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OPEN-ENDED WORKING GROUP OF THE
PARTIES TO THE MONTREAL PROTOCOL
Sixth meeting
Geneva, 6-15 April 1992

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

I. INTRODUCTION

1. The sixth meeting of the Open-ended Working Group of the Parties to the Montreal Protocol was held at the International Conference Centre, Geneva, from 6 to 15 April 1992 to consider the issues raised by the Third Meeting of the Parties to the Montreal Protocol, held in Nairobi from 19 to 21 June 1991.

II. ORGANIZATIONAL MATTERS

A. Opening of the meeting

2. The meeting was opened by the Executive Director of UNEP, Dr. Mostafa K. Tolba. He welcomed the delegates to the meeting and thanked the Co-Chairmen of the Assessment Panels and all the contributing scientists for their tremendous efforts in preparing the crucial reports. He reminded the delegates of the vital importance attached to the recommendations of the meeting. The science of ozone depletion was no longer a theory: based on existing observational evidence, it was the view of the overwhelming majority of the scientific community that the ozone layer was being depleted at an even greater rate than had been predicted earlier - at high and mid-latitudes in both hemispheres, and not only in winter, but also in spring and summer. The adverse impacts of the ozone depletion - skin cancers, cataracts, concerns regarding world food supply and infectious diseases etc., were confirmed. In the face of that expanded threat, the provisions of the Amended Montreal Protocol were insufficient. A total phase-out of CFCs by the year 2000 seemed far too leisurely an approach.

3. The report of the Science Assessment Panel stressed the need to accelerate the phase-out of controlled substances and to limit the use of transitional substances such as HCFCs. It also suggested additions to the list of chemicals controlled - particularly methyl bromide, a major contributor to stratospheric bromine, which was far more effective than chlorine in ozone destruction. Those steps would bring a return to natural ozone levels 10-15 years closer, and reduce the adverse impacts of the depletion that would inevitably occur. Fortunately, those steps were proved to be feasible by the report of the Technology and Economics Assessment Panel. The 40 per cent reduction in annual consumption of CFCs, already achieved, was much faster than required by the Protocol. Moreover, the phase-out was proving less expensive than forecast and frequently resulted in

cost savings. Technologies to eliminate controlled substances were available for virtually every application. Some developing countries, too, were eager to phase out the controlled substances more rapidly. It was thus both possible and desirable to reduce the grace period for developing countries from the current ten years.

4. The Executive Director referred to his specific recommendations on the further adjustments and amendment (UNEP/OzL.Pro/WG.1/6/4) and urged that they be given favourable consideration. In that connection, he particularly wished to flag the issue of the size of the Interim Multilateral Fund, if developing countries were to phase out the controlled substances more rapidly. He noted the disappointing financial situation of the Multilateral Fund in 1991 and urged developed countries to be prompt in making payment to the Fund, and to decide on clear modalities for the transfer of technology, if the developing countries were to participate successfully in the efforts to protect the ozone layer. He also expressed his disappointment at the slow pace of ratification of the London Amendment and hoped that the situation would not recur in the future.

5. There was another very important issue that should be considered by the Working Group at its current meeting: the question of the different categories of Parties. There were already Parties to the original Protocol and Parties that had ratified it as amended in London. That situation would be further aggravated by the possibility of additional amendments being made in Copenhagen. He suggested, therefore, that a formula should be devised to ensure that the categories did not proliferate.

6. He referred to the other items of the Agenda and mentioned their relevance in assisting the Parties to reach sound decisions at their next meeting in November 1992. Further refining of the financial mechanism was vital, while attention must also be paid to the criteria for the future classification of countries as developing for the purposes of the Protocol. The situation of Parties operating under Article 5, paragraph 1, that exceeded the specified consumption ceiling also required the Working Group's attention, as did the difficulty encountered by those countries in collecting and reporting data.

7. As the Working Group was aware, the world community had faced the facts before and initiated bold steps to protect the ozone layer. He was sure that the Working Group would recommend an equally vigorous response to the new dangers, which were greater than previously anticipated.

B. Attendance

8. The meeting was attended by delegations from the following Contracting Parties: Argentina, Australia, Austria, Bangladesh, Belgium, Brazil, Cameroon, Canada, Chile, China, Costa Rica, Czechoslovakia, Denmark, Ecuador, Equatorial Guinea, European Community, Finland, France, Germany, Ghana, Greece, Hungary, Italy, Japan, Jordan, Kenya, Libyan Arab Jamahiriya, Malaysia, Malta, Mexico, Morocco, Netherlands, New Zealand, Norway, Philippines, Poland, Republic of Korea, South Africa, Spain, Sweden, Switzerland, Thailand, Togo, Uganda, United Kingdom, United States of America, Uruguay, Venezuela, Yugoslavia and Zambia.

9. Delegations of the following countries, not Contracting Parties, also participated: Algeria, Congo, India, Indonesia, Iraq, Israel, Kuwait, Pakistan, Sudan, Swaziland and the United Republic of Tanzania.

10. Representatives of the following United Nations bodies and specialized agencies also participated in the Meeting: World Meteorological Organization (WMO) and the World Bank.

