties to the Montreal Protocol were represented: Algeria, Antigua and Barbuda, Argentina, Australia, Austria, Bangladesh, Belarus, Belgium, Bolivia, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, Chile, China, Colombia, Congo, Costa Rica, Croatia, Cuba, Democratic People's Republic of Korea, Denmark, Egypt, El Salvador, European Community, Finland, France, Georgia, Germany, Ghana, Guinea, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Jamaica, Japan, Jordan, Kenya, Kuwait, Latvia, Lesotho, Lithuania, Luxembourg, Malawi, Malaysia, Mali, Marshall Islands, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Nepal, Netherlands, New Zealand, Niger, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Republic of Korea, Romania, Russian Federation, Saint Lucia, Senegal, South Africa, Sri Lanka, Sudan, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Uruguay, Uzbekistan, Venezuela, Viet Nam, Zambia, Zimbabwe.

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10. The following States not party to the Protocol were also represented: Eritrea, Haiti, Holy See, Republic of Moldova.

11. 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 Telecommunication Union (ITU/BDT), Secretariat of the United Nations Framework Convention on Climate Change (UNFCCC), United Nations Development Programme (UNDP), United Nations Industrial Development Organization (UNIDO), World Trade Organization (WTO), World Health Organization (WHO), World Bank.

12. The following other organizations were also represented: 3M Pharmaceutical, Agricultural Research Consulting (ARC), Allergy and Asthma Network/Mothers of Asthmatics, Alliance for responsible Atmospheric policy (ARAP), American Lung Association (ALA), Association Methyl Bromide Industry Japan (AMBIJ), Center for Global Change (CGC), COWI, EMC Inc., European Chemical Industry Council (CEFIC), Federation internationale de l'industrie du médicament (IFPMA), FPMAJ, Friends of the Earth (FOE), Galex, Glaxo Wellcome, Greenpeace, Halon Alternatives Research Corporation (HARC), Indian Chemical Manufacturers Association (ICMA), Industrial Technology Research Institute (ITRI), Instituto Valenciano de Investigaciones Agrarias (IVIA), International Pharmaceutical Aerosol Consortium (IPAC), Japan Refrigeration and Air Conditioning Industry (JRAIA), Japan Fluorocarbon Manufacturer Association (JFMA), Japan Industrial Conference for Ozone Layer Protection (JICOP), Japan Environmental Sanitation Center (JESC), Japan Association for Hygiene of Chlorinated Solvents (JAHCS), Korea Institute of Science and Technology (KIST), Korea Speciality Chemical Industry Association (KSCIA), League of Arab States, Medeva Americas Inc., Medisol Labs Inc., Methyl Bromide Global Coalition (MBGC), Methyl Bromide Working Group (MBWG), Regma, Rhone-Poulenc Rorer, Royal Institute of International Affairs (RIIA), Schering-Plough Corporation, The Rowland Company.

#### B. Officers

13. Mr. S. Seebaluck (Mauritius) and Ms. C. Fearnley (New Zealand) served as Co-Chairs of the meeting, in accordance with decision VII/36 of the Seventh Meeting of the Parties to the Montreal Protocol.

14. Mr. Carlos Noland Empty (Cuba) served as Rapporteur for the meeting.

#### C. Adoption of the agenda

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

1. Opening of the meeting.
2. Adoption of the agenda and organization of work.
3. Replenishment of the Multilateral Fund for the triennium 1997-1999 and three-year rolling business plan for the period 1996-1998:
  - (a) Report of the Executive Committee (decision VII/23);

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- (b) Report of the Technology and Economic Assessment Panel (decision VII/24).
- 4. Report of the Executive Committee on measures taken to improve the Financial Mechanism (decision VII/22).
- 5. Report of the Technology and Economic Assessment Panel on essential-use nominations and metered-dose inhalers (decisions VII/28 and VII/34, paragraphs 5 (a) and (b)).
- 6. Report of the Technology and Economic Assessment Panel on control of trade in methyl bromide and critical agricultural uses of methyl bromide (decisions VII/7 and VII/29).
- 7. Report of the Technology and Economic Assessment Panel and the Informal Advisory Group on the organization and functioning of the Panel (decision VII/34, paragraph 5 (e)).
- 8. Annual reports by the Assessment Panels, including reports of the Technology and Economic Assessment Panel on minimizing emissions of halons and applications of hydrochlorofluorocarbons (decisions VII/12 and VII/34, paragraphs 5 (c) and (f)).
- 9. List of products containing or made with, but not containing, controlled substances in Group II of Annex C of the Montreal Protocol (Article 4, paragraphs 3 ter and 4 ter).
- 10. Issues regarding the implementation of the Protocol:
  - (a) Report of the Secretariat on illegal imports and exports of controlled substances (decision VII/33);
  - (b) Report by the Technology and Economic Assessment Panel on the status of implementation of the Protocol in the countries with economies in transition (decision VII/34, paragraph 5 (d));
  - (c) Report of the President of the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol;
  - (d) Issues relating to ratification of the Protocol by non-Parties;
  - (e) Proposed revised format for the reporting of data under Article 7 of the Protocol.
- 11. Dates for the 1997 meeting of the Open-ended Working Group.
- 12. Other matters.
- 13. Adoption of the report.

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14. Closure of the meeting.

III. REPLENISHMENT OF THE MULTILATERAL FUND FOR THE  
TRIENNIUM 1997-1999 AND THREE-YEAR ROLLING  
BUSINESS PLAN FOR THE PERIOD 1996-1998

A. Report of the Executive Committee (decision VII/23)

16. Introducing the report of the Executive Committee on the three-year rolling business plan of the Multilateral Fund for the period 1996-1998 (UNEP/OzL.Pro/WG.1/13/3), which had been prepared in accordance with decision VII/23 of the Seventh Meeting of the Parties, Dr. Omar El-Arini, Chief Officer of the Secretariat of the Multilateral Fund for the Implementation of the Montreal Protocol, said that the plan covered the operation of the Multilateral Fund for the period from 1 January 1996 to 31 December 1998, setting firm targets for ODS elimination and financial expenditures for 1996, the current year of planning, and indicative targets for 1997 and 1998, the two succeeding years, and that it would be updated each year to provide for a new three-year rolling plan. Since the business planning of the Multilateral Fund for the period in question depended, to a great extent, on the outcome of the replenishment study and the decision of the Parties thereon, the current document would have to be revised once those parameters referred to in paragraph 3 of decision VII/23 became available.

B. Report of the Technology and Economic Assessment Panel  
(decision VII/24)

17. Introducing the report of the Technology and Economic Assessment Panel (TEAP) on the assessment of the funding requirement for the replenishment of the Multilateral Fund for the period 1997-1999, Dr. L. Kuijpers, Co-Chair of the Panel, said that the report had been prepared in accordance with decision VII/24 to enable the Parties to take a decision on the appropriate level of the 1997-1999 replenishment of the Multilateral Fund. To prepare the report, a task force had been established, comprising four members based on an equitable balance of Article 5 and non-Article 5 countries. Dr. Kuijpers and Dr. Van Slooten, as Co-Chairs of the Task Force, presented the report and outlined its scope and coverage. The analytical methods, including a computer model, and working assumptions used were described.

18. TEAP estimated that \$436.5 million would be required during 1997, 1998 and 1999 to enable Article 5 countries to comply with ODS reduction as mandated in the Montreal Protocol. TEAP had reached its figure as the minimum required to implement the CFC freeze as of 1 July 1999 and to ensure progress towards the 50 per cent reduction for CFCs in Group I of Annex A by 2005, in accordance with the specification of the reference case. Most of the replenishment required for 1997-1999 would go towards the 2005 goal. An additional \$40-60 million would be required to maintain the accelerated ODS-consumption reduction programmes under way in some Article 5 countries.

19. A Co-Chair said that the data provided in the annex of the report had been obtained from participants at the nineteenth meeting of the Executive Committee. However, a computer model had been constructed using data received from official sources. In response to the concern of one representative, he said that for any discrepancies in the data provided in

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the annex, a corrigendum could be issued if requested.

20. In reply to questions from a number of representatives, a Co-Chair clarified that the estimates were the best possible following extensive discussions with the Secretariat and Implementing Agencies for the Multilateral Fund and were based on available ODS data and ongoing programmes. Use had been made of projects approved for funding, and the information had been checked as far as possible for the years 1994-1996. Data had been gathered up to 1994 and extrapolated for 1995-1997: if the data proved different in 1996-1997 the computer model could easily prepare revised estimates. The average pattern of projects per country submitted to the Executive Committee had been taken into consideration. Cost-effectiveness was based on the established threshold values for a given application in a certain group of countries. For the production sector, the model included cost estimates for closures of plants and development of substitutes.

21. A question was raised in connection with those countries in arrears with their contributions to the Multilateral Fund and predominantly countries in transition. It was proposed that:

(a) A decision should be made by the Parties on the issue of arrears and particularly on how to recover those arrears;

(b) No carry-over to the next year or to the replenishment period should be allowed and any new agreed figures should be paid in full.

22. In response to the concern of some representatives, a Co-Chair said that small and medium-sized enterprises had not been considered in the first phase of ODS phase-out in the large-consuming countries since a substantial amount of standardized projects still needed to be addressed. However, in low-volume-ODS-consuming countries, small and medium-sized enterprises had been considered by an increase in the cost-effectiveness values.

23. One representative pointed out the very considerable discrepancies between the estimates submitted by the Executive Committee and by TEAP regarding consumption in Article 5 countries and whether it was increasing or decreasing, the quantity of ODS that would be, or could be, eliminated and the related phase-out costs. His own view was that the Executive Committee figures were more realistic and that the TEAP figures needed to be corrected.

24. In response, a Co-Chair explained that, while the same source - UNEP - had been used for both sets of figures, the TEAP analysis had eliminated the inconsistencies in carbon tetrachloride data reporting which led to lower global consumption figures. Furthermore, the TEAP model had to be applicable to all countries, and there were many low-volume-ODS-consuming countries where phase-out costs were much higher and less cost-effective, thus accounting for the discrepancies between the TEAP report and the estimates by the Executive Committee.

25. In reply to questions raised by many representatives, a Co-Chair reiterated that the figure of \$436.5 million did not take into account such issues as inflation, the decrease in price of ODS equipment, increases or decreases in cost of projects, and changes in technology.

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26. One representative said that multinational corporations did not get funding unless they were in a joint venture and funding was then in proportion to their participation in the venture. He wanted to know whether that had been taken into account. A Co-Chair replied that the historical cost data incorporated that factor.

27. Many representatives questioned whether the figure of \$40-60 million would increase with the acceleration of implementation. In times of accelerated phase-out, a higher expenditure in the short term might mean decreased expenditure in the long term. Results could be adjusted with the computer model to apply to a shorter time-lag in implementation.

28. In the ensuing general discussion on the report, the representatives of a number of Parties operating under paragraph 1 of Article 5 of the Montreal Protocol said that only projects that met the cost-effectiveness criteria had been taken into account when calculating costs. In that connection, they pointed out that the Executive Committee's decision regarding the cost-effectiveness thresholds had been an ad hoc one, designed to meet a temporary shortfall in the resources of the Multilateral Fund. If the goal was to freeze the consumption of ozone-depleting substances by the year 1999, in accordance with the instructions given by the Seventh Meeting of the Parties, all projects, including projects not sanctioned because they crossed the threshold, must be taken into account. In those circumstances, the proposed level of contributions would not be adequate and the Panel should be asked to calculate what resources would be needed to cover the incremental costs of the projects that did not meet the cost-effectiveness criteria, with particular reference to projects in low- and medium-volume-ODS-consuming Parties and those of small and medium-sized enterprises. Moreover, the Multilateral Fund had also the mandate to accelerate the reduction of ODS consumption in the Article 5 countries, the cost of which should not be isolated but formed part of the overall figure for the resources of the Multilateral Fund.

