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

Seventh meeting
Geneva, 8-17 July 1992

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

I. INTRODUCTION

1. The seventh meeting of the Open-ended Working Group of the Parties to the Montreal Protocol was held at the International Conference Centre, Geneva, from 8 to 17 July 1992.

II. ORGANIZATIONAL MATTERS

Opening of the meeting

2. The meeting was opened by Mr. W.H. Mansfield, Special Representative of the Executive Director, who read out a statement on behalf of the Executive Director of UNEP, Dr. Mostafa K. Tolba.

3. The Executive Director drew attention to the reports by the Assessment Panels, which showed that levels of depletion similar to those over the Antarctic region were now to be found over northern Europe, parts of North America, Australia, New Zealand and other populated areas. The prognosis, especially for human health, was grim. In addition, there was a growing threat to the food chain since ozone depletion affected the productivity of oceans, which had already declined and could worsen further.

4. In his statement, the Executive Director highlighted the concern expressed by some developing countries that they should not be asked to

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advance their phase-out schedules nor to assume commitments regarding more ozone-depleting substances until they could be sure that the provisions of the London Amendment concerning technology transfer and financial assistance were working satisfactorily. The developing countries were concerned that any advance in the phase-out dates by developed countries would oblige them to advance their own schedules because of the unavailability of the controlled substances. Developing countries considered that the transfer of substitute chemicals, the relevant technology and financial resources would have to take place much faster if advances were to be achieved. Article 5, as amended by the Second Meeting of the Parties, provided for a review of the situation of the Parties operating under Article 5, paragraph 1, not later than 1995, particularly with regard to the effective implementation of financial cooperation and transfer of technology. He hoped that the developing countries would choose to adopt the new technologies as early as possible.

5. As far as developed countries were concerned, the Executive Director referred to the concern expressed that the phase-out of controlled substances might be too rapid to allow industry to adjust. He emphasized that all the proposals had been made by sovereign States that were equally affected by the global recession and they were based on the conviction that the terms of the transfer to a new ozone-friendly technology could be met without economic upheaval. He shared the belief that a complete phase-out by 1995 was both desirable and possible and that the list of controlled substances should be expanded.

6. Concerning contributions to the Interim Multilateral Fund, in his statement the Executive Director noted with disappointment that only about one-third out of the agreed total of US \$133 million for 1991 and 1992 had been paid.

7. Finally, he asked the meeting to bear in mind the following elements: (i) the price of inaction during the 1970s was now being paid; (ii) even if all ozone-depleting chemicals were eliminated forthwith, their effects would still continue for many generations so it was urgent to take action without delay; (iii) the international agreements on ozone constituted a model that must be successful so as to show the international community that such a framework for action could deal with a serious global environmental threat once and for all.

B. Attendance

8. The meeting was attended by delegations from the following Contracting Parties: Argentina, Australia, Austria, Belgium, Brazil, Burkina Faso, Cameroon, Canada, Chad, Chile, China, Costa Rica, Denmark, Egypt, European Community, Finland, France, Germany, Ghana, Greece, Hungary, Iceland, Iran (Islamic Republic of), Ireland, Italy, Japan, Jordan, Kenya, Malaysia, Maldives, Malta, Mexico, Netherlands, New Zealand, Norway, Philippines, Poland, Republic of Korea, Russian Federation, Singapore, South Africa, Spain, Sweden, Switzerland, Thailand, Tunisia, Turkey, Uganda, United Kingdom, United

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States of America, Uruguay, Venezuela and Yugoslavia.

9. Delegations of the following countries, not Contracting Parties, also participated: Bolivia, Guinea, India, Iraq, Israel, Pakistan, Peru and Romania.

10. Representatives of the following United Nations' bodies and specialized agencies also participated in the meeting: United Nations Development Programme (UNDP), United Nations Environment Programme (UNEP), UNEP Industry and Environment Activity Centre (UNEP IE/PAC), Interim Multilateral Fund for the Implementation of the Montreal Protocol, World Bank, World Meteorological Organization (WMO) and the United Nations Industrial Development Organization (UNIDO).