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11. The following non-governmental organizations were also represented: Air Conditioning and Refrigeration Institute, Alliance for Responsible CFC Policy, Bahamas Agricultural and Industrial Corporation, Brazil Industry Association, Carrier Corporation, European Federation of the Chemical Industry (CEFIC), ECSA, Friends of the Earth, Greenpeace, Halogenated Solvents Industry Alliance (HSIA), Halon Alternatives Research Corporation, IBM, International Chamber of Commerce (ICC), Industrial Technology Research Institute (ITRI), International Council of Environmental Law (ICEL), Japan Association for Hygiene of Chlorinated Solvents (JAHCS), Japan Electrical Manufacturer' Association (JEMA), Japan Flon Gas Association, Japan Industrial Conference for Ozone Layer Protection (JICOP), Methyl Bromide Association, Methyl Bromide Global Coalition, ORGALIME, Pharmaceutical Aerosol CFC Coalition (PACC), SRF Ltd. and Ulsan Chemical Company.

C. Election of officers and adoption of the agenda

12. The following officers were elected by the meeting:

Co-Chairmen: Mr. S. Lee-Bapty (United Kingdom) and
Mr. J.A. Mateos (Mexico)
Vice-Chairmen: Mr. J.R. Arap-Lelei (Kenya) and
Mr. J. Carstensen (Denmark)
Rapporteur: (Singapore)

13. The meeting adopted the following agenda, as contained in document UNEP/OzL.Pro/WG.1/6/1/Rev.1:

1. Opening of the meeting by the Executive Director

2. Organization of the meeting:
(a) Election of the officers.
(b) Adoption of the agenda.

3. Substantive matters:

(a) Review of the second assessment panel reports with a view to identifying the need for any further adjustments and amendments (decision III/11):

- (i) Presentation of the report by the Scientific Assessment Panel by Dr. Daniel Arbritton, and discussion (30 minutes);
- (ii) Presentation of the report of the Environmental Effects Panel by Dr. Van der Leun and Dr. Tevini, and discussion (30 minutes);
- (iii) Presentation of the report of the Technology and Economic Panel by Mr. S. Lee-Bapty and Mr. S. Andersen, and discussion (30 minutes);
- (iv) Presentation of the Synthesis Report by Dr. Robert Watson, and discussion (30 minutes);
- (v) Note by the Executive Director on the need for further adjustments and amendments;
- (vi) Discussion and recommendations;

(b) Further elaboration of any remaining details of the various components of the Financial Mechanism (decision III/11);

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- (c) Identification of the most appropriate modalities for the transfer of technologies designed for the protection of the ozone layer (decision III/11);
- (d) Cooperation with Parties that are developing countries for the implementation of the Protocol (decision III/11);
- (e) Review and development of an indicative list of categories of incremental costs (decision III/19);
- (f) Criteria for future classification as a developing country for the purpose of the Montreal Protocol (decision III/5);
- (g) Reporting requirements in cases of trans-shipment of controlled substances (decision III/13);
- (h) Review of relevant articles in order to consider possible consequences of a Party operating under Article 5 that exceeds the consumption ceiling specified in the Article (decision III/13);
- (i) Measures to clarify the situation of such a Party with respect to Article 2 control measures (decision III/13);
- (j) Possible implications of a Party losing its Article 5 status if at the time a member of the Executive Committee (decision III/13).

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

III. SUBSTANTIVE MATTERS

A. Review of the second assessment panel reports with a view to identifying the need for any further adjustments and amendments

1. Presentation of the report of the Scientific Assessment Panel

14. Dr. Albritton, Co-Chairman of the Scientific Assessment Panel, summarized the new advances in the understanding of depletion of the ozone layer that were described in the Panel report. That review document was the product of over 60 scientists from 25 countries, many of which were developing countries. Although uncertainties remained, the case for the human-caused depletion of the ozone shield was stronger than in 1990, when the London Amendment had been added to the Montreal Protocol.

15. The scientists had noted that strong Antarctic ozone "holes" continued to occur, with four of the past five Antarctic spring-time ozone losses being particularly severe. Studies over the past few years had further strengthened the view that the cause of that depletion was man-made chlorine and bromine compounds, whose effect was enhanced in Antarctica by polar stratospheric clouds.

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16. The Arctic scene was much more variable meteorologically. Hence, although the ice-particle enhancement of the chlorine chemistry was observed to occur there, the degree to which ozone depletion actually happened depended on the severity of each Arctic winter. While significant losses had not been observed, the probability of such would grow as chlorine continued to increase in the atmosphere.

17. The scientists stressed that the most important advances had been associated with ozone losses over mid-latitudes, which were currently observed to occur in both hemispheres and in all four seasons. The weight of evidence suggested that the cause of those downward ozone trends was largely man-made chlorine and bromine compounds, whose effects were enhanced by the presence of sulphate particles. It was also noted that methyl bromide was a substance that had substantial potential for depleting the ozone layer, but the contribution of man-made sources to the atmospheric burden was currently uncertain.

18. The increase of ultraviolet radiation in Antarctica associated with the ozone "hole" had been observed. In other regions, ultraviolet increases had also been linked directly to low ozone levels overhead.

19. An improved method had been developed for calculating the Ozone Depleting Potentials that were used to scale the relative impacts of the various substances.