29. The reasons for not doing sensitivity analysis on cost-effectiveness values were also not understood. The view was expressed that the cost of changing from ODS to non-ODS technologies would remain irrespective of domestic policies. Limited availability of resources in the Multilateral Fund, coupled with domestic policies to encourage ODS phase-out would shift the burden of meeting the agreed incremental costs from the Multilateral Fund to Article 5 Parties, which was contrary to the objectives of the Multilateral Fund. It was proposed that resources in the Multilateral Fund should be adequate so that the full potential of ODS phase-out by Article 5 Parties could be achieved.

30. Several representatives of those Parties added that non-investment projects were often at least as important as investment ones in countries that needed capacity-building arrangements, involving training and the transfer of technology, to enable them to meet their commitments under the Protocol. They welcomed the fact that the Panel had shown awareness of that need. One of them noted the Panel's statement that the Montreal Protocol was not a development fund, but stressed that, at the same time, it should not have anti-development implications, and enterprises in the Article 5 countries must be protected from the adverse effects of the Protocol.

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Consequently, such considerations as inflation, delayed payment of annual pledges, and royalties, as a condition for the transfer of technology, should not be overlooked. One representative urged the adoption of specific measures to protect the service sector against adverse phase-out impacts.

31. One representative, speaking on behalf of many Parties not operating under Article 5, said that those Parties, which reaffirmed their strong commitment to the Multilateral Fund, had paid in full all their due contributions to the Fund. They welcomed the TEAP report, which constituted a good basis for a discussion of the appropriate level of replenishment of the Fund to enable the Article 5 Parties to meet their commitments under the Protocol.

32. In that connection, they particularly welcomed the inclusion in the report of a provision for the support of projects in both the production and methyl-bromide sectors and considered it appropriate that replenishment should reflect the need not simply to meet the 1999 freeze for Article 5 Parties but also to fund the activities necessary to meet the further controls in 2005.

33. Those Parties considered, however, that a number of elements of the report, such as the level of non-investment activities and administrative costs, would benefit from further discussion and clarification, and recognized that there was a range of views on the appropriate level of replenishment of the Fund. For instance, there was no consensus as to whether funding should be included to support accelerated action in the Article 5 Parties. Discussions should focus on the various components of the report, rather than on a particular figure, with a view to clarifying the issues and thus assisting the Parties to agree on an appropriate level of replenishment at their forthcoming Eighth Meeting.

34. The representatives of Lithuania and Latvia pointed out that their countries had not yet ratified the London Amendment to the Montreal Protocol. Consequently, they could not, pending such ratification, be classified as contributors to the Multilateral Fund. They therefore requested the Secretariat to delete their countries' names from the list of contributors.

35. In response to a request from the representative of Georgia, supported by another representative, that her country should be reclassified as a Party operating under Article 5, paragraph 1, in view of its critical economic situation after years of civil war, the Secretariat clarified that such reclassification could only be made by a Meeting of the Parties on individual application by the country concerned. The original list of Article 5 countries had been determined by the First Meeting of the Parties, and one country had been added to the list by the Third Meeting of the Parties.

36. With regard to the issue of contributions to the Multilateral Fund, the representative of the Russian Federation said that his country supported the purpose of the Montreal Protocol and the need to accelerate the process of ODS phase-out in all countries. In the past, it had offered to give in-kind assistance to developing countries in meeting the objectives of the Protocol but, as one of the countries with economies in transition, its current severe economic difficulties meant that it was often unable to carry out even its

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own projects. As it still had a highly developed technical and scientific capacity, however, it could continue such assistance by making available on advantageous terms, through the Multilateral Fund, ODS or recycled ODS recovered in those countries for approved domestic needs and could also provide Russian expertise to assist those countries with the development of ODS-friendly technologies.

37. The representative of Japan said that, while his Government had no objection to its future contributions being based on the revised United Nations scale of assessments, it was the understanding of the Japanese delegation that the share of contributions for 1996 had been determined when the replenishment for the triennium 1994-1996 had been agreed. Japan was unable to accept any modifications in its assessed contributions, since the sums concerned had already been approved by the Fifth Meeting of the Parties and under the national budgetary system of Japan.

38. One representative, speaking on behalf of the member States of a regional economic integration organization, said that adjustments to the United Nations scale of assessments should not affect the rates of contributions of individual Parties during a current budgetary period. Changes in contributions should only be made at the time of a new replenishment.

39. The representative of Switzerland said that, in May 1996, his Government had made a payment of \$1.55 million to cover the remainder of his country's contribution for 1995 and part of its contribution for 1996.

40. The representative of a non-governmental organization, speaking on behalf of all the participating environmental non-governmental organizations, drew attention to the need for adequate donor support, with pledges paid in full and in time; the need to ensure that funding priority was not given to technologies using ODS and global-warming substances and that there was no delay in the implementation of projects. In addition, the TEAP estimate should be increased by \$150 million and a reduction made to the Implementing Agencies' 13 per cent support costs. Finally, the organizations recommended that earlier phase-out dates should be set for CFCs and HCFCs; that a phase-out date should be set for methyl bromide; and that there should be no investment in technologies that caused global warming.

41. Following informal discussions, one representative, speaking on behalf of the Group of 77 and China, said that those countries agreed with the TEAP conclusion that the replenishment of the Multilateral Fund for the triennium 1997-1999 should enable Article 5 countries not only to comply with the first control measure under the Montreal Protocol – the freeze in 1999-2000 – but also to meet the subsequent requirement of the control schedules. The Group of 77 and China reiterated their commitment to continue to pursue earlier phase-out than was required under the Protocol, provided that additional financial resources and technology transfer were made available. The process should ensure that small and medium-sized enterprises were taken properly into account. However, the replenishment figure submitted by TEAP would definitely be insufficient to cover the agreed and full incremental costs of ODS phase-out in the Article 5 countries. The TEAP analysis should therefore be further refined to take those concerns into consideration so as to produce a replenishment figure that would genuinely enable the Article 5

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countries to comply with the objectives of the Protocol and encourage them to push ahead with earlier phase-out. Adequate emphasis should be placed in that connection on non-investment projects, such as methyl-bromide demonstrations, institutional strengthening and improved training, which created the enabling conditions needed for the success of the Protocol.

42. He added that the Group of 77 and China looked forward to real replenishment, not pledges that remained perpetually in arrears. It should not be forgotten that the liability of the Multilateral Fund was finite, since the Executive Committee had already decided not to fund conversion costs of new investments made after July 1995.

43. Another representative, speaking on behalf of a group of OECD countries not operating under Article 5, conveyed the reaction of those countries to the statement by the Group of 77 and China: while they welcomed the statement of the Group's objective and concerns as a useful basis for discussions on the replenishment, they remained convinced that the TEAP report was a good starting point and believed that its conclusions should be explored in further detail. It would, however, be useful to consider forming an open-ended working group to begin consideration of issues raised by the Group of 77 and China, the group of OECD countries and the TEAP report. The mandate received by TEAP from the Seventh Meeting of the Parties had been fulfilled and its findings should now be studied by the Parties.

44. Several representatives, pointing to the previously mentioned inadequacies of the TEAP report, said that they did not consider it final and felt that the form of the working group suggested by the OECD countries would not adequately address the substantial issues in need of further analysis.

45. One representative, speaking on behalf of the member States of a regional economic integration organization, said that those countries welcomed the TEAP report as a sound basis for discussions and considered that TEAP had completed its task. In their further deliberations on the report, members should give attention to such aspects as the possibly over-generous allocation proposed for phase-out projects in the production sector; the possible scope for savings in the area of administrative costs, especially of the Implementing Agencies; the need to ensure that methyl-bromide demonstration projects adequately reflected the control measures already agreed, and yet to be agreed, by the Meetings of the Parties; and the need to disburse resources in the next replenishment period in as cost-effective a manner as possible, bearing in mind that no such criteria applied to low-volume-ODS-consuming countries. The Parties on whose behalf he was speaking were willing to consider additional funding for accelerated phase-out programmes, including concessional loans, as provided for in the Protocol.

46. In the light of the foregoing discussion, it was decided that an open-ended group should be established to discuss issues of concern raised by the Group of 77 and China, the group of OECD countries and the European Union and report back to the plenary. It was further agreed that representatives of the TEAP Task Force responsible for the preparation of the replenishment report should attend the meeting of the group.

47. Following a short meeting of the open-ended group, the spokesman for the Group of 77 and China said that those countries had demonstrated their

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willingness to comply with the objectives of the Montreal Protocol. During the discussions at the current meeting, they had raised some valid considerations that should be incorporated by TEAP into its assessment of the Multilateral Fund replenishment for the triennium 1997-1999, since that would produce an array of results that would help to facilitate agreement at the Eighth Meeting of the Parties on an adequate replenishment of the Multilateral Fund. Despite their efforts in the open-ended group, however, a number of non-Article 5 Parties had refused to agree that the Working Group as a whole should submit a request for further work to be done by TEAP.

48. Since the Group of 77 and China felt that the inclusion of their concerns in the production of a new set of TEAP results was of critical importance to ensuring constructive negotiations, they proposed to ask TEAP to undertake that work for the benefit of the Parties. They thus could not and did not accept TEAP's initial estimate of replenishment requirements as the basis for discussions on an adequate replenishment of the Multilateral Fund.

49. One representative, speaking on behalf of a group of OECD Parties not operating under Article 5, said that those countries continued to regard the TEAP report as a good basis for discussions leading to a decision on the appropriate level of replenishment of the Multilateral Fund for 1997-1999, required to enable Article 5 Parties to meet their commitments under the Montreal Protocol. During a helpful and constructive exchange of views, many Parties had identified issues about which they would like further information, such as the production sector, demonstration projects for methyl bromide, administrative costs and concessional funding.

50. They noted that the Executive Committee of the Multilateral Fund would have reported on a number of relevant issues by the time that the Eighth Meeting of the Parties was held and that the Parties would wish to take due account of the Executive Committee's deliberations when discussing replenishment of the Multilateral Fund at that Meeting. They were concerned that every Party should have access to the information it deemed useful to assist the discussion on the appropriate level of replenishment and noted that some Parties had requested more information from TEAP. Since TEAP was a resource available to all Parties, they considered it appropriate that, if individual Parties wished to request further information therefrom, TEAP should reply directly to the Party concerned and as fully as possible in the time available.

51. Dr. Kuijpers, Co-Chair of TEAP, said that TEAP and its Task Force were perfectly willing to calculate further scenarios for the replenishment of the Multilateral Fund but that that would have to be done in the time-frame available. If the work was to be carried out for a number of individual Parties rather than for the Open-ended Working Group, it would have to be reviewed by the full Panel. That meant that the report could not be made available before early October. He mentioned that TEAP had no funds to dispatch the results to the interested Parties.

52. Several representatives said that, although a number of important matters would indeed be considered in the Executive Committee, that Committee was limited by its mandate. Several other representatives reminded the Working Group that commitments entered into at the Seventh Meeting of the

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Parties must be respected and that the Multilateral Fund constituted an obligation under an international treaty.

53. The spokesman for the Group of 77 and China asked whether it would be possible to hold a meeting between interested Parties and the members of TEAP to define how the work should be done, particularly with regard to timing, which should leave room for feedback on any problems encountered. Another representative commented that, since it was a matter of supplying information to Parties rather than drafting a new report, the costs should be insignificant.

54. The Secretariat stated that, in order to expedite the replies from TEAP, it would be useful if Parties requesting the type of information under discussion would supply TEAP with the name and address of the person to whom those replies were to be sent.

55. The representative of Japan introduced the following draft recommendation that his Government had submitted in writing concerning contributions within a given triennium and revision of the United Nations scale of contributions:

"Referring to decision VII/37 and taking into account that a number of contributing Parties appropriate their contribution to the Montreal Protocol's Multilateral Fund on a triennial basis, the Open-ended Working Group recommends to the Eight Meeting of the Parties that the new United Nations scale of assessments approved by the Parties at their Seventh Meeting will only apply to those contributing Parties in 1997 and beyond."

56. After one representative had stated that, in his interpretation, the draft recommendation ran counter to the legal situation under the Montreal Protocol and another representative said that he would have to reserve his position pending instructions from his Government, the Working Group decided to forward the draft recommendation to the Eighth Meeting of the Parties for its consideration.