11. The following intergovernmental organizations were also represented: the Commonwealth and the League of Arab States.

12. The following other organizations were represented: Air Conditioning and Refrigeration Institute, Alliance for Responsible CFC Policy, Allied Signal, American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE), Association of Methyl Bromide Industry, BASF AG, Dupont Canada Inc., Eastman Chemical Company, Elichem Synthesis, Eurobrom, European Council of Federations of the Chemical Industry (CEFIC), Friends of the Earth, Geneva International Peace Research Institute (GIPRI), Greenpeace, Halogenated Solvents Industry Alliance (HSIA), Halons Alternative Research Corporation, Halons Technical Options Committee, Industrial Technology Research Institute (ITRI), International Chamber of Commerce (ICC), International Council of Environmental Law (ICEL), International Council of Women, International Pharmaceutical Aerosol Consortium (IPAC), Japan Association for Hygiene of Chlorinated Solvents (JAHCS), Japan Automobile Manufacturers' Association (JAMA), Japan Electrical Manufacturers' Association (JEMA), Japan Flon Gas Association (JFGA), Japan Industrial Conference for Ozone Layer Protection (JICOP), Japan Refrigeration and Air Conditioning Industry Association (JRAIA), Massachusetts Institute of Technology (MIT), Methyl Bromide Global Coalition, Motor Vehicle Manufacturers' Association Inc. (MVMA/ICIA), Natural Resources Defense Council, Oxford University, Shanti Consultants Ltd. and Soroptimist International.

13. Three delegations made statements concerning attendance at the meeting and these are attached as Annex I.

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C. Organization of the meeting and adoption of the agenda

14. The following officers continued in office at the seventh meeting:

Co-Chairmen: Mr. S. Lee-Bapty (United Kingdom) and
Mr. J.A. Mateos (Mexico)
Vice-Chairmen: Mr. J.R. arap Lelei (Kenya)
Mr. H. Heron (Denmark)

15. The meeting adopted the following agenda, as contained in document UNEP/OzL.Pro/WG.I/7/1:

1. Opening of the meeting by the Executive Director.
2. Organization of the meeting and adoption of the agenda.
3. Substantive matters:
 - (a) Further consideration of the proposals for adjustments and amendments to the Montreal Protocol communicated to the Parties to the Protocol;
 - (b) Further elaboration of any remaining details of the various components of the Financial Mechanism;
 - (c) Review and development of an indicative list of categories of incremental costs;
 - (d) Criteria for future classification as a developing country for the purpose of the Montreal Protocol;
 - (e) 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; measures to clarify the situation of such a Party with respect to Article 2 control measures; and, status if at the time a member of the Executive Committee.
4. Other matters.
5. Adoption of the report.
6. Closure of the meeting.

III. SUBSTANTIVE MATTERS

A. Further consideration of the proposals for adjustments and amendments to the Montreal Protocol communicated to the Parties to the Protocol

16. Mr. Watson, Co-Chairman of the Ozone Scientific Assessment Panel, and Mr. Andersen, Co-Chairman of the Technology and Economic Assessment Panel, described the key findings of the synthesis report of the Methyl Bromide

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Interim Scientific Assessment and Methyl Bromide Interim Technology and Economic Assessment, which had been circulated to the participants prior to, and during, the meeting. The report stressed that the current state of scientific knowledge concerning bromine compounds in the atmosphere was considerably less developed than the corresponding understanding of chlorine compounds. However, recent studies had further strengthened the scientific evidence that the observed ozone depletion was in large part due to chlorine and bromine compounds. The evaluation of alternatives and substitutes to methyl bromide was still at an early stage, but technically and economically feasible technologies had been identified for many applications. The report explained the uses of methyl bromide and stated that annual production and sales in 1990 had amounted to approximately 63,000 tonnes. About half the methyl bromide used was emitted into the atmosphere, which implied an anthropogenic emission from fumigation applications of about 30,000 tonnes in 1990. The steady-state value of the ozone depletion potential (ODP) of methyl bromide was 0.7 and, because of its short atmospheric lifetime, its relative impact on ozone was expected to be much greater over the next decade or two than was indicated by its steady-state ODP. Elimination of the use of methyl bromide could provide ozone-layer protection equivalent to an advance of the CFC and carbon tetrachloride phase-out schedule of about 1.5-3 years. Although there was currently no single alternative to methyl bromide for its broad spectrum of applications, there were a number of alternative chemicals and procedures available for specific applications.