20. In reply to questions, Dr. Albritton explained that the fact that the ozone losses were occurring in the lower stratosphere suggested a coupling between ozone losses and the climate system. The CFCs appeared to be less-potent greenhouse gases than originally believed. Mt. Pinatubo had increased the abundance of aerosols in the stratosphere, but it was too soon to see clearly whether they were contributing to ozone losses. The short residence-time of the aerosols indicated that, whatever ozone perturbations were caused, they would be short-lived in comparison with those of the CFCs. The interim results of the European Arctic Stratospheric Ozone Experiment (EASOE) were described by the Commission of the European Communities. Despite perturbed Arctic chemistry earlier in the current year, the subsequent warming of the stratosphere precluded significant ozone losses later in the winter of 1991/1992 but that potential for ozone destruction could be realized in the future. One delegation recommended that a worldwide coordinated network be set up as soon as possible to provide continuous broad-band and spectral measurements of solar UV irradiance at ground level.

2. Presentation of the report of the Environment Effects Panel

21. Dr. J.C. van der Leun, Co-Chairman of the Environment Effects Panel, presenting its report, highlighted new developments in research on effects. The influence of increased UV-B radiation on marine organisms in their natural environment had been demonstrated recently in the seas surrounding the Antarctic ice. Local phytoplankton communities in a surface layer of 25m depth were reduced in productivity by 6 to 12 per cent while under the ozone "hole".

22. Research on plants had confirmed that UV-B radiation even at current levels was limiting the growth of many plants. An experiment on the influence of increased UV-B on the growth of trees had been running for six years; the negative effects appeared to accumulate over the years. Other experiments indicated that increased carbon dioxide concentrations and increased temperatures might to some extent reduce the damage by increased

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UV-B radiation. Existing knowledge was still far from sufficient to make predictions for the effects of ozone depletion on the productivity of agriculture and forestry, and on biodiversity.

23. Research in the area of human and animal health had generally underscored previous concerns and brought predictions to a firmer basis. It was predicted that increased UV-B irradiance would lead to more cataracts and cataract-induced blindness and an increased incidence of skin cancer. Influences of UV-B radiation on the immune system were also found in humans, and those influences were not dependent on skin colour. It was still not possible to predict the consequences for the incidence of infectious diseases and the effectiveness of vaccination programmes; if there were any such consequences, there were likely to apply to people of all skin colours.

24. In the discussion following the presentation, many questions relating to the consequences of the effects, especially for developing countries, were answered.

3. Presentation of the report of the Technology and Economic Panel

25. Dr. S. Andersen, Co-Chairman of the Technology and Economic Panel, presenting its report, said that worldwide CFCs consumption was currently 40 per cent below the 1986 levels; halon consumption was currently falling. It was technically and economically feasible to phase out controlled substances in developed countries by 1995-1997 with possible limited exceptions for certain essential uses. CFCs could be virtually phased out by 1996 but the accelerated phase-out would require aggressive recycling and equipment retrofit. The phase-out of halons would be feasible by 1996 or even earlier, subject to effective implementation of halon "banks". The phase-out of methyl chloroform would be feasible by 1995-2000, with the need for additional measures to assist small users.

26. It would require the use of HCFCs for refrigeration, air-conditioning, insulating foam, sterilization, medical and safety aerosol products, and for limited essential solvent and adhesive applications. HCFCs were not required to phase out many applications of controlled substances including cosmetic and household aerosol products, non-insulating foams and most solvent applications. Low ODP HCFCs could be used for many purposes where HCFCs were necessary to replace CFCs (e.g. HCFC-225 to replace CFC-113 solvents, HCFC-123 to replace CFC-11 air conditioners, and HCFC-124 to replace CFC-12 for sterilization).

27. Sufficient halon had already been produced to serve essential halon applications for decades to come if the existing halon could be "banked" and redeployed worldwide. Worldwide trade in recycled, banked halon would require the permission of the Parties to the Protocol.

28. The next assessment should address possible essential uses where alternatives or substitutes were not available and reassess the technical and economic feasibility of technology to retrofit refrigeration and air-conditioning equipment.

29. Mr. J. Corona of the Technology and Economic Assessment Panel, referring to the special circumstances and concerns of the developing countries, said that energy considerations must be coordinated with CFC phase-outs to ensure that energy efficiency was maintained, and that it would be feasible to accelerate the phase-out provided that adequate financing was provided from the Multilateral Fund. There were, of course, differences between the developing countries but, in general, it would be necessary to support institutional programme management, to make transitional substances

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available, and to improve the education and training infrastructure. Government commitment and leadership were needed, but also industrial involvement and public awareness.

30. Mr. Markandya, an economic consultant, who had been entrusted by UNEP with the task of calculating the incremental costs of an accelerated phase-out of ozone-depleting substances by the developing countries, informed the Working Group that his report would be available before the Group's next meeting but that he had no figures available at the moment.

4. Presentation of the Synthesis Report

31. Dr. Watson summarized the key findings of the Synthesis report. He noted that man-made emissions of chlorine- and bromine-containing chemicals were causing polar ozone depletion and were the most likely cause of the observed mid-latitude ozone depletion, and that the observed ozone depletion was expected to cause many adverse effects on humans, plants and animals. Fortunately, technical options existed to limit predicted future ozone depletion at a reasonable economic cost.

32. He explained that protecting the ozone layer, and thus limiting environmental damage, required (i) limiting peak chlorine and bromine loading, which controlled the maximum amount of ozone depletion; (ii) returning the atmospheric abundance of chlorine to 3 ppbv as soon as possible, as it was the abundance of chlorine in 1985, the middle of the decade, for which ozone depletion at mid-latitude in spring and summer had first been observed; and (iii) returning the atmospheric abundance of chlorine to 2 ppbv as soon as possible, as it was the abundance of chlorine in 1975 which had initiated the Antarctic ozone "hole".