#### IV. REPORT OF THE EXECUTIVE COMMITTEE ON MEASURES TAKEN TO IMPROVE THE FINANCIAL MECHANISM (DECISION VII/22)

57. Professor Sam Onger, Chair of the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol, introduced the draft report of the Committee on actions taken to improve the Financial Mechanism for the Implementation of the Montreal Protocol (UNEP/OzL.Pro/WG.1/13/4), which had been prepared for submission to the Eighth Meeting of the Parties in accordance with decision VII/22 of the Seventh Meeting of the Parties.

58. One representative, who was also a member of the Executive Committee, stressed that the document was still in draft form and underlined the continuous efforts being made to improve the work of the Committee.

59. Another representative said that actions to improve the implementation of measures to protect the ozone layer should cover not only the Multilateral

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Fund but also such elements as the transfer of technology on advantageous terms to countries implementing their own phase-out projects and the recycling on similar terms of used ozone-depleting substances from countries that did not have the necessary facilities. In that connection, he said that his country had a large capacity for recycling and had offered its assistance to developing countries by processing used ODS recovered in those countries and returning them for reuse.

60. Dr. Omar El-Arini, Chief Officer of the Secretariat of the Multilateral Fund, responded to a number of requests for clarification from representatives. He said that, with respect to the statement in the report that action 2 (a) had been completed, all policy issues identified by the Secretariat during its review of project proposals were circulated in an overview document for the Executive Committee. If the Secretariat or the Implementing Agencies were in a position to make recommendations on the issue, they did so. The Executive Committee, either directly or through its Sub-Committee on Project Review, considered those issues and decided upon them accordingly. On the question of innovative approaches for the phasing out of ozone-depleting substances in low-volume-ODS-consuming countries, the Executive Committee had decided that UNEP should elaborate for further consideration the paper it had prepared on the subject, while, on the issue of approaches to phase-out in small and medium-sized enterprises, the Fund Secretariat had been requested to prepare a revised paper on the basis of the paper submitted by the United Nations Development Programme (UNDP) and UNEP to the Executive Committee at its nineteenth meeting. The Executive Committee had reached a decision on the role of cost-effectiveness thresholds in sectoral phase-out proposals and guidelines for umbrella projects, although a subsidiary issue was still outstanding.

61. In response to a request that the reference to methyl bromide under the issues to be considered by the Committee at its twentieth meeting should be expanded to read "research and development of alternatives to methyl bromide", the Chief Officer recalled that, at its nineteenth meeting, the Committee, noting the need to coordinate work on methyl bromide, had requested the Fund Secretariat to consult with the Food and Agriculture Organization of the United Nations (FAO) and with other interested parties to ensure that all concerned were aware of, and working towards, the same goals. It had also invited the United Nations Industrial Development Organization (UNIDO) to take the lead in preparing, in collaboration with other interested Implementing Agencies, a brief paper on work currently in progress on alternatives to methyl bromide through financial programmes other than the Multilateral Fund and to present it for consideration at the twentieth meeting of the Committee. He further clarified, in response to another query, that the issue of guidelines for the tobacco sector referred to the development of investment projects for the phase-out of CFC-11 used for tobacco expansion in the cigarette industry and was unrelated to the issue of methyl-bromide projects. Finally, he explained that the issue of change of ownership of approved projects arose when a locally owned enterprise was taken over, either completely or in part, by a firm from a non-Article 5 country, after a project for that enterprise had been approved by the Executive Committee and the funds transferred to the Implementing Agency. In that event, the grant was reduced to correspond to the share of national ownership.

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V. REPORT OF THE TECHNOLOGY AND ECONOMIC ASSESSMENT PANEL ON  
ESSENTIAL-USE NOMINATIONS AND METERED-DOSE INHALERS (MDIs)  
(DECISIONS VII/28 AND VII/34, PARAGRAPHS 5 (a) AND (b))

62. Introducing the reports of the Technology and Economic Assessment Panel on essential-use nominations and metered-dose inhalers (MDIs), Dr. Stephen Andersen, Co-Chair of the Panel, said that the Panel recommended correction of some accounting errors and some adjustments in the figures for essential-use exemptions agreed by the Seventh Meeting of the Parties and contained in annex VI to the report of that Meeting. The Panel's March 1996 report contained the recommended adjustments, by which the amount approved for MDIs in the United States would be reduced and the amount for the shuttle/rockets for the United States would be increased. In addition, the Panel recommended that the amount approved for MDIs in New Zealand be reduced to zero following the closure of the MDI facility concerned and the withdrawal of the nomination. The Panel noted, however, the request by Australia that the New Zealand allocation be transferred to it so that MDI production could continue in a plant operated by the same company there. The Panel also recommended an accounting framework to track adjustments in the amounts exempted. That framework was fully transparent and easily updated, checked and audited. The Panel was also suggesting that, where exemptions were granted but the quantity not produced in the given year, the exemption should expire at the end of the year and that quantities available at the end of the year should offset allocations for future years. In addition, there should be a commitment to destroy unused substances once the application for which an exemption had been granted was no longer regarded as an essential use.

63. The Panel also recommended that the Parties might consider allowing production of CFCs for medical purposes to take place on a "campaign" basis, rather than in small quantities each year, establishing an emergency procedure to authorize production of small quantities of ODS prior to the next meeting of the Parties, and permitting the transfer of essential-use authorizations among Parties subject to certain conditions.

64. With regard to the timing of the essential-use nomination process, the Panel recommended a later deadline of 31 January for the submission of nominations, with the TEAP report to be produced by 30 April.

65. Finally, Dr. Andersen drew attention to the Panel's recommended essential-use exemptions for Annex A, Group I, substances for the years 1997, 1998 and 1999 and to its recommendation that the global exemption for laboratory and analytical uses should continue until 1998, when the Panel would have submitted its report on the actual quantities used and the availability of alternatives.

66. Mr. Gary Taylor, Co-Chair of the Halons Technical Options Committee, said that the Committee had been unclear as to whether the essential-use nomination for halons submitted by the Russian Federation to the Seventh Meeting of the Parties was to be reviewed once again. The Committee and TEAP were, however, of the view that the Russian proposal was realistic and supported it unanimously. In response to a question by one representative on the environmental acceptability of certain chemicals, he recalled that the

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underlying principle of the halon phase-out formulated by the Parties was to allow residual applications to continue through the use of recycled halons from non-essential applications. However, there was no global supply of halon-2402, which was used for critical applications in the Russian Federation, and the tumultuous changes in the country in the 1990s had impeded the establishment of a banking system of its own for that substance.

The establishment of that system would take some time and meanwhile the granting of an essential-use nomination would allow the preservation of an adequate system of fire protection for the interim period.

67. In response to a statement by another representative, Mr. Taylor clarified that, with improved fire-safety arrangements and the decreasing cost of the equipment – especially computer equipment – thus protected, increasing use was being made of not-in-kind alternatives in fire-fighting applications. Thus, 75 per cent of the market in fire-fighting equipment was currently represented by non-chemical alternatives and, when considering alternatives to halons, especially if there were no spatial constraints, solutions with low environmental impact should be preferred.

68. Mr. José Pons Pons, Co-Chair of the Aerosols, Sterilants, Miscellaneous Uses and Carbon Tetrachloride Technical Options Committee, introduced the report of the Panel on the MDI transition strategy. He believed that, for the first time, it was possible to report with confidence that it should be feasible eventually to commercialize alternatives to most of the commonly used MDIs, and the Panel had set the year 2005 as a very tentative date for the end of approvals of exemptions for CFCs for use in MDIs. Experience had shown that the change to non-CFC products would require a transition strategy to reduce consumption without alienating patients.

69. In response to a question by one representative, who had expressed concern at the possible cost of alternatives, Mr. Pons Pons said that the Panel had made a careful evaluation of the implications of the transition and had drawn on the expertise of the medical doctors among the members of the Technical Options Committee, who had extensive experience in Article 5 countries and were well aware of their needs. The year 2005 had been chosen tentatively as the year of final elimination of CFCs in MDIs in Article 2 countries in the light of the development of new products and the time required for post-market surveillance. It was possible that by that time, the price competition among a larger number of products would have reduced the price of alternatives. Furthermore, because of the difference in the CFC phase-out schedules for Article 2 and Article 5 countries, it could be expected that the cost-difference would be considerably reduced by the time that CFC-based MDIs could no longer be used in developing countries.

70. Elaborating on the comments of Mr. Pons Pons, Dr. Ashley Woodcock, another Co-Chair of the Committee, said that the impediments to transition to CFC-free MDIs included price competition, negative advertising, a reluctance on the part on doctors and patients who felt comfortable with the current MDIs, and uninformed customers. There was a need to expedite product approval, encourage CFC-free MDIs under national health plans, and provide domestic incentives. The pharmaceutical industry had already made considerable efforts to develop alternatives, had agreed on a code of good practice and had made major commitments. Among the options available to the Parties were to discourage further registration of CFC-based products by

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pointing to the financial risks involved, recommend new technologies, prohibit applications for which alternatives were available, place restrictions on CFC supplies to companies not pursuing alternatives, and introduce a staged product withdrawal through the use of a trigger mechanism. The transition involved a great variety of drugs, devices, companies and countries, and a comprehensive education programme would be needed at the national level, with the participation of national health authorities, industry, health professionals and patient-support groups. He suggested that the Parties might consider leaving it to national environmental and health authorities to decide on the precise national schedules for the transition within a transition framework developed by the Parties. A more precise schedule for the transition might be developed by 1997, but the Panel did feel that major reductions were possible by the end of the year 2000, with CFC-based MDIs being virtually eliminated in Article 2 countries around 2005.

71. In response to a statement by one representative, Dr. Woodcock said that, although there was currently only one available alternative on the market, new products were expected to appear in the next two years for both relieving and preventative medications. It might be possible to provide more information on the availability of substitutes in 1997. While agreeing with another representative that cost was a major issue if alternatives were to be purchased by national health authorities, he said that it was up to those authorities to negotiate vigorously on the price to be paid, as was done in the case of other medications.

72. In response to a question from one representative, Dr. Andersen reiterated that the Panel had emphasized the complexity of the transition and the importance of doctor and patient education. It had concluded that alternatives were being developed rapidly for virtually every use but that, without a transition strategy, CFC use would continue indefinitely. It believed that there could be a major reduction by the year 2000 and that CFCs might be phased out by 2005. It was, however, for each country to set its own pace, mindful of its national circumstances and the needs of its patients.

73. The representative of the Russian Federation said that, at the Seventh Meeting of the Parties, his country's nomination for an essential-use exemption for halon-2402 had been approved. He therefore failed to understand why that approval had not been reflected in the report of the Meeting. In addition, he sought clarification as to why his country's essential-use nomination for CFCs for the years 1997 and 1998, which had been transmitted to the Secretariat at the end of December 1995, had not been considered by TEAP.

74. In response, the Secretariat said that the sound recordings of the final session of the Seventh Meeting of the Parties made it clear that the Russian nomination had not been approved. As to the Russian nomination for essential uses of CFCs, the submission had not been received by the Secretariat until June 1996, by which time it had been too late to be taken up by the Panel. It was up to the Open-ended Working Group to take an appropriate decision on how the matter might be addressed.

75. Responding to the objections of one representative that the Russian Federation was effectively seeking an indefinite exemption for the production

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of halon-2402, thereby delaying implementation of the Montreal Protocol, the representative of the Russian Federation said that halon-2402 – of which his country was the only producer – was widely used in important installations where accidents would have global consequences. The implications of a ban on the production of halon-2402 were therefore very serious. As the Russian Federation lacked a halon bank or equipment that could operate on alternatives, some production had to be maintained. It did however intend to begin production phase-out in 1997 and to complete it in 2003. One representative supported the request, while another urged the Russian Federation to consider not-in-kind alternatives and, in general, to use its resources to develop a halon bank.