17. One delegation asked whether any studies had been undertaken on the risks involved in using substitutes and on the incremental cost. Mr. Andersen replied that the tables in the Interim Technology and Economic Assessment report before the meeting listed the advantages and disadvantages of the alternatives and any estimate of costs would depend on the circumstances of the substitute's use. Some of the alternatives and substitutes discussed in the report were now commercially available, others were in the developmental stage. Many governments had approved the substitutes after evaluating their environmental impact and more details could be obtained from those governments.

18. In response to a request for details on non-chemical alternatives, Mr. Andersen said that options such as integrated pest control, heat, cold and controlled atmosphere had been used to treat soil and to combat pests in stored commodities and structures. On a question regarding costs, he agreed that costs would depend on the local prices of inputs used for alternative techniques (such as natural gas), but in one instance the price of natural gas was higher in the country using the heat technique than in certain countries using methyl bromide (for example, the United States of America).

19. One delegation asked when effective substitutes for all the various uses of methyl bromide would be available and Mr. Andersen replied that substitutes were currently available for many uses but it was impossible to give an estimate at the current stage regarding all the uses. One country, the Netherlands, had indeed almost completely phased out all uses of methyl

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bromide for soil fumigation, and pilot experiments in New Zealand had proved that over 90 per cent of the methyl bromide used for quarantine fumigation could be captured and recycled.

20. The delegation of the Netherlands explained that the serious toxicity of methyl bromide had led to its phasing out for soil fumigation in the Netherlands and it had been replaced by steam treatment and cultivation of plants on a substrate. Those methods had proved cost effective in the context of the Netherlands. A small quantity of methyl bromide continued to be used in the Netherlands for quarantine and structural purposes. The Netherlands would welcome a study tour of interested experts from other countries to study the techniques adopted. Several delegations expressed interest in participating in the study tour in question.

21. In reply to another question, Mr. Watson said that the total bromine in the atmosphere was 15-20 pptv; methyl bromide contributed 9-13 pptv, and halons contributed 4-7 pptv. The abundance of the ozone-destroying BrO radical in the lower stratosphere was typically 4-10 pptv (i.e. a significant fraction of the total bromine).

22. In answer to a question regarding the difficulties of developing countries, Mr. Andersen stated that the developing countries would require time, technical assistance and funds to reduce and eliminate methyl bromide.

23. Regarding whether or not a clear trend had been observed in the atmospheric levels of methyl bromide, Mr. Watson replied that observational data for 1983-1992 revealed a trend in the northern hemisphere that was broadly consistent with the production data.

24. Replying to a series of questions raised, Mr. Watson said that: (i) the most likely explanation for the greater abundance of methyl bromide in the atmosphere in the northern hemisphere was the presence of a significant additional source; (ii) if there were additional loss mechanisms (e.g. removal on oceanic and terrestrial surfaces), the atmospheric lifetime would be less than two years; and (iii) when methyl bromide was used as a soil fumigant the efficiency of its removal depended on soil composition (porosity, water content, organic content, etc.).

25. Responding to a request for further information on substitutes and to an observation that no cost-effective substitutes were available, Mr. Andersen said that substitute chemicals and techniques to reduce significantly the use of methyl bromide for soil fumigation were already in use in some countries and that many had proved to be cost effective. Some alternatives existed for structural fumigation, but there were still a number of problems and further work needed to be done. In some countries, legislation specified that methyl bromide was the chemical to be used for a particular purpose and alternative chemicals might be approved in one country and not in another. Industry had not had sufficient time to publicize alternatives. The regulatory barriers to alternative chemicals needed to be removed. Exchange of experience among countries would be beneficial.

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26. One delegation asked what type of surface-based network could be used to monitor changes in the atmospheric abundances of methyl bromide, and Mr. Watson replied that work on the absolute calibration of methyl bromide was needed first, and then existing networks could be used in order to obtain an improved database.

27. Another delegation wondered why there was such a wide disparity in the estimates of the amount of methyl bromide used for soil fumigation that could be substituted and Mr. Andersen, in response, stated that the range in estimates of 30 to 90 per cent was attributable to the fact that the experts consulted held differing views.

28. In response to a question on how long methyl bromide had been extensively used as a fumigant, a representative of the methyl bromide industry replied that widespread use had commenced in the 1950s and had continued to increase steadily.