33. The consequences of a number of possible control options for CFCs (11, 12, 113, 114, 115), carbon tetrachloride, methyl chloroform, HCFCs, halons, and methyl bromide on the atmospheric abundances of chlorine and bromine were presented. The scenarios demonstrated that advances in the phase-out schedule for CFCs, carbon tetrachloride, methyl chloroform, and halons, and limitations on HCFCs and methyl bromide could significantly reduce future levels of atmospheric chlorine and bromine, thus significantly reducing the predicted magnitude of ozone depletion and adverse environmental consequences. One of the scenarios examined the impact of reducing the ten-year grace period for developing countries to five years. That scenario indicated that the atmospheric abundance of chlorine did decline more rapidly with the shorter grace period, but that it was a relatively small effect.

34. He also discussed methyl bromide, noting that the major source of atmospheric bromine was methyl bromide, not halons, but recognized that, while there was significant anthropogenic production of methyl bromide, its emissions to the atmosphere were poorly defined. The ODP of methyl bromide was reported to be 0.6, and it was noted that bromine was 30 to 120 times more efficient than chlorine per atom. He also noted that every 10 per cent reduction in the atmospheric abundance of methyl bromide resulted in a comparable reduction in the atmospheric halogen loading to a three-year advance in the phase-out schedule of halons, or CFCs.

35. He then responded to a number of questions. He noted that: (i) short-lived HCFCs did not pose the same threat to the ozone layer as longer-lived HCFCs; (ii) the most rapid reduction in peak chlorine loading could best be achieved through reduced emissions of short-lived gases such as methyl chloroform; (iii) ozone protection was best accomplished through controls on both chlorine- and bromine-containing chemicals; (iv) the scenario calculations were relatively simple and did not explicitly account for recycling and the delayed release of CFCs from refrigeration, foams, etc.; (v) with respect to a question regarding the impact on peak chlorine loading

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or on the year in which the 2 ppbv level would be reached if developing countries were given a longer grace period than ten years, impacts of many scenarios could be worked out in detail but that they could be readily derived from the graphs he had presented even without such detailed working; and (vi) the scenario of option 4 of the Synthesis Report plus phase-out of anthropogenic emission of methyl bromide needed to be worked out carefully after studying various scientific aspects.

36. In response to another question, he subsequently presented data on the combined impact of chlorine and bromine. Regarding the options presented in the Synthesis Report, he stated they were a guide to policy makers.

5. Note by the Executive Director on the need for further adjustments and amendments
6. Discussion and recommendations

37. The Chairman invited the members of the Working Group to consider sub-items 3(a), (v) and (vi) together and to submit any proposals they might have for adjustments and amendments to the Montreal Protocol. The substance of each proposal would be framed in appropriate legal language by the legal drafting group, which would report back to the meeting. The report of the legal drafting group, as approved by the Working Group, would then be circulated to the Parties to the Montreal Protocol by the Secretariat, six months in advance of their Meeting in November 1992, as required by the Protocol. The negotiations regarding the proposals could be taken up at a later stage of the current meeting of the Working Group and at its next meeting.

38. During the discussions, many delegations commended the clarity and excellent presentations of the Assessment and Synthesis Reports and the Note by the Executive Director. Some pointed out that accelerated phase-out of all controlled substances raised considerable problems for the developing countries and stressed the need for more extensive information on the technological and economic consequences for those countries. Several delegations considered that the Synthesis Report did not justify a reduction of the grace period as the benefit would be insignificant while the costs would be high. Some delegations stressed the need for further research to be carried out in the tropics. Some delegations emphasized the need for effective operation of the Multilateral Fund and easy access by the developing countries to alternative technologies.

39. Many delegations expressed their concern on the subject of methyl bromide, which was used for many essential purposes and was of immense value to agricultural production and trade, especially for the developing countries. The significance of man-made methyl bromide in ozone depletion was not yet known. As there were currently no viable alternatives, there was a need for further study on methyl bromide before any controls were imposed. One delegation suggested that an advisory panel on the substance should be established to report back to the next meeting and others stressed that the issue should be discussed at the next meeting on the basis of further scientific and economic data subsequent to the international workshop to be held in Washington, D.C., in June 1992. Some of them considered the adoption of further regulation on the substance to be of great urgency. Several delegations noted the difficulties relating to halon recycling and "banking", on which further study was required.

40. Many delegations said that the Assessment Panel Reports illustrated clearly the need for acceleration of phase-out schedules, inclusion of more substances on the controlled list and limitation of the use of HCFCs. They welcomed the proposals of the Executive Director in that context and some explained their own proposals for further adjustments and amendments to the Montreal Protocol which were referred to the legal drafting group.

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41. One delegation stressed the need for early action by the Working Group to define clearly, to the extent feasible, the concept of the essential uses for which many delegations had proposed exemption from the accelerated phase-out of controlled substances. It suggested that an ad-hoc team be established to assess comparatively the benefits and costs of the proposed phase-out scenarios and to develop a possible framework to grant exemptions for certain essential uses, including the criteria for determining essentiality, typical examples of agreed essential uses, the magnitude of the exceptions and the possible mode of regulation.