76. With regard to the transition strategy for MDIs, several representatives felt that the cost of the transition and the difficulties in achieving acceptance of the alternative drugs had not been understood. MDIs were easily accessible and user-friendly. There was no room for compromise where the health of a country's population was concerned. In the case of poor patients in the Article 5 countries, such extra costs were unaffordable. The alternative technologies were tightly controlled. Arrangements must be made for such technology to be transferred on very reasonable terms and it was the responsibility of the Multilateral Fund to ensure that that was done. All of those representatives agreed that no hasty action should be taken by the Parties.

77. One of those representatives stated that no strategy was needed, since the reduction of the use of CFCs was already being promoted by the existing consumption controls and, at the current stage, regulation of the manufacturing of specific products was unnecessary. The strategy would also be very costly for Article 5 Parties in terms of its impact on the pharmaceutical industry and the training of new pharmacists. Another expressed doubts as to the ability of national environmental authorities to convince those responsible for approving medications to expedite the registration process. He was also loath to accept a final date for the elimination of CFC-based MDIs until replacement products were in place for all applications.

78. A number of representatives fully endorsed the recommendations of TEAP concerning essential-use allocations for MDIs, including corrections to earlier decisions, and laboratory and analytical uses. In the case of the latter, they agreed that they should be provided with an essential-use exemption in 1998 and that the Parties should decide in 1997 on the need for an extension beyond 1998. They supported the recommendations concerning submissions for essential-use applications including new formats and new deadlines for applications. A number of representatives agreed with TEAP that, while the Parties should consider 2005 as a tentative phase-out date for CFC-based MDIs, no detailed transition strategy should be proposed for the moment, precipitate action should be avoided and a decision left until the Ninth Meeting of the Parties in 1997. A number of other representatives disagreed with the proposal.

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79. One of those representatives added that it was necessary to achieve a seamless phase-out that fully protected patient health in all countries and to make it clear that the CFCs in MDIs would be phased out as soon as possible and that, as substitutes became readily available on the market, net CFC exemptions would be expected to decrease. Representatives of two non-governmental organizations endorsed the call for a seamless phase-out.

80. Several representatives expressed doubts as to the TEAP recommendation concerning campaign production based on estimated future needs of CFCs for MDIs, as it would be difficult to estimate needs far into the future. Such an allowance might delay market penetration of CFC-free MDIs.

81. In the case of the TEAP recommendation that essential-use allocations should be transferable between countries, particularly where such transfers involved the same drug and the same company, strong support was expressed by the representatives of two countries, which specifically requested that the essential-use allocation previously approved for one of them, but subsequently withdrawn, should be added to the allocation for the other. Another representative, while fully supporting the specific request, expressed some doubts regarding the general principle, which would need to be hedged about with careful safeguards to prevent full tradability from developing.

82. The representative of Poland informed the Working Group that his country had decided to withdraw its request for 124 tonnes of CFCs for dermatological and nasal aerosols and for sterilization processes, since alternative technologies were available. It had received a positive recommendation from TEAP for an exemption of 280 tonnes of CFCs for MDIs in 1997 but would like to ask the Parties for an addition of 100 tonnes to that figure. It also wished to apply for a similar exemption (380 tonnes) in 1998.

83. One representative recommended that the Parties should consider a draft decision which would include: recommendations for essential-use exemptions for 1996 and 1997 of halons for the Russian Federation; the flexibility requested by Poland in its nomination for 380 tonnes of CFC used for asthma and COPD; and permission to trade allocations between countries, but only when the CFC was to be used by the same company.

84. The Co-Chair requested that the representative of Canada convene a small working group to draft a decision regarding essential-use nominations and authorization transfers, campaign production of CFCs for MDIs, revised timeliness and formats for reports related to MDIs and emergency authorization for essential uses.

85. The Co-Chair suggested that the representative of the United States could be entrusted with holding consultations with other interested delegations regarding the MDI transition strategy and preparing an informal draft recommendation on the information required from TEAP in order to carry the discussion forward.

86. Subsequently, a draft decision on essential-use nominations for non-Article 5 Parties for controlled substances for 1996 through 2002 was introduced by Ms. Trish MacQuarrie (Canada), the coordinator of the working group established for that purpose (see para. 0 above). She said that the decision had been drafted following discussion in the group, which comprised representatives of Australia, Canada, the European Community, France, Kenya, Malaysia, Mexico, New Zealand, Poland, the Russian Federation, the United Kingdom and the United States of America.

87. The representative of the Russian Federation requested that paragraph 2 of the draft decision be amended to include his country's nomination for an essential use for MDIs, which was supported by the coordinator of the group. Another representative said that the relevant section in paragraph 2 was already bracketed and the proposal could therefore be included in that section.

88. One representative, speaking on behalf of a regional economic integration organization, said that, in conformity with the standard practice whereby the Parties took such decisions annually, the decision should not apply for the entire period 1996-2002 but should be reviewed on a yearly basis.

89. In reply to a question on the date for TEAP to report on the implications of allowing the production of CFCs for medical applications, a member of the Secretariat clarified that, given the expected timetable of meetings for 1997, TEAP should report to a meeting of the Open-ended Working Group in May 1997 and should therefore have completed its work by 1 April 1997.

90. The Working Group decided that the draft decision, with the addition by the Russian Federation within the square brackets, would be presented for discussion at the Eighth Meeting of the Parties. The draft decision as amended by the Working Group is contained in annex I to the present report.

91. A draft decision on MDI transition policy for non-Article 5 Parties was introduced by Mr. Tom Land (United States), the convenor of the consultations on the subject (see para. 0 above). The decision fell into two sections: paragraphs 1-6, which were designed to give guidance to TEAP in its further work; and paragraphs 7-24, which should be in square brackets since no consensus had been reached concerning them.

92. Several representatives were strongly concerned with the sense of urgency implied in the transition policy. They felt that the pace should be slowed to allow for additional information to be collected by TEAP, including after consultation with the World Health Organization (WHO), professional bodies, patient advisory groups concerned with patient health and groups involved in the manufacture of non-CFC-based alternatives. They said that an exercise of that nature required considerable time and that TEAP should report to the Eleventh Meeting of the Parties.

93. Some representatives noted that the draft decision implied that there were several new non-CFC-based MDIs, when in reality there was only one available and that should be corrected. Other representatives said that non-CFC alternatives other than MDIs already existed and were widely used in many

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countries and should be mentioned in the draft. One representative said that he was aware that the cost of those alternatives was lower than that of some existing CFC-based MDIs and it would therefore be useful to have precise information on the cost of different alternatives.

94. One representative said that the note of the Secretariat clearly indicated that TEAP could not establish when CFCs would no longer be available in MDIs. He added that the recommended actions were couched in broad terms and gave Parties the flexibility to take action in light of national circumstances. He said that, although it had been suggested in the note that TEAP should report to the Meeting of the Parties on national successes which could be used as models for global transition, even that stage had not yet been reached.

95. Several representatives felt that a transition policy put into place at the current stage might control trade and halt approval of new CFC-based MDIs, which would affect manufacturing of these products in non-Article 5 countries and create adverse impacts in Article 5 countries.

96. One representative suggested that Parties should assess their national situation and provide the information to TEAP. Alternatives should first be developed and then a different strategy could be looked into. He suggested, and other representatives agreed, that paragraph 6 was not essential but, if some representatives felt it should be included, it should be in square brackets. One representative said that paragraph 6 was in place to minimize the impact of a non-Article 5 country's transition policy on Article 5 countries and allowed them to delay any phase-out to 2010 or beyond. Many representatives mentioned that, although the framework indicated was related to non-Article 5 countries, any action taken would affect Article 5 countries sooner or later.

97. Some representatives said that the transition policy was not hasty but that the transition period would enable TEAP to gather information. One representative said that, even if only one alternative existed for CFC-based MDIs, that enabled the process of essential-use exemption to proceed.

98. One representative said that the word "phase-out" in the draft should be replaced by the word "transition".

99. Some representatives said that, when considering alternatives, it was important not to forget the ease of administration, availability and cost of CFC-based-MDIs. He said that the characteristics of the latter made them suitable for use in Article 5 countries.

100. A few representatives said that the processes of transition, as well as of wide consultation with professional bodies and patient groups, were already occurring. One representative said that information should be requested from the Aerosols Technical Options Committee, an expert body which included senior medical experts and could competently advise the Meeting of the Parties. That process should not be delayed three years to the Eleventh Meeting of the Parties. He said that it might be too strong to say that TEAP should recommend a framework, but it should be asked to provide additional information to the next meeting.

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101. One representative cautioned that delaying the decision to the Eleventh Meeting would not slow the existing transition process in some countries and that it would be more useful for countries, in particular Article 5 countries, to review the information provided by TEAP as soon as possible, since it was their only means of providing input to an ongoing process.

102. The representative of a non-governmental organization reaffirmed the need for urgency, since a CFC-free MDI and several dry powder inhalers were already on the market.

103. The Co-Chair requested the small group to reconvene and focus more on the issues raised, including what TEAP should have as a task, the impact on Article 5 countries of a policy for non-Article 5 countries and the timing involved, and report back to the Open-ended Working Group.

104. After further deliberations, the small group reported to the Working Group that, although it could not arrive at a consensus, it had worked out a number of options for elements of two draft decisions: one on an industry code of conduct for transition from CFC-based MDIs in non-Article 5 countries; and the other on information gathering on a transition to non-CFC-based treatments for asthma and chronic obstructive pulmonary disease in non-Article 5 countries (see annex II to the present report). After a brief discussion, the Working Group decided to forward the draft decisions to the Eighth Meeting of the Parties for its consideration.

VI. REPORT OF THE TECHNOLOGY AND ECONOMIC ASSESSMENT PANEL  
ON CONTROL OF TRADE IN METHYL BROMIDE AND CRITICAL  
AGRICULTURAL USES OF METHYL BROMIDE  
(DECISION VII/7 AND VII/29)

105. Dr. Jonathan Banks, Co-Chair of the Methyl Bromide Technical Options Committee, introduced the report of the Technology and Economic Assessment Panel on control of trade in methyl bromide and critical agricultural uses (CAU) of methyl bromide. The Panel believed that there was no need for a precise definition of those uses until the methyl bromide phase-out was at hand, in 2010. Among other things, it would be useful to be able to draw on the experience acquired in national phase-out schedules before that date, while an early identification of critical uses could discourage research and development into alternatives. In its report, the Panel suggested four options for considering exemptions for critical uses of methyl bromide: a modification of the existing essential-use criteria to accommodate the particular properties of methyl bromide; making provision for emergency uses with retrospective approval, in view of the difficulty in predicting requirements for methyl bromide; the preparation of a list of essential applications (a "positive" list); and the preparation of a list of applications that were not considered essential (a "negative" list).

106. Under decision VII/7, the Panel had been requested to identify which products, if any, should be considered as products containing methyl bromide. He raised the ambiguity of the definition of methyl bromide as a bulk substance or a use system. The Panel recommended that trade in cylinders or other containers holding more than 2 kilograms of methyl bromide should be considered as trade in bulk substances. The Panel had also been requested

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to comment on trade in methyl bromide with non-Parties. It recommended that, if trade was restricted, then a grace-period should be allowed for non-Parties to become Parties.

107. Replying to questions from representatives, Dr. Banks explained that the cut-off weight of 2 kilograms had been chosen to identify bulk quantities since single cans of methyl bromide weighed between 600 grams and 1 kilogram, and a similar limit had previously been used in the Protocol for aerosol cans. He said that, to his knowledge, all countries currently producing methyl bromide were Parties. However, one representative said that Ukraine, which was not a Party to the Copenhagen Amendment, produced methyl bromide.

108. Many representatives said that it was premature to identify a CAU exemptions system at the current stage. The Panel was requested to examine further the different options and elaborate criteria and modalities for consideration by the Ninth Meeting of the Parties.

109. A few representatives said that the definition for CAU should be prepared by the Methyl Bromide Technical Options Committee. Given the complexity of the issue, sufficient time should be allowed for the purpose. One representative, speaking on behalf of a regional economic integration organization, said that particular regard should be paid to options 1 and 2 in the Panel's report when elaborating a CAU exemption system. The same representative said that the possibility of a CAU exemption system applicable to all methyl-bromide uses after phase-out should be considered.

