

I. Decision XVII/___: Preventing illegal trade in ozone-depleting substances

Mindful of the importance of preventing illegal trade for ensuring the smooth and effective phase-out of ozone-depleting substances,

Understanding the need of controlling both import and export of all ozone-depleting substances by all Parties, as required by the Montreal Amendment to the Montreal Protocol,

Recalling the provisions related to monitoring and control of trade in ozone-depleting substances contained in decisions VII/9, VIII/20, IX/8 and XIV/7,

Recognizing that there are already trade tracking systems established in other environmental conventions,

Mindful of the ongoing work on measures to address the illegal trade issue within the framework of the Strategic Approach to International Chemicals Management and of decision XXIII/9 of the Governing Council of the United Nations Environment Programme, on chemicals management, requesting the Executive Director of the United Nations Environment Programme to promote cooperation between the Montreal Protocol and certain other conventions in addressing international illegal trafficking of hazardous chemicals and hazardous wastes,

Acknowledging with appreciation the draft terms of reference for a study on the feasibility of developing an international system of tracking the movement of ozone-depleting substances between Parties produced by the Ozone Secretariat, as required by decision XVI/33,

Noting with appreciation the outcome of the workshop of experts from the Parties to the Montreal Protocol, organized by the Ozone Secretariat on 3 April 2005 in Montreal, on the development of specific areas and a conceptual framework of cooperation in preventing and combating illegal trade in ozone-depleting substances,

1. To approve the terms of reference for a study on the feasibility of developing an international system of tracking the movement of ozone-depleting substances between Parties, as presented in the appendix to the present decision, and to request the Ozone Secretariat to undertake such a study and present the results to the Eighteenth Meeting of the Parties to the Montreal Protocol in 2006;
2. To call on all Parties, including regional economic integration organizations, to implement comprehensive controls of imports, exports, re-exports (re-exports mean exports of previously imported substances) and transit of all ozone-depleting substances, including mixtures containing them, regardless of whether the Party concerned is or is not recognized as the producer and/or importer, exporter or re-exporter of the particular substance or group of substances;
3. To revise the reporting format resulting from decision VII/9 to cover exports (including re-exports) of all ozone-depleting substances, including mixtures containing them, and to urge the Parties to implement the revised reporting format expeditiously. The Ozone Secretariat is requested to prepare a standard format for reporting according to decision VII/9 that shall take into account the said revision. The Ozone Secretariat is also requested to report back the information received from the exporting/re-exporting Party to the importing Party concerned;
4. To urge Parties that export or re-export ozone-depleting substances to seek information from the importing country on the import license prior to issuing export or re-export license for the shipment concerned;
5. To encourage the Parties to introduce use controls and/or use bans for selected ozone-depleting substances that are used in particular sectors or in particular applications, and for products (including equipment) containing those substances, as this approach may effectively diminish illegal trade activities;

6. To encourage further networking and twinning activities in the framework of regional networks aimed at the exchange of information and experience on both licit and illicit trade in ozone-depleting substances between the Parties, including enforcement agencies.

Appendix

Draft terms of reference for a feasibility study on developing a system for tracking the movement of ozone-depleting substances between the Parties

1. Describe the logistical and regulatory steps necessary for the movement of bulk quantities of ozone-depleting substances from the point of production, via export, to final import for use and suggest an appropriate threshold for bulk quantities.
2. Describe important components that could usefully be included in an effective tracking system for the monitoring and control of trade in ozone-depleting substances between the country of export or re-export and the country of import.
3. Describe potential actions that could be used by Parties to assist in the tracking of bulk quantities of ozone-depleting substances as they move through the various steps from production to final import.
4. Examine whether any Parties already use tracking systems for ozone-depleting substances, in particular for transit trade, and whether this provides any useful lessons.
5. Examine how tracking mechanisms operate in other international agreements (such as the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, the Basel Convention on the Control of Trans-boundary Movements of Hazardous Wastes and their Disposal, the Convention on the International Trade in Endangered Species of Wild Flora and Fauna, the Convention on the Conservation of Antarctic Marine Living Resources and the Cartagena Protocol) and how they may or may not be useful models for the development of a system for tracking the movement of ozone-depleting substances in a manner that would assist in the efforts to reduce illegal trade. Examine costs and practical difficulties associated with tracking systems under the above mentioned international agreements in order to provide an estimate of the practical difficulties and costs with regard to implementation of a tracking system for ozone-depleting substances.
6. Describe sources of information, information requirements (such as: carrier, port of import/export/re-export/transit or transshipment, customs information on ozone-depleting substances being shipped including, *inter alia*, country of origin and declared producer name, country of final destination and declared purchaser/receiver name) and information flows that would be needed to enable an ozone-depleting substances tracking system to be successful in reducing illegal trade. Describe also the functional governmental or non-governmental units that would need to be involved in providing and monitoring such information, considering both centralized and decentralized systems. Investigate if there are any legal impediments, through, for example, confidentiality law or international trade law that would inhibit the assembly of needed information. Investigate implications of the World Trade Organization and Trade Related Aspects of Intellectual Property Rights agreements.
7. Communicate with five to seven producing country Governments and producers and international distributors in those countries as well as with five to seven re-exporting country Governments and international distributors in those countries (representing Parties operating under Article 5 and Parties not operating under Article 5) to get their views on the feasibility and cost of implementing a tracking system, and their views on whether such a system would impact on legitimate trade. Also communicate with the Governments and primary distributors in the two or three countries (representing Parties operating under Article 5 and Parties not operating under Article 5) responsible for the majority of the transit and transshipment of ozone-depleting substances to discuss the same matters.
8. Taking into account the above, describe, in an overview fashion, two or three likely workable options for tracking systems that would be useful in reducing illegal trade in ozone-depleting substances. Those options should describe the steps and actions that would have to be taken at the producer, distributor, governmental and Secretariat level to facilitate effective implementation of the system. Finally, estimates of the annual user Government, exporter/importer, Secretariat) costs and system-wide costs for implementation should be provided for each option.