42. Another delegation stressed the need for serious consultations before any further amendments or adjustments to the Protocol were made, particularly in view of the fact that the London Amendment had not yet entered into force. It also referred to the many difficulties of the developing countries in advancing their phase-out schedule and submitted a proposal to cover the issue.

43. Several delegations referred to the problem of incidental production of controlled substances during the manufacture or processing of a non-controlled substance and a proposal was submitted to cover the issue.

44. The representative of an NGO made a statement drawing attention the need for a total and immediate ban on ozone-depleting substances and to the grave responsibility of Governments in protection of the ozone layer.

45. The Chairman stated that the informal meeting on modalities for controlling HCFCs had identified a number of issues that needed to be resolved before the November 1992 Meeting of the Parties. They were: (i) the manner in which transitional substances should be referred to in any amendment and the application to them of the different Protocol articles; (ii) the date at which the control would start for transitional substances; (iii) reconciliation of the various proposals concerning phase-out dates that had been tabled, and the various distinctions between transitional substances that they proposed; (iv) whether the list of applications of transitional substances should be a positive or a negative one; (v) the various proposals concerning a quantitative limit or cap either just on consumption or on both consumption and production; (vi) whether HBFCs should be controlled and the bases for the limits - whether for the base year, CFCs and HCFCs should be combined and a calculated figure obtained, and (vii) the transferability of consumption rights between the Parties for HCFCs.

46. The Chairman of the informal meeting held to discuss international halon "banking" reported that a very useful exchange of views had taken place on key issues such as essential uses, information exchange and technology transfer, the mechanics of international "banking" and the special needs of developing countries. The informal meeting had proposed the establishment of a small working team, consisting of representatives of developed countries, developing countries and the UNEP Halons Technical Options Committee, to examine further those issues and to report to the Working Group at its seventh meeting. The Working Group endorsed the establishment of the small working team and Parties interested in participating in that team were invited to give their names to the Secretariat.

Report of the legal drafting group

47. The Chairman of the legal drafting group stated that the group, in accordance with its mandate, had considered written proposals submitted by eight countries or regional groupings and had prepared a text consisting of draft decisions for submission to the Parties at their November 1992 Meeting, together with the adjustments and amendments to the Protocol needed to implement the proposals. It had followed the format and style of the London Amendment.

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48. One delegation said that, in view of the six months' rule concerning adjustments and amendments to the Protocol, it should be made clear that, if certain proposals were adopted, delegations could make some proposals in the future if they were sufficiently related to the proposals already adopted. In that regard, the Chairman drew the meeting's attention to the Report of the Legal Drafting Group of the Open-Ended Working Group in November 1989 (UNEP/OzL.Pro.WG.II(I)/5), prior to the Second Meeting of the Parties. The third and fourth paragraphs of that report read as follows:

"Article 9, paragraph 1, of the Vienna Convention and Article 2, paragraphs 9 and 10, of the Protocol provide that proposed adjustments and amendments to the Protocol shall be communicated to the Parties by the Secretariat at least six months before the meeting at which they are proposed for adoption. In practical terms, this means the last date for Parties to the Protocol to submit proposals to the Secretariat for the Second Meeting of the Parties in June 1990 will be 1 December 1989.

This, however, does not mean that the Parties cannot consider proposals tabled after December 1989, so long as such proposals are sufficiently related to proposals communicated to the Parties in accordance with the Vienna Convention and the Montreal Protocol so that the Parties may be deemed to have had adequate opportunity to consider the merits of those proposals. Further, the group noted that depending on which proposals were accepted in June 1990, certain amendments of a purely technical nature would have to be made (e.g., if a baseline year other than 1986 were chosen, Article 7 would have to be modified)."

The Working Group noted the relevance of these paragraphs to the current situation and endorsed them as a guide to its work on adjustments and amendments in 1992.

49. Another delegation said that, since most of the proposals would involve a shortening of the phase-out period, the Technology and Economic Panel should assess their implications for continued supply of the controlled substances to the developing countries during the grace period, so that the Governments of those countries would have a solid basis for their decisions. Yet another delegation said that a number of the proposals would involve the destruction of substances. It hoped, therefore, that the report of the Special Committee on Destruction Technologies would be available to the Working Group before its meeting in July 1992. The Chairman affirmed that that was the case.

50. The Chairman of the legal drafting group, introducing the final report of the group (UNEP/OzL.Pro.4/2), explained the lay-out that had been adopted, principally the ordering of the proposals in line with the provisions of the Protocol, as far as that was possible, and the division of the annex on adjustments into two parts, to allow for the fact that any voting on some of the adjustments would be limited to Parties which had ratified the London Amendment. He mentioned that consequential amendments were indicated in the report by an asterisk. As requested by the Working Group, the sources of the proposals had been indicated. He drew particular attention to Articles 2 and 3 in the report and said that there were other options which could be considered.

51. The Working Group then considered the legal drafting group's report. After some changes had been made by delegations to their own proposals, the question of the proposed Articles 2 and 3 was raised. After some discussion, a delegation agreed to sponsor those two articles, subject to further discussion, for the sake of convenience. The Working Group then took note of the report of the legal drafting group.

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52. The Chairman then invited any other proposals that delegations might wish to submit, informing them that such proposals would be annexed to the Working Group's report, with the annotation that they had not been considered by the legal drafting group. Several delegations took advantage of that invitation.