110. A few representatives said that Governments should increase the development of alternatives and agreed with the TEAP report that fixing CAU exemptions at the current stage might discourage the development of alternatives. Many representatives agreed that any decision on restrictions on trade with non-Parties should be postponed to 1997. One representative said that, as methyl bromide was covered by the Montreal Protocol, there should be trade restrictions on it.

111. Some representatives agreed that a time-lag between an eventual decision to restrict trade with non-Parties and its implementation should be included to allow countries to become Parties. Many representatives said that non-signatories should be encouraged to become Parties to the Protocol. A few representatives said that control of trade with countries not party to the Protocol would be an effective means of encouraging countries to become Parties.

112. Many representatives considered that methyl bromide in cylinders or any other container should be regarded as bulk substances and therefore be controlled. One representative, speaking on behalf of a regional economic integration organization, said that the Eighth Meeting of the Parties should decide that trade and supply of methyl bromide in cylinders or any other container would be regarded as trade in bulk in methyl bromide. A few representatives supported the Panel proposal that containers of more than 2 kilograms of methyl bromide should be regarded as bulk containers.

One representative said that, since phase-out of methyl bromide was only in 2010, no restriction on trade with non-Parties should be envisaged.

113. One representative said that good cooperation of the Parties in the

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development of alternatives was important.

114. A few representatives expressed concern that, in the future, the pre-shipment and quarantine issue might become wrapped up in critical agricultural use. One representative indicated his strong view that the existing pre-shipment and quarantine uses should be maintained as a separate exemption.

115. The Co-Chair drew the following conclusions from the debate on the item. More work was required from TEAP on critical agricultural uses, which needed to be further considered in 1997 at the Ninth Meeting of the Parties.

With regard to trade restrictions with non-Parties, the procedural rules for an amendment to the Protocol relating to trade restrictions with non-Parties implied that the issue could be taken up at the Ninth rather than the Eighth Meeting. Finally, the trend in the Working Group was to agree with the TEAP proposal for a definition of bulk substances. However, the lower limit of the definition required further discussion.

VII. REPORT OF THE TECHNOLOGY AND ECONOMIC ASSESSMENT  
PANEL AND THE INFORMAL ADVISORY GROUP ON THE  
ORGANIZATION AND FUNCTIONING OF THE PANEL  
(DECISION VII/34, PARAGRAPH 5 (e))

116. Mr. Janusz Kozakiewicz, Chair of the Informal Advisory Group (IAG) appointed pursuant to paragraph 5 (e) of decision VII/34 of the Seventh Meeting of the Parties, reported on the work of the Group. He said that the Group's intention had been to advise TEAP on its organization and functioning, taking into account the need for some changes and, at the same time, the strong will to leave the main framework of TEAP untouched to allow the Panel to work as successfully as in the past. The basis for discussions was provided by suggestions submitted by the Parties together with some clarifications made by TEAP. The Group had met the Panel twice: on 22 March, when consensus had been reached on most of the issues discussed, and on 25 August, to clarify some outstanding issues.

117. He then explained the report of the first meeting of the Group and the discussion at its second meeting. As requested by the Parties, the aim was to increase to 50 per cent the number of members from Article 5 countries and countries with economies in transition (CEITs) in the Panel and its Technical Options Committees. He was gratified that there had already been a significant increase in the number of experts from those countries in the Panel, although they still accounted for only 25 per cent of the membership of the individual Technical Options Committees. Changing the proportion would be subject to the availability of relevant experts and funds to cover their participation costs. The Parties would have to decide on additional allocations if the goal of 50 per cent participation was to be achieved.

118. As far as subsidiary bodies of TEAP were concerned, the Group suggested two possible options for consideration by the Parties: that TEAP itself might appoint and dissolve such subsidiary bodies of technical experts; or, that the Meeting of the Parties alone would decide. TEAP had selected the first option in its draft revised terms of reference submitted to all Parties by the Secretariat.

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119. With regard to reporting by subsidiary bodies, the Group had agreed at its most recent meeting with the Panel that the first option suggested in its report – that TEAP be authorized to amend the reports before forwarding them to the Parties – seemed to be more workable, since subsidiary bodies were in practice working groups of the Panel.

120. Drawing attention to the issue of a code of conduct for TEAP, the Group's first suggestion had been that, to avoid any conflict of interest, TEAP members should not be paid employees or consultants of firms manufacturing ODS or alternatives and products containing those substances. TEAP had suggested that the text of the code of conduct in its revised terms of reference was sufficient to avoid any conflict of interest. Following further discussion, the Group was currently presenting an alternative option, which was that TEAP should strengthen its code of conduct to include elements relating to disclosure and oversight.

121. He thanked the IAG members for their constructive work and, on behalf of IAG, expressed appreciation for the efforts made so far by TEAP to improve the proportion of members from Article 5 countries and countries with economies in transition. Finally, he said that, if the Working Group so decided, IAG was ready to continue with its mandate until the Eighth Meeting of the Parties, to review the progress made by TEAP in its restructuring and to present its conclusions at the Eighth Meeting.

122. The revised terms of reference of TEAP and its note on the IAG report, as contained in the June 1996 TEAP report, were introduced by Dr. Suely Carvalho, Dr. Stephen Andersen and Dr. Lambert Kuijpers, Co-Chairs of the Panel.

123. Dr. Carvalho said that, in the light of the near complete phase-out of CFCs, carbon tetrachloride, methyl chloroform and halons by Article 2 countries, with the exception of a number of countries with economies in transition (CEITs), the needs of the Article 5 and CEIT Parties had become the top priority of the Panel. She informed the Working Group that membership from such countries in the Panel had increased from four to nine since the Seventh Meeting of the Parties. The number of countries represented had also increased to 17 in the Panel and totalled 44 in the Panel and Technical Options Committees, where close to 25 per cent of the members were from Article 5 or CEIT Parties.

124. Stressing the fact that increased participation of such experts was subject to the funds available to support their travel costs, she requested the Parties to consider increasing the current budget for 1997 and subsequent years. She noted, in that context, that the Secretariat had indicated that the additional funding necessary would be in the range of \$350,000.

125. Dr. Andersen recalled that the core values of TEAP were cooperation, consensus, independence, impartiality, credibility and a focus on technology and not policy or politics. The Panel had redrafted its terms of reference on the basis of the recommendations of IAG, which were consistent with the original mandate of the Panel. The only outstanding point of disagreement was the recommendation that members of the Panel should not be paid employees or consultants of firms manufacturing ODS or alternatives or products

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containing those substances. While TEAP had never had members who were employees of companies manufacturing ODS, it believed that a strict interpretation of the provision, especially the term "consultants", would exclude many experts, particularly from Article 5 countries, and would reduce the current membership of the Panel to a level that would make restructuring impossible. The Panel therefore recommended that the Parties should accept the second option proposed by the Advisory Group, namely that the code of conduct should provide the possibility of disclosure and oversight of members' activities, an option that the Panel believed was adequate to ensure the continued integrity of its work.

126. In response to a question, Dr. Andersen said that the Panel and the Informal Advisory Group had considered the advantages and disadvantages of fixed-term membership of the Panel and its Technical Options Committees. As reflected in the revised terms of reference, the conclusion had been reached that it was not necessary to limit the terms of members, since the conditions for terminating membership were deemed adequate.

127. Dr. Kuijpers said that the revised terms of reference followed the guidance provided by the Informal Advisory Group and covered such aspects as the organization of the Panel and its Technical Options Committees, the size and balance of the membership, the appointment of members, and the termination procedures. The code of conduct had been prepared to avoid conflicts of interest and to enhance confidence in the integrity of the Panel with a view to making it an ideal instrument to serve the Parties.

128. One representative said that, in view of the high level of expertise available in the countries with economies in transition, efforts should be made to find the necessary funding to increase the participation of experts from those countries in the work of the Panel and its Technical Options Committees.

129. Another representative expressed the hope that the TEAP assessment would take full account of the adverse impacts of the control measures on the developing countries.

130. A number of representatives supported the IAG/TEAP recommendations to strengthen the representation of experts from Article 5 countries to 50 per cent. One of them commented that the advice of those bodies would be incomplete without an input from the countries in which the advice was to be applied. Several of them thought that, to ensure impartiality, nominations should be considered in consultation with the countries concerned, one of them adding that the nominations should be authorized by the respective Governments.

131. Several representatives pointed out that the existing geographical distribution left large areas of the world unrepresented, with a consequent neglect of their specific problems.

132. Several representatives said that increased participation of experts from Article 5 Parties should be financed by voluntary contributions to the Trust Fund. The representative of a non-governmental organization disagreed and said that such contributions should be mandatory. TEAP and all subsidiary bodies of TEAP should be responsible to the Parties, especially in

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respect of appointments and dismissals.

133. Several representatives thought that there should be no restrictions on the provenance of the experts, since the TEAP code of conduct was sufficient to ward off commercial pressures, one of them commenting that the advice supplied must represent the best available knowledge. Another representative emphasized that, in addition to the code of conduct, a good balance of geographical and technical expertise, transparency and suitable working conditions were necessary.

134. The representative of a non-governmental organization said that the TEAP terms of reference were totally unrealistic. The Panel's mandate should be broadened and its resources increased. If appointments to TEAP and its subordinate bodies were for fixed-term periods, it would be easier to remove unsatisfactory members, such as those who violated the code of conduct. It was, perhaps, unrealistic to suggest that experts from environmental non-governmental organizations should be appointed to establish a balance with those from industry, but they should at least be accorded observer status.

135. Ms. Trish MacQuarrie, convener of a small working group set up to coordinate the discussion on the issue, said that, while the group had extensively discussed the terms of reference of TEAP, constraints of time had prevented it from concluding its discussion and receiving the input of all members.

136. Mr. Kozakiewicz, Chairman of IAG, said that, in the opinion of the Advisory Group, its mandate under paragraph 5 (c) of decision VII/34 had been fully complied with and that, if further work was required, the mandate therefor should come from the next Meeting of the Parties. He requested confirmation on that issue from the Secretariat.

137. The Secretariat confirmed that the mandate conferred upon IAG by the Seventh Meeting of the Parties had been systematically and effectively discharged: the Advisory Group had been established, with members drawn from countries not represented on TEAP; all countries had been invited to submit their views and the views of other interested bodies to IAG and many had done so. The Advisory Group had consulted TEAP, had presented its recommendations to the current meeting and its report had been distributed in all languages. Without a new mandate from a Meeting of the Parties, the work of IAG was therefore concluded.

138. In the ensuing debate, one representative, supported by a number of others, agreed that IAG had satisfactorily and fully discharged its mandate and argued that prolonging discussion on the issue could undermine the integrity of the Montreal Protocol process. He hoped that efforts to continue the debate were not intended to limit the participation of Article 5 countries at a time when it had been decided to increase the participation of those countries in TEAP. He stressed that there should be no distraction from the important issue of replenishment of the Multilateral Fund and that TEAP must remain fully operational to assist in the process leading to the next Meeting of the Parties.

139. Dr. Carvalho, Co-Chair of the Technology and Economic Assessment Panel, said that the Panel had developed suitable revised terms of reference for

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decision by the Eighth Meeting of the Parties, and that TEAP was always willing to receive constructive advice.

140. Several representatives stressed the need to maintain the high level of technical competence and integrity of the Panel and to keep it free from political influence. One of those representatives expressed concern that some of the proposals being put forward represented an effort to exert such influence, a trend that his delegation would vigorously oppose.

141. Several representatives also stressed the need for equal representation of competent experts from Article 5 countries and the need for funding to support their full participation. One of those representatives said that the reports of the Panel were always highly valued by the Parties but the high regard in which they were held did not mean that they should not be open to frank criticism.

142. Many representatives supported the view that the only outstanding issue to be decided was that of ensuring the equal participation of experts from Article 5 countries within a certain range of funding. Parties had already had the opportunity to submit their views to the Informal Advisory Group, the Advisory Group had fulfilled its mandate, and there was no need to re-open the process.