29. Explaining the basis for the calculation that anthropogenic methyl bromide might be responsible for as much as 15 per cent of predicted ozone depletion during the decade of the 1990s, Mr. Watson said that the relative ozone-depleting efficiencies of bromine and chlorine (40) had been used in conjunction with the "likely" changes in chlorine and bromine atmospheric abundances during the next decade (assuming growth in methyl bromide of 5-6 per cent per year). Mr. Watson also noted that if the goal was to minimize the chronic impact of halogen emissions then the equilibrium (steady-state) ODPs should be used. However, if the goal was to minimize ozone depletion over the next one to two decades (when ozone depletion and the atmospheric levels of chlorine were expected to peak) then a 10-20 year time horizon ODP should be used.

30. One delegation noted that the report contained no reference to emission of methyl bromide from production facilities. Mr. Andersen replied that no data on such emissions had been collected.

31. Mr. Watson agreed with the view expressed by one delegation that the pattern of emission broadly followed that of production. One delegation asked how emissions from natural sources could be quantified and Mr. Watson replied that concentrations of methyl bromide in the ocean and just above its surface could be measured, and the net emission rate deduced, but data had to be collected over a wide range of conditions and the task could take a few years.

32. Mr. Watson then mentioned that the results of recent studies by American and European scientists in the Arctic and northern mid-latitude regions had reinforced the major conclusion of the Scientific Assessment Panel Report of 1991, i.e. the weight of scientific evidence suggested that the observed ozone depletion was in large part due to anthropogenic chlorine and bromine. That conclusion was based on the presence of high abundances of chlorine monoxide radicals, not only in the middle and high latitudes but also in some sub-

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tropical areas. Mr. Watson also mentioned that not all HCFCs were equal. Those with short atmospheric lifetimes (e.g. HCFCs 123 (2 years) and 124 (7 years)) were more environmentally benign (with respect to ozone depletion and global warming) than those with longer atmospheric lifetimes (e.g. HCFC 22 (16 years) and 142b (23 years)). Therefore, in view of the moderately long lifetimes and global warming potential of HFCs (134a - 16 years; 125 - 41 years; 143a - 64 years), governments might want to consider those points prior to encouraging the substitution of all HCFCs by HFCs.

33. The Executive Director introduced his Note on Adjustments and Amendments to the Montreal Protocol (UNEP/OzL.Pro/WG.I/7/3). He said that the document was the result of extensive consultations with the authors of various proposals. Scientific assessment had shown that phase-out needed to be advanced significantly. He had therefore proposed 1996 for all the substances in Annexes A and B, with the exception of halons. Halon production could be phased out by 1994 and the halon banks utilized for any needed use. Consumption could be phased out by 1995. The intermediate reduction was proposed in order to encourage immediate positive steps and in view of the beneficial effects on the ozone layer. He had proposed that methyl bromide should be listed as a controlled substance, but he drew attention to the fact that in developed countries it was mainly used for soil fumigation, for which substitutes existed, while in developing countries the main use was for quarantine fumigation, for which satisfactory substitutes did not exist. A further study was required to identify the substitutes.

34. Regarding the obligation of Parties under Article 5, it was disappointing to note that financial resources were at a low level and contributions pledged by countries not operating under Article 5, paragraph 1, were not being paid promptly. Furthermore, there was not yet sufficient information on the transfer of technology. He therefore proposed that application of any further adjustments and amendments to Parties operating under Article 5, paragraph 1, should await the review in 1994 of the implementation of the provisions of the London Amendment on technology transfer and financial resources.

35. Concerning the proposals regarding countries with "economies in transition", the Executive Director suggested that the relevant language adopted after lengthy consideration by the United Nations Conference on Environment and Development should be followed. He also proposed that no Party should be exempt from the control measures. Any temporary relief from payment to the Multilateral Fund for such countries could be given by an annual decision of the Parties, providing that other Parties not operating under Article 5, paragraph 1, agreed to assume the resulting financial burden.

36. The meeting proceeded to discuss the Note by the Executive Director section by section.

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A. Annex A, group I (CFCs)

37. A large number of delegations endorsed the Executive Director's proposal to fix 1 January 1996 as the date for 100 per cent phase-out of CFCs. However, some other delegations proposed that the date should be 1 January 1995. Several delegations spoke against the proposal for an 80 per cent reduction by 1994, although one delegation considered that it had some merit and some other delegations proposed a 70 per cent reduction by 1994. Many delegations expressed doubt regarding the need for intermediate targets, although one delegation stressed their beneficial effect on the ozone layer.

38. Concerning criteria for the definition of essential uses, a number of delegations expressed the view that there were very few, if any, essential uses. Some