53. A number of delegations presented new proposals for adjustment or amendment. Some of them drew attention to the possible need for consequential changes to the wording of the Protocol in relation to some of the initial proposals and to the new ones, and one delegation decided to await discussions at the Working Group's next meeting before submitting its proposal.

54. One delegation requested that figures for ozone depletion potential be added to Annex C in time for the next meeting of the Working Group.

55. In compliance with the request of the Working Group, the informal working group on future activities in connection with methyl bromide, coordinated by Dr. Robert Watson, had decided that two reports should be prepared: the first, an interim assessment report of some 30 to 40 pages, would be produced in June of the current year in time for discussion by the Working Party at its next meeting; a research plan would also be formulated to produce a second and fuller assessment report within two years.

B. Further elaboration of any remaining details of the various components of the Financial Mechanism

56. The Chief Officer of the Interim Multilateral Fund described the organization and activities of the Fund since its inception in February 1991, mentioning the agreements concluded with UNDP, UNEP and the World Bank as executing agencies. The work programmes of the implementing agencies, the country programmes and investment projects for some countries had been approved by the Executive Committee. The total input to the Fund stood at \$US 37,261,993 at 31 March 1992 and allocations and disbursement up to 28 February 1992 amounted to \$US 32,628,513.

57. With regard to contributions to the Fund, of the 36 countries which had made pledges for 1991, 15 had not paid in full at the present date while 32 countries had not paid in full their pledges for 1992. It was expected that further investment projects approved would bring allocations to some \$US 75 million in 1992.

58. In answer to questions from the floor, he gave details of the allocations already made for approved programmes and said that a list of countries' pledges and contributions was available for consultation.

59. On the question of payment of pledges, some delegations wondered whether the non-compliance mechanism should be activated. One delegation underlined the commitment to provide additional financial resources to the Fund and asked to be informed how that commitment was followed up in the respective countries. It also pointed to the need for a common understanding or definition of what was meant by "additional". Some delegations complained about the slowness of administrative procedures and the large expenditure on consultants by UNDP and the World Bank.

60. One delegation felt that reporting by the Executive Committee to the Parties should be more frequent than once a year. Another delegation suggested that all documents emanating from the Executive Committee should be circulated to all countries, since even those countries which had not yet become Parties were, in fact, potential Parties and should be familiar with the working of the Financial Mechanism and the Executive Committee. The

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Chief Officer said that processes would be speeded up: the reports of the first four meetings of the Executive Committee had been placed before the Parties at their Meeting in Nairobi in June 1991; the report of the fifth meeting in November 1991 had already been sent to them and, in the very near future, they would receive the report of the sixth meeting held in February 1992. He said that the normal procedure, which he intended should be followed at future meetings, was for the Executive Committee to approve its report at the meeting to which it related, rather than leaving it to the next meeting.

61. The Chairman of the Executive Committee, responding to the points made, said that the implementing agencies had to acquire knowledge regarding the countries studied and that process necessarily consumed some time. The pace of the implementing agencies was constantly improving and he expressed optimism concerning the improved effectiveness of the process in future. He mentioned that it was for the Implementation Committee, not the Executive Committee, to decide whether contributions were being paid in full accordance with the Amended Protocol and the decisions of the Parties.

62. The Secretariat pointed out, in answer to a question from the floor, that the Interim Multilateral Fund had been established for a three-year period or until the Financial Mechanism was established. As soon as enough Parties had ratified the Amended Protocol, the establishment of the Financial Mechanism would be placed before the Parties for their consideration.

63. The delegations of a number of developed countries said that their countries' contributions would be paid in the near future, several of them pointing out that lengthy budgetary procedures had to be followed. One representative said that an amount on the list shown as outstanding had been disbursed bilaterally by his country. Another said that its country's contribution had been delayed because it did not have information from the Fund secretariat regarding the progress of the meeting of the Executive Committee. The Chief Officer of the Fund responded that such information had been made available to all the Parties to the Protocol in the form of reports and assured the meeting that there would be a prompt flow of information in the future also.

64. Another representative said that his own country, which had already paid its assessed contribution, had certain characteristics typical of developed countries and others more similar to those of developing countries. He suggested an intermediate category of countries.

65. The delegations of two countries stated that it was impossible for them, whose economies were in transition, to pay the contributions for which they had been assessed, the more so as they had to remedy serious environmental damage. Understanding of those temporary problems was expressed by some delegations. According to the delegations expressing difficulty, there was no recognized United Nations definition of developed and developing countries but there were several lists in existence, the UNDP one being probably the most objective. The UNDP criteria might, perhaps, be used for the Montreal Protocol but, in any case, a more objective classification was needed. Those countries suggested that their contributions could be used to assist their own compliance with the Protocol. One delegation of a country not operating under Article 5, paragraph 1, suggested that a draft amendment or a draft decision be envisaged to the extent that those countries be exempted from contributing to the Fund. One delegation mentioned that those countries could also seek assistance from the European Bank for Reconstruction and Development.