143. Some other representatives, however, considered that the members of the small group should finalize their submissions and present them to the Panel, which could then take them into account in preparing revised terms of reference for submission to the Eighth Meeting of the Parties, bearing in mind the work of the Informal Advisory Group. One of those representatives said that at least with respect to the IAG mandate the issue of the establishment and dissolution of subsidiary bodies had yet to be resolved. One representative, speaking on behalf of a regional economic integration organization and its member States, said that they would return to the issue. Another representative said that the detailed work done by the small group should be taken into account and not go to waste.

144. The Working Group expressed its appreciation for the work of the Informal Advisory Group and, while recognizing the alternative view expressed by some representatives (see para. 0 above), noted the broad convergence of views among Parties on the issue and that the most important outstanding issue was how to ensure adequate participation in TEAP by Article 5 countries and related funding matters. TEAP would circulate revised terms of reference to all the Parties, through the Secretariat, and they would be considered in Costa Rica.

145. The Co-Chair concluded that further discussion of the issues would be needed at the Eighth Meeting of the Parties.

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VIII. ANNUAL REPORTS BY THE ASSESSMENT PANELS, INCLUDING  
REPORTS OF THE TECHNOLOGY AND ECONOMIC ASSESSMENT  
PANEL ON MINIMIZING EMISSIONS OF HALONS AND  
APPLICATIONS OF HYDROCHLOROFLUOROCARBONS  
(DECISIONS VII/12 AND VII/34,  
PARAGRAPHS 5 (c) AND (f))

146. Introducing agenda item 8, the Secretariat drew attention to the guidelines for minimizing emissions of halons, drafted by the Technology and Economic Assessment Panel in accordance with decision VII/12 of the Seventh Meeting of the Parties, and the list of likely applications of HCFCs, identified by the Panel pursuant to paragraphs (c) and (f) of decision VII/34.

147. Several representatives thanked TEAP for its work in preparing the report.

148. One representative noted that TEAP had also been requested to prepare annual reports on progress and development of a more general nature. Those reports had not been received and, while the extensive workload of TEAP in the current year could be understood, those reports should be prepared in future. The reports should be short and cover progress in the development of new alternatives to ODS, trends in production and composition of ODS, and any other developments.

149. One representative said that the guidelines for minimizing emissions of halons should be applicable to Article 5 and non-Article 5 countries. Another representative disagreed with that proposal, as it went beyond the scope of decision VII/12.

150. One representative said that countries obliged to phase out halons continued to export machinery that used halons and should be urged to curb such exports.

151. One representative said that the TEAP report provided guidance to countries that were implementing the voluntary decision on minimizing of halon emissions. He hoped that the guidelines would remain part of the TEAP report and not be broken out in any way at the Meeting of the Parties.

152. One representative said that with reference to the guidance provided by TEAP on paragraph 2 (g) of decision VII/12, it should be noted that there were countries where national regulations on HFCs and PFCs had been successfully implemented and that such regulations were also a very efficient tool for ensuring that strategies developed for halons would be applied to the alternatives with significant environmental impacts.

153. One representative, speaking on behalf of a regional economic integration organization, believed that the guidelines lacked consistency and real guidance. She suggested that clearer and more useful guidelines would be obtained if the definition of "critical uses" was better evaluated and took into account the existence of alternative technologies and substitutes. A list of critical uses should be elaborated. She also said that the quantity of halons required for critical uses should be evaluated and the stocks of halon-1211 and halon-1301 estimated with a view to possible destruction of excess halons.

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154. In reply to that proposal, one representative said it was not in the remit of the Open-ended Working Group to charge TEAP with additional tasks. Another representative said that Group could make a proposal to the Eighth Meeting of the Parties. The Co-Chair suggested that the proposal for additional tasks be noted.

155. The representative of TEAP noted the comments that had been made and indicated they would be taken up at the next meeting of the Halons Technical Options Committee.

156. The representative of a non-governmental organization said that the development of alternatives was significant to the reduction of halons. Such work was under way in Australia and countries of the European Union and could be used as a model.

157. The Co-Chair concluded that no consensus had been reached and Parties could make proposals on the issue at the Eighth Meeting of the Parties.

158. With reference to the list of likely applications of HCFCs, one representative, while acknowledging that the list would facilitate collection of data on consumption of those substances, suggested that a list of individual HCFCs for each application would be useful.

159. Another representative said that the number of applications listed in the TEAP report demonstrated how important HCFCs were for the phase-out of CFCs. He disagreed with a non-governmental organization's suggestion to limit the funding priority of HCFC-based technology. He said that all established technologies should be given equal consideration.

160. One representative, speaking on behalf of a regional economic integration organization, made several observations concerning the list and its usefulness and suggested some modifications. She suggested that the heading of the list should read "Possible Applications of HCFCs" rather than "Likely Applications"; that it should be clear that the list was intended to facilitate data collection and did not imply that HCFCs were needed for the listed applications; that the use of fire extinguishers should be added to the list; and that the inclusion of the use of aerosols as propellant, solvent or main component should be formatted in the same way as other applications. She proposed that UNEP should distribute the list to all Parties. She also requested that TEAP and its Technical Options Committees should be requested to prepare for the Ninth Meeting of the Parties a list of available alternatives to each of the HCFC applications mentioned in the current list. This proposal was subsequently circulated in writing and is reproduced in annex III to the present report.

161. In response to a question by one representative, the Secretariat said that the task of TEAP called for in the proposal was not a substantive one but more one of presenting its information in a different manner.

162. The representative of a non-governmental organization said that the list was of little value as it did not contain any figures. He agreed that TEAP could not be given additional tasks but that the Group could comment on the usefulness of the report.

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163. The representative of a regional economic commission of the United Nations, having suggested that the wording used in decision VII/34 ("uses and possible applications") should replace the words "likely applications" in the heading contained in the proposal, said that the task of listing available alternatives to each of the HCFC applications in the list would be additional to the Panel's current workload. In terms of the overall objective of the Montreal Protocol to eliminate all man-made ODS, starting with the most depleting substances, it would be counterproductive to ask Article 5 countries not to use HCFCs as replacements for CFCs, since they would then often continue to use CFCs. He suggested, therefore, that TEAP should indicate, for each of the applications in the list, where HCFCs could replace CFCs at a minimal cost.

164. The Working Group then decided to recommend to the Eighth Meeting of the Parties that it consider the proposal put forward by the representative of the regional economic integration organization (see para. 0 above).

IX. LIST OF PRODUCTS CONTAINING OR MADE WITH, BUT NOT CONTAINING, CONTROLLED SUBSTANCES IN GROUP II OF ANNEX C OF THE MONTREAL PROTOCOL (ARTICLE 4, PARAGRAPHS 3 TER AND 4 TER)

165. Introducing agenda item 8, the Secretariat said that TEAP had been unable to identify any products containing hydrobromofluorocarbons (HBFCs).

166. The Working Group decided that the Panel's conclusion that a list of products containing HBFCs could not be elaborated should be recommended for endorsement by the Eighth Meeting of the Parties.

X. ISSUES REGARDING THE IMPLEMENTATION OF THE PROTOCOL

A. Report of the Secretariat on illegal imports and exports of controlled substances (decision VII/33)

167. Introducing its report on illegal imports and exports of controlled substances (UNEP/OzL.Pro/WG.1/13/2, paras. 28-38), the Secretariat informed the Working Group that it had consulted all countries and that replies were summarized in its report. Many Parties had taken steps to clamp down on illegal exports and imports, the most stringent measures being applied in the European Union and the United States of America, where in quantitative terms the most notable successes had been achieved. A non-governmental agency, working in cooperation with the United States Government, had prepared a number of recommendations on the problem, which were reproduced in the note. The Working Group might wish, therefore, to recommend that the Eighth Meeting of the Parties consider prescribing all Parties to adopt similar steps to curb illegal trade.

168. Decisions IV/24, VI/19 and V/25 required Parties to report certain data relating to imports and exports, and decision VII/9 also required reporting on aspects relating to basic domestic needs. Those reports greatly assisted the implementation of the Protocol.

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169. The Secretariat further clarified that the additional reporting requirements had been incorporated in the revised format and the number of reports had not been increased. The Working Group might wish to consider whether, in the area of recycled substances, it would be useful to introduce trade restrictions with non-reporting countries. In that context, it appeared, from reports received by the Secretariat which were referred back to the countries concerned, that illegal trade was on the increase.

170. One representative, noting legislative efforts in his country to suppress trade with non-Parties and to prohibit imports of recycled ODS from any country, pointed out that the implementation of such measures was fraught with difficulty, especially in large countries, and entailed considerable expenditure. He therefore, with the support of another representative, welcomed the proposed allocation of resources to developing countries to strengthen their capacity in that area. Several other representatives reported on measures adopted in their countries to stamp out illegal trade. One of them suggested that, as non-Article 5 countries had phased out CFCs in 1995, there was no need for a verification system.

171. One representative, speaking on behalf of a regional economic integration organization, said that the members of the organization had submitted detailed information on measures adopted in the various countries and would continue to pursue efforts to tackle the serious problem of illegal imports and exports. To that end, the member countries were prepared to consider the provision of assistance to Article 5 countries, although they were sceptical about some of the proposals in the Secretariat's report.

172. On the issue of data-reporting, one representative noted the difficulty posed by ambiguities in the customs code system, under which methyl bromide could be classified either as a pesticide or merely as a chemical, and HCFCs were not differentiated. In response to his suggestion that the Working Group suggest to the World Customs Organization that it consider refining its coding system, the representative of Sweden informed the Working Group of a study of the customs codes carried out in her country, which had revealed that the codes were so structured as to be unsuitable for the tracking of exports, especially of HCFCs. The report of that study recommended the development of a licensing system under which precise information on imports would be a prerequisite for the issue of a licence.

173. Another representative suggested, with regard to difficulties experienced in complying with data-reporting requirements, that the Secretariat undertake a trouble-shooting exercise to identify obstacles and to streamline data-reporting activities.

174. Several representatives opposed the idea of introducing sanctions against non-reporting countries as such a measure would be inconsistent with the established non-compliance procedures. Another representative pointed out that, owing to the delay between the collecting and the reporting of data under the Protocol, such sanctions would, in any event, be very hard to impose.

175. One representative said that the recommendation contained in paragraph 38 (c) of the Secretariat's note should be amended to the effect that such inspections could only take place with the permission of the

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country concerned.

176. The representative of the United States of America offered to share with other Parties his country's extensive experience in the area of controlling illegal trade and favoured the preparation of a decision requiring all countries to develop a system to verify that imported recycled substances were indeed recycled. Following a clarification by the Secretariat, he agreed to prepare the text of a draft decision in time for the Eighth Meeting of the Parties.

B. Report by the Technology and Economic Assessment Panel on the status of implementation of the Protocol in the countries with economies in transition (decision VII/34, paragraph 5 (d))

177. The Secretariat informed the Working Group that the draft final report of the TEAP Ad Hoc Working Group on CEIT Aspects had been circulated among the members of the Implementation Committee for their comments and would shortly be finalized and submitted to the Eighth Meeting of the Parties.

178. The representative of the Republic of Moldova said that his Government had completed its internal procedures for ratification of the Vienna Convention and the Montreal Protocol and expressed appreciation for assistance provided in that regard.

C. Report of the President of the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol

179. In his report on the fourteenth meeting of the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol, held at the same venue on Friday, 23 August 1996, the President of the Implementation Committee said that the meeting had considered the additional information and subsequent clarifications provided by Latvia and Lithuania on issues raised by the Committee at its thirteenth meeting. The Committee had noted that, according to the information provided by those countries, they would both be in a situation of non-compliance with the Protocol in 1996 and that there was a possibility that they should be in the same situation in 1997, so that the Committee might have to revert to the question that year. The Committee had made a number of recommendations on the subject, which were contained in its report to be circulated to all Parties as document UNEP/OzL.Pro/ImpCom/14/4.

The Committee had also taken note of the fact that some countries were experiencing difficulties with the ratification of the London Amendment and the consequent obligation to contribute to the Multilateral Fund and had noted that the matter might be considered by the Open-ended Working Group and the Meeting of the Parties.

180. The Implementation Committee had noted with satisfaction the written and oral information and subsequent clarifications provided by the Russian Federation in response to decision VII/18 of the Seventh Meeting of the Parties and had made appropriate recommendations, including that financial assistance for ODS phase-out in the Russian Federation should be expedited but that such assistance should remain contingent on further developments with regard to non-compliance and the settlement with the Committee of any problems relating to the reporting requirements and the actions of the

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Russian Federation.

181. The Committee had also decided to seek updated information on compliance from a number of other countries with economies in transition and had commended the TEAP Ad Hoc Working Group on CEIT Aspects, whose mandate was to end in 1996, on its valuable work.

182. The Secretariat had updated the information on data-reporting under Articles 7 and 9 of the Montreal Protocol and the representatives of the Implementing Agencies of the Multilateral Fund had also reported on the situation in those non-reporting countries in which they were involved. A considerable improvement had been reflected in the number of Parties that had fulfilled their reporting requirements, but baseline data was still outstanding from a number of Parties, many of which stood to lose their temporary Article 5 status unless they either reported data or sought assistance from the Executive Committee and the Implementation Committee. The Committee had urged all Parties to report their data promptly. It had also considered the issue of reporting on reclamation facilities and had made appropriate recommendations.

183. Finally, the Committee had decided that its next meeting should be held immediately prior to the Eighth Meeting of the Parties, in San José, Costa Rica, on Monday, 18 November 1996.

184. The Open-ended Working Group took note of the oral report of the President of the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol.

185. One representative, supported by many others, drew attention to the need to amend decision VII/18 of the Seventh Meeting of the Parties. At the final session of the Seventh Meeting, following an extensive debate, the Group of 77 and China had proposed an amendment to the corresponding draft decision, seeking to prohibit all exports and re-exports of controlled substances by the Russian Federation to any Party, including Article 2 Parties, except members of the Commonwealth of Independent States which were also Parties to the Protocol. Through a technical oversight, the decision as adopted had the opposite effect and actually facilitated such exports.

186. The Russian Federation pointed out that, in view of its special difficulties, his country had been authorized to supply recycled CFCs to former Republics of the USSR which were also Parties to the Protocol and that, as for exports to Article 5 countries, any country was permitted to export up to 15 per cent of its base-year production level to developing countries. Furthermore, under the non-compliance procedure, sanctions could only be applied after certain measures had been taken, including assistance to enable the country concerned to meet its obligations. He therefore sought clarification on the legality of the amendment sought to decision VII/18, in the light of those considerations.

187. The Secretariat said that, while the intent of the amendment proposed by the Group of 77 and China might indeed have been to introduce such a prohibition, the sound recordings of the final session of the Seventh Meeting of the Parties confirmed that decision VII/18 as it now stood reproduced the actual language proposed by the Group of 77 and China at the time. There

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had, furthermore, been extensive correspondence between the Secretariat and several countries on that issue. The Secretariat was not, however, competent to pronounce on the legal aspects involved.

D. Issues relating to ratification of the Protocol by non-Parties

188. With regard to the ratification of the Protocol by non-Parties, the Secretariat said that a number of countries with economies in transition had stated that were not in a position to ratify the London Amendment because of the financial obligations they would incur.

189. There was no further discussion of this item.

E. Proposed revised format for the reporting of data under Article 7 of the Protocol

190. The Secretariat drew attention to the revised formats for the reporting of data under the amended Montreal Protocol, which were contained in annex V to its note UNEP/OzL.Pro/WG.1/13/2, and invited comments from Parties so that the formats could be finalized.

191. One representative conveyed his country's general feeling that an excessive amount of information was required under all the relevant decisions of the Meetings of the Parties. Accordingly, his country would prepare a draft decision for consideration by the next Meeting of the Parties with a view to reviewing and rationalizing the reporting requirement, reducing to a minimum the requirement for countries which had fulfilled all their halon and CFC phase-out obligations, as well as for very low-volume-ODS-consuming countries for which the data-reporting requirement for substances might not be applicable.

XI. DATES FOR THE 1997 MEETING OF THE OPEN-ENDED WORKING GROUP

192. There was consensus in the Open-ended Working Group that the Group should continue its discussions in San José, Costa Rica, in conjunction with the Eighth Meeting of the Parties, on the dates reserved for the Preparatory Meeting for the Eighth Meeting of the Parties. The Open-ended Working Group would take up all the items on the provisional agenda that had been prepared for the Preparatory Meeting (UNEP/OzL.Pro.8/Prep/1).

193. The representative of Kenya proposed that the Group's meeting in 1997 should be held in Nairobi. In response, the Secretariat said that the dates and venue of that meeting would be communicated to the Parties by the Secretariat in due course.

## XII. OTHER MATTERS

### Draft decision submitted by Venezuela on trade in used equipment containing or operating with Annex A or Annex B substances

194. The Open-ended Working Group decided to forward for the consideration of the Eighth Meeting of the Parties a draft decision submitted by Venezuela, by which the Parties would decide to take steps to restrict or prohibit the import and export of used equipment that contains or operates with substances listed in Annexes A and B to the Protocol.

### Provision of financial assistance to Dr. P. Aucamp, Co-Chair of the Scientific Assessment Panel

195. The Secretariat drew the Working Group's attention to the addendum to its note on issues for consideration by the Group (UNEP/OzL.Pro/WG.1/13/2/Add.2) relating to the position of Dr. Piet Aucamp, Co-Chair of the Scientific Assessment Panel. Dr. Aucamp had served in that capacity from 1992 to 1995 with the financial support of the South African Government, his then employer. His current employer was willing to allow him to continue his activities, but the Government of South Africa was unable to continue to give him financial support.

196. Although South Africa was classified as a non-Article 5 country and financial support for the participation of experts for the Panels was provided only to developing countries by the Parties, Dr. Aucamp had been selected for his position by the Fourth Meeting of the Parties on the recommendation of the African Group, and the Working Group might wish to take that factor into account.

197. The Working Group recommended to the Parties that Dr. Aucamp should be considered eligible for financial assistance to enable him to participate in the work of the Scientific Assessment Panel.

## XIII. ADOPTION OF THE REPORT

198. The present report was adopted by the Open-ended Working Group at the final session of the meeting, on Thursday, 29 August, on the basis of its draft report as contained in document UNEP/OzL.Pro/WG.1/13/L.1 and Add. 1 and 2.

## XIV. CLOSURE OF THE MEETING

199. After the customary exchange of courtesies, the Co-Chair declared the thirteenth meeting of the Open-ended Working Group closed at 6.30 p.m. on Thursday, 29 August 1996.

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Annex I

DRAFT DECISION ON ESSENTIAL-USE NOMINATIONS FOR NON-ARTICLE 5 PARTIES  
FOR CONTROLLED SUBSTANCES FOR 1997 THROUGH 2002

The Eighth Meeting of the Parties decides:

1. To note with appreciation the work done by the Technology and Economic Assessment Panel and its Technical Options Committees pursuant to decisions IV/25 of the Fourth Meeting of the Parties and decisions VII/28 and VII/34 of the Seventh Meeting of the Parties;
2. That the levels of production and consumption necessary to satisfy essential uses of CFC-11, CFC-12, CFC-113 and CFC-114, for metered-dose inhalers (MDIs) for asthma and chronic obstructive pulmonary diseases and nasal dexamethasone, and halon 2402 for fire protection are authorized as specified in appendix 1 below, subject to the conditions established by the Seventh Meeting of the Parties in paragraph 2 of its decision VII/28;
3. To correct the errors introduced by the reports of the Technology and Economic Assessment Panel and its Technical Options Committees in the United States MDI nomination of CFC-12 and CFC-114 for the production year 1997 and its nomination of methyl chloroform for the production years 1996, 1997, 1998, 1999, 2000 and 2001 and to adjust the total amounts exempted to take into account the withdrawal of the New Zealand MDI nomination of CFC-11 and CFC-12 for production years 1996 and 1997, as specified in appendix 2 below;
4. That for 1998, for Parties not operating under paragraph 1 of Article 5 of the Protocol, production and consumption necessary to satisfy essential uses of controlled substances in Annexes A and B of the Protocol only for laboratory and analytical uses, as listed in annex IV to the report of the Seventh Meeting of the Parties, are authorized, subject to the conditions applied to exemption for laboratory and analytical uses as contained in annex II to the report of the Sixth Meeting of the Parties;
5. To permit the transfer of essential-use authorizations [for 1997 between New Zealand and Australia on a one-time basis only] [among Parties, where such transfers involve the same drug product] [and the same company]] to allow consolidation of CFC-based MDI production facilities;
6. To request the Technology and Economic Assessment Panel and its relevant Technical Options Committee to investigate the implications of allowing greater flexibility in the transfer of essential-use authorizations between Parties;
7. To request the Technology and Economic Assessment Panel and its relevant Technical Options Committee to review and report, by 30 April 1997, on the implications of allowing the production of CFCs for medical applications on a periodic "campaign basis" to satisfy estimated future needs, rather than producing small quantities in each

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year. Consideration should be given in particular to the economic implications of such an allowance;

8. To revise the timetables in decision IV/25, as modified by decision V/18, for nominations for production and consumption exemptions for 1998 and subsequent years, as follows: to set 31 January of each year as the last date for nominations for decisions to be taken in that year for production or consumption in any subsequent year; and to request the Technology and Economic Assessment Panel and its relevant Technical Options Committees to develop recommendations on the nominations and submit their report through the Secretariat by 30 April of that year; however, for 1997 the report will be submitted by 1 April 1997;
9. To approve the format for reporting quantities and uses of ozone-depleting substances produced and consumed for essential uses as set out in appendix 3 below and [beginning in 1998] to request each of the Parties that have had essential-use exemptions granted for previous years, to submit their report in the approved format by 31 January of each year;
10. [That the Parties granted essential-use exemptions will guard against theft; reallocate, as decided by the Parties, to other uses the exemptions granted or destroy any surplus ozone-depleting substances either as bulk substances or contained in products authorized for essential use but subsequently rendered unnecessary as a result of technical progress, market adjustments, or actions of the Parties;]
11. [To allow the Secretariat, in consultation with the Technology and Economic Assessment Panel, to authorize, as an emergency procedure, consumption of quantities not exceeding ... tonnes of ODS for essential uses on application by a Party prior to the next scheduled Meeting of the Parties. The Secretariat should inform the Meeting of the Parties at its next meeting the details of such approvals].