66. One delegation of a developing country inquired what the situation would be if a Government that had already paid a full contribution to the Fund subsequently made a bilateral disbursement and whether it would be carried forward to the following year as a credit towards that year's contribution. As for regional contributions, it should be clarified in which

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proportion the members of the regional group would be credited for such contributions. That delegation also suggested that the percentage of bilateral contribution, which could be set off against the assessed contributions to the Multilateral Fund, be increased, as such bilateral efforts would yield quicker results than the efforts through the Fund and the World Bank. In response to the latter suggestion of that delegation, some delegations opposed such an increase because bilateral efforts would concentrate only on certain countries and the smaller countries would be deprived of the benefits.

67. One delegation asked for clarification on several legal issues: (i) whether the Parties were prepared to recognize "countries in transition" as a specific category which could be exempted temporarily from the obligation of contributing financially or in kind to the Fund, and, if so, whether a decision of the Parties was sufficient or whether an amendment to the Protocol to that effect, presented at the current session of the Working Group, would be necessary; (ii) which countries operating under Article 5, paragraph 1, of the Protocol would be entitled to receive support from the Fund after the entry into force of the Amended Protocol; (iii) whether the volume of the Fund would be increased automatically by the ratification or of accession to the Amended Protocol by some countries operating under Article 5, paragraph 1, or whether a decision to that effect by the Parties was needed; and (iv) whether it had been the intention of the Parties that the increase in volume of the Fund up to \$US 80 million would be proportional and depend on the number of years (maximum three) for which a Party had been a Party to the Amended Protocol.

68. Another delegation asked whether a developing country, Party to the Protocol, which had not been operating under Article 5, paragraph 1, could be deemed to be a developing country operating under that provision once its consumption had fallen below the threshold figure of 0.3 kg per capita.

69. The questions raised by the two delegations were referred to the legal drafting group which replied that those matters were not covered by its terms of reference. The Secretariat stated that it was unwilling to give an opinion on those issues as the interpretation of the Protocol, and of the decisions of the Meeting of the Parties, was the right and responsibility of the Parties to the Protocol.

C. Identification of the most appropriate modalities for the transfer of technologies designed for the protection of the ozone layer

70. The Secretariat said that there had been no new development in the matter. The WIPO report cited in the note by the Secretariat (UNEP/OzL.Pro/WG.1/6/2) had ideas that had already been considered by the Parties at their London meeting. The text of the GATT agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) was not yet finalized.

71. A number of delegations emphasized the importance of the transfer of technology for compliance by the developing countries with their commitments under the Protocol. Several of them stated that all impediments to the transfer of technology must be removed, and referred to the need for action by the Governments of the developed countries in that regard. Others referred to the cost of patents and licences and expressed the fear that developed-country private suppliers might misuse their monopoly status by either refusing to transfer the technologies or by overcharging for the transfer. One delegation felt that the Montreal Protocol should show the way in making the environmentally beneficial technologies available to all by considering in a more flexible fashion the existing intellectual property regime.

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72. Another delegation suggested that ozone-friendly technologies should be acquired by the Fund and made available to all who required them. That delegation also suggested, in particular, that ozone-friendly technologies be divided into the two categories of publicly-owned technology and privately-owned technology and that, mainly in order to facilitate the transfer of privately-owned technology, Governments should purchase patent licences on commercial terms and transfer the technology in question to developing countries on non-commercial terms.

73. Yet another delegation suggested that it was the companies in developing countries that were in the best position to receive new technologies. Some delegations thought that the main suppliers of information regarding new technologies were the companies in developed countries. Several others thought that the UNEP information exchange system would be invaluable in that regard and one of them inquired whether it would be possible to incorporate into its database the WIPO State-of-the-Art Search Programme. Yet another delegation emphasized that the work being done in GATT on trade and environment should be watched carefully with reference to the trade provisions of the Montreal Protocol.

74. The Director of the UNEP Industry and Environment Programme Activity Centre (IE/PAC) said that a note on the "OzonAction Information Clearinghouse" (OAIC) had been circulated to the members of the Working Group and that a quarterly newsletter would be published. The reports of the assessment panels would also be published. She hoped that every country in a position to do so would supply information to OAIC and that the users would comment on the operation of the system so that it could be steadily improved.

D. Cooperation with Parties that are developing countries for the implementation of the Protocol

75. The Secretariat pointed out that developing countries which did not have Article 5, paragraph 1, status could, nevertheless, call for cooperation from existing United Nations organizations, such as the World Bank and UNDP, to implement the objectives of the Protocol. In answer to a question from the floor, it clarified that the Multilateral Fund was to finance the clearing-house function to assist the countries operating under Article 5, paragraph 1. The information would, however, be available to all the Parties.

76. The delegation of one developing country stated that the Montreal Protocol should be amended so as to extend the transfer of technology to all developing countries, whether or not they operated under Article 5, paragraph 1. In fact, the more developed developing countries had more environmental problems than the least developed countries.

E. Review and development of an indicative list of categories of incremental costs

77. A number of delegations of developing countries thought that institutional strengthening should be included in the indicative list. One of them wished to add three other items also: research and development on substitute substances, the early retirement of equipment and the evaluation of substitutes. Another said that the criterion for an incremental cost should be whether the cost would have been incurred in the absence of the Montreal Protocol.

78. Some delegations expressed concern about the cost effectiveness of strengthening national institutions. One recalled the agreement already reached that countries which did not contribute to the Fund should bear administrative costs but said it was not adverse to assisting with the funding of specific projects or international information centres such as the

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database in Paris. Another delegation advocated caution on the matter as institutional strengthening did not relate exclusively to operation of the Montreal Protocol.