Appendix 1

RECOMMENDED NOMINATIONS FOR ESSENTIAL USE EXEMPTIONS  
(in metric tonnes)

Party	CFC-11			CFC-12			CFC-113			CFC-114			HALON-2402						
	1997	1998	1999	1997	1998	1999	1997	1998	1999	1997	1998	1999	1996	1997	1998	1999	2000	2001	2002
1. Australia	[8.0]	--	--	[22.0]	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--
2. Canada	--	128.0	--	--	320.0	--	--	--	--	--	65.0	--	--	--	--	--	--	--	--
3. European Union	--	1,778.0	--	--	3,307.0	--	--	16.0	--	--	509.0	--	--	--	--	--	--	--	--
4. Japan	--	53.0	37.0	--	105.0	75.0	--	0.5	0.5	--	23.0	24.0	--	--	--	--	--	--	--
5. Poland	[130.0]	[130.0]	--	[220.0]	[220.0]	--	--	--	--	[30.0]	[30.0]	--	--	--	--	--	--	--	--
6. Russian Federation	[266.0]	[266.0]	--	[266.0]	[266.0]	--	--	--	--	--	--	--	[352.0]	[300.0]	[255.0]	[200.0]	[142.0]	[92.0]	[45.0]
7. South Africa	--	62.0	--	--	156.0	--	--	--	--	--	5.0	--	--	--	--	--	--	--	--
8. Switzerland	2.0	2.0	--	4.0	4.0	--	--	--	--	2.0	2.0	--	--	--	--	--	--	--	--
9. United States	149.3	1,204.3	--	415.8	2,814.7	--	--	--	--	131.5	369.0	--	--	--	--	--	--	--	--
TOTAL	555.3	3,623.3	37.0	927.8	7,192.7	75.0	--	16.5	0.5	163.5	1,003.0	24.0	352.0	300.0	255.0	200.0	142.0	92.0	45.0

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Appendix 2

RECOMMENDED ADJUSTMENTS TO QUANTITIES APPROVED EARLIER FOR ESSENTIAL USES  
(in metric tonnes)

Country	Use	Chemical	Production year	Nominated amount	Approved amount	Recommended adjustment	Total approved and recommended
United States	MDI	CFC-12	1997	431	437.2	-6.20	431
United States	MDI	CFC-114	1997	19	43.7	-24.7	19
United States	Shuttle/rockets	MCF	1996	2.9	.29	2.61	2.9
United States	Shuttle/rockets	MCF	1997	3.7	.37	3.33	3.7
United States	Shuttle/rockets	MCF	1998	60.1	57.00	3.10	60.10
United States	Shuttle/rockets	MCF	1999	59.6	56.99	2.61	59.60
United States	Shuttle/rockets	MCF	2000	58.4	56.87	1.53	58.4
United States	Shuttle/rockets	MCF	2001	58.4	56.87	1.53	58.4
New Zealand	MDI	CFC-11	1996	9.00	9.00	-9.00	0.00
New Zealand	MDI	CFC-12	1996	23.50	23.50	-23.50	0.00
New Zealand	MDI	CFC-11	1997	8.00	8.00	-8.00	0.00
New Zealand	MDI	CFC-12	1997	22.00	22.00	-22.00	0.00

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Appendix 3

PROPOSED REPORTING ACCOUNTING FRAMEWORK

A	B	C	D	E	F (D + E)	G (C - F)	H <sup>1</sup>	I (H + F)	J	K	L	M <sup>2</sup> (I - J - L)
Year of authorized essential use	Ozone-depleting substance	[Amount exempted in various years]	Amount acquired by production	[Amount acquired by import and country of manufacture ]	Total acquired for essential use	Authorized but not acquired	On hand start of year <sup>1</sup>	Available for use in current year	Used for MDI manufacture	[Contained in MDIs and exported]	Destroyed	On hand end of year <sup>2</sup>
1996	CFC-11											
1996	CFC-12											
1996	CFC-113											
1996	CFC-114											
1996	MCF											

All quantities expressed in tonnes.

<sup>1</sup>National Governments may not be able to estimate quantities on hand as at 1 January 1996 but can track the subsequent inventory of ODS produced for essential uses (Column L).

<sup>2</sup>Carried forward as “on hand start of the year” for next year.

Annex IIDRAFT DECISIONS ON MDI TRANSITION IN NON-ARTICLE 5 COUNTRIES  
FORWARDED BY THE WORKING GROUP FOR THE CONSIDERATION OF THE  
EIGHTH MEETING OF THE PARTIES

The Eighth Meeting of the Parties decides:

A. Industry code of conduct for a non-Article 5 Party  
transition from CFC-based metered-dose inhalers

1. [That non-Article 5 Parties will encourage companies manufacturing, distributing or selling CFC MDIs to demonstrate ongoing research and development of alternatives to CFC MDIs with all due diligence and/or collaborate with other companies in such efforts and, with each future request for essential-use exemptions, to report in confidence to the nominating Party whether and to what extent resources are deployed and progress is being made on such research and development, and what licence applications if any have been submitted to health authorities for non-CFC MDIs;]
2. [That non-Article 5 Parties will encourage companies manufacturing, distributing or selling CFC MDIs to demonstrate they are undertaking individual or collaborative industry efforts, in consultation with the medical community, to educate health care professionals and patients about other treatment options and the transition to non-CFC MDIs;]
3. [That non-Article 5 Parties will encourage companies manufacturing, distributing or selling CFC MDIs to demonstrate that they are differentiating the packaging of the company's non-CFC MDIs from its CFC MDIs and to apply other appropriate marketing strategies, in consultation with the medical community, to encourage doctor and patient acceptance of the company's non-CFC MDI, subject to health and product safety considerations;]
4. [That non-Article 5 Parties will encourage companies manufacturing, distributing or selling CFC MDIs to not engage in false or misleading advertising targeted at non-CFC MDIs;]
5. [That non-Article 5 Parties will encourage companies manufacturing, distributing or selling CFC MDIs to ensure that participation in regulatory proceedings is conducted with a view toward legitimate environmental, health and safety concerns;]
6. [That non-Article 5 Parties will encourage companies manufacturing, distributing or selling CFC MDIs to take all economically feasible steps to minimize CFC emissions during the manufacture of MDIs;]
7. [That non-Article 5 Parties will encourage companies manufacturing, distributing or selling CFC MDIs to dispose of expired, defective, and returned MDIs containing CFCs in a manner that minimizes CFC emissions;]

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8. [That non-Article 5 Parties will encourage companies manufacturing, distributing or selling CFC MDIs to review periodically CFC requirements and current MDI market forecasts, and notify national regulatory authorities of surplus CFCs, if any, obtained under the essential-use exemption;]
9. [That non-Article 5 Parties will encourage companies manufacturing, distributing or selling CFC MDIs to cooperate with national regulatory authorities in any governmental programme for transfer of surplus amounts to any other MDI manufacturer which needs such amounts;]
10. [That non-Article 5 Parties will encourage companies manufacturing, distributing or selling CFC MDIs to dispose of surplus amounts in a manner that minimizes CFC emissions;]
11. [That non-Article 5 Parties will encourage companies manufacturing, distributing or selling CFC MDIs to ensure continuity of MDI supply to Article 5 countries and countries with economies in transition;]
12. [That non-Article 5 Parties will encourage companies manufacturing, distributing or selling CFC MDIs to assist the company's MDI manufacturing facilities in Article 5 countries and countries with economies in transition in upgrading the technology and capital equipment needed for manufacturing non-CFC MDIs, subject to considerations of manufacturing rationalization and continued patient access to affordable MDIs in such countries;]
13. [To encourage non-Article 5 Parties to continue to make available authorized levels of CFC production and consumption for essential MDI uses to each CFC MDI and MDI component manufacturer that demonstrates a good-faith effort to comply with the provisions of the "industry transitional code of conduct";]
14. [To encourage non-Article 5 Parties to permit, for the purposes of industrial rationalization, the intra-company transfer of CFCs to be used under the MDI essential-use exemption, subject to record-keeping and reporting requirements but not pre-approved by the national regulatory authority;]
15. [To encourage non-Article 5 Parties to permit, for the purposes of industrial rationalization, the inter-affiliate transfer of CFCs to be used under the MDI essential-use exemption, subject to record-keeping and reporting requirements but not pre-approved by the national regulatory authorities of the Parties in which the affiliates involved are located, provided that the Party in which the parent corporation is located shall be responsible, for Protocol compliance purposes, for ensuring that volumes of CFCs allocated to that corporation under the MDI essential-use exemption are not exceeded;]
16. [To encourage non-Article 5 Parties to ensure coordination between national environmental and health authorities on the environmental, health and safety implications of any proposed decisions on essential-use allowances and MDI transition policies before such decisions are taken;]

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17. [To encourage non-Article 5 Parties to direct their national health authorities to expedite review of marketing/licensing/pricing applications of non-CFC MDIs, provided that such expedited review does not compromise patient health and product safety;]
18. [To encourage non-Article 5 Parties to direct their national health authorities to review the terms for public MDI procurement and reimbursement, so that purchasing policies do not discriminate against non-CFC MDIs;]]

B. Information-gathering on a transition to non-CFC treatments for asthma and chronic obstructive pulmonary disease for non-Article 5 Parties

- [1. To note with appreciation that one new non-CFC-based MDI for one active ingredient has now entered the market in some countries [and that others are expected over the next one to three years.] [In some cases, other alternatives such as dry power inhalers (DPIs) are also available];
2. To recognize that a smooth transition to non-CFC treatments of asthma and chronic obstructive pulmonary disease are essential for the life of patients with asthma and chronic obstructive pulmonary disease and important for the protection of the ozone layer. [Phase-out of essential-use allowances is best deferred until a transitional period during which time wide clinical experience is gained with a range of non-CFC products];
3. To note with appreciation the work done by the Technical and Economic Assessment Panel and its Technical Options Committee pursuant to decision IV/25 of the Fourth Meeting of the Parties and decision VII/28 of the Seventh Meeting of the Parties;
4. To encourage Parties to consider the recommendations in the TEAP and TOC reports regarding transition strategies for non-CFC treatments of asthma and chronic obstructive pulmonary disease and urge Parties to report to the Panel and its relevant Technical Options Committee on the details of national transition strategies by [31 of January 1997];
5. To request the Technical and Economic Assessment Panel and its relevant Technical Options Committee to report on progress in the development and implementation of national transition strategies for non-CFC treatments of asthma and chronic obstructive pulmonary disease and report thereon to the Open-Ended Working Group in preparation for the Ninth Meeting of the Parties;
6. To request the Technical and Economic Assessment Panel to further examine and report to the [Ninth] [Eleventh] Meeting of the Parties on issues surrounding a transition to non-CFC treatments of asthma and chronic obstructive pulmonary disease in non-Article 5 countries that is fully protective of public health. In so doing, the Technical and Economic Assessment Panel should consult with international bodies,

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such as the World Health Organization and other institutions representing health care professionals, patient advocacy groups and private industry, and, where appropriate, national bodies representing the same [and take into consideration:]

- (a) [The relative advantages and disadvantages of an overarching international transition framework versus individual national strategies and the degree to which a phase-out may take more or less time in individual countries and the factors that influence this;]
- (b) [The impact on the right and ability of Article 5 countries, of countries with economies in transition, of Article 2 countries with large disadvantaged communities and of net-importing countries to receive CFC-based MDIs where medically and economically acceptable alternatives are not available where there are reductions in non-Article 5 essential-use exemptions for CFC MDIs;]
- (c) [The influence of potential transferable essential-use exemptions as well as existing and potential trade restrictions by individual countries on a smooth transition and access to treatment options;]
- (d) [The international markets and fluidity of trade in CFC MDI products as well as alternative treatments for asthma and chronic obstructive pulmonary disease;]
- (e) [The identification of patient subgroups who may have continuing compelling medical needs after a virtual phase-out;]
- (f) [The range of regulatory and non-regulatory incentives for, and impediments against, research and development of alternative treatments for asthma and chronic obstructive pulmonary disease and market penetration of alternative treatments for asthma and chronic obstructive pulmonary disease;]
- (g) [The degree to which dry-powder inhalers (DPIs) and other treatment options may be considered medically acceptable alternatives for CFC MDIs and the factors which may influence their substitutability in different countries;]

Annex IIIDRAFT DECISION ON ISSUES RELATED TO THE LIST OF  
LIKELY APPLICATIONS OF HYDROCHLOROFLUOROCARBONSProposal by the European Community

The European Community proposes:

1. That UNEP distributes to the Parties of the Montreal Protocol a list containing the HCFCs applications which have been identified by the Technology and Economic Assessment Panel, after having taken into account the following:
  - (a) The heading should read "Possible Applications of HCFCs";
  - (b) The list should include a chapeau stating that the list is intended to facilitate collection of data on HCFC consumption, and does not imply that HCFCs are needed for the listed applications;
  - (c) The use as fire extinguishers should be added to the list;
  - (d) The use as aerosols, as propellant, solvent or main component, should be included, following the same structure as for other applications;
2. That the Technology and Economic Assessment Panel and its Technical Options Committee be requested to prepare, for the Ninth Meeting of the Parties, a list of available alternatives to each of the HCFC applications which are mentioned in the now available list;

The European Community hopes that this will assist officers, in particular in developing countries, in their work to identify the use of HCFCs in their countries and to minimize future dependency on HCFCs for applications where these chemicals are not needed.

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