79. The delegation of one developing country stressed that World Bank procedures for the execution of projects required a national implementing agency and a national financial intermediary in the beneficiary country; the operation of the Fund also involved a whole series of functions, not normally performed by the beneficiary countries, which involved strengthening of their structures.

80. The Working Group decided to discuss the matter further at its meeting in July 1992 in the light of further information from the Executive Committee of the Fund.

F. Criteria for future classification as a developing country for the purpose of the Montreal Protocol

81. The Secretary drew the meeting's attention to paragraphs 15, 16 and 17 of the note by the Secretariat (UNEP/OzL.Pro/WG.1/6/2). In the ensuing discussion, several delegations urged caution to avoid upsetting the balance achieved by the Parties to the Protocol. While one delegation stated it would be desirable to establish objective criteria on the matter, another advocated a flexible approach.

G. Reporting requirements in cases of transshipment of controlled substances

82. After a short discussion based on paragraph 18 of the note by the Secretariat (UNEP/OzL.Pro/WG.1/6/2), the Working Group concluded that the matter could be handled by a decision of the Parties and that no amendment of the Montreal Protocol was required for the purpose. The Working Group decided to submit an appropriate recommendation to the Meeting of the Parties.

H. Review of relevant articles in order to consider possible consequences of a Party operating under Article 5 that exceeds the consumption ceiling specified in the Article

I. Measures to clarify the situation of such a Party with respect to Article 2 control measures

J. Possible implications of a Party losing its Article 5 status if at the time a member of the Executive Committee

83. The Working Group considered those items jointly in the light of paragraphs 19 to 22 of the note by the Secretariat (UNEP/OzL.Pro/WG.1/6/2). The Secretariat explained the provisions in Article 5 of the Amended Protocol which already appeared to offer a solution to the problem. After a discussion, a small ad hoc working group was set up to examine the questions involved. It took the view that there was no need for an amendment to the Montreal Protocol to address the situation, which could be handled within the existing provisions and mechanisms. However, the Parties might need to give some guidance, possibly in the form of a clarification decision or explanatory statement, on the use of those provisions and mechanisms. The delegation chairing the small ad hoc working group offered to prepare the text of such a statement or decision for the Working Group's next meeting. The Working Group accepted that offer.

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IV. OTHER MATTERS

84. Several delegations requested that any adjustments and amendments adopted at the forthcoming Meeting of the Parties should be circulated promptly, to avoid delays in ratification. One of them said that the invitations to that Meeting should also be dispatched in good time.

85. The Secretariat announced that the next (seventh) meeting of the Open-ended Working Group of the Parties to the Montreal Protocol would take place from 8 to 17 July 1992 at the International Conference Centre (CICG), rue Varembe, Geneva, Switzerland. The Plenary Meeting would open at 10 a.m. on 8 July.

V. ADOPTION OF THE REPORT

86. The Working Group adopted the present report, on the basis of the draft report contained in document UNEP/OzL.Pro/WG.1/6/L.1 and its addenda, on 14 April 1992.

VI. CLOSURE OF THE MEETING

87. After the customary exchange of courtesies, the Chairman declared the meeting closed at 5 p.m. on 14 April 1992.

ANNEX

PROPOSALS FOR ADJUSTMENTS AND AMENDMENTS SUBMITTED BY PARTIES TO THE MONTREAL PROTOCOL AT THE SIXTH MEETING OF THE OPEN-ENDED WORKING GROUP OF THE PARTIES TO THE MONTREAL PROTOCOL, TOO LATE FOR CONSIDERATION BY THE LEGAL DRAFTING GROUP.

Proposal by Brazil

Add as a new paragraph at the end of Article 7:

"The provisions of this Article are to be understood also with a view to better defining responsibilities of both exporting and importing countries."

Proposal by Malta

That Article 5, paragraph 1, of the Protocol be amended in the sense that a developing country, Party to the Protocol, which had not been operating under Article 5, paragraph 1, could be deemed to be a developing country, operating under this provision, once its consumption had fallen below the threshold figure of 0.3 kg per capita.

Proposal by Netherlands

Add a new Article 5bis on the special situation of certain countries to read:

"The Parties, having considered a written request from a Party not operating under Article 5, paragraph 1, may exempt, as they deem it necessary, the Party concerned from any of the provisions of the Protocol."

Proposal by Sweden

The second sentence of Article 2(F), option 1, paragraph 1, shall read as follows:

"Such consumption shall be limited to uses specified in Annex F."

The following Annex shall be inserted after Annex E to the Protocol:

"Annex F

The use of HCFC shall be allowed only for:

1. Refrigeration, air-conditioning;
2. Insulating purposes in rigid polyurethane foam."

Proposal by the United Kingdom

Proposed additions to L.2/Rev.1 and L.2/Rev.1/Add.1

In Annex I (L.2/Rev.1, page 6) add:

"Article 2, paragraph 14

For the purposes of Articles 2A and 2B, import and export of the controlled substances referred to in those articles that have been recycled shall not be considered as consumption of those substances."

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In Annex II (L.2/Rev.1, page 11) add:

"Article 2, paragraph 14

For the words 'and 2B' there shall be substituted 'to 2E'."

In Annex III (L.2/Rev.1/Add.1, page 3) add:

"Article 2, paragraph 14.

For the words 'to 2E' there shall be substituted 'to 2[H]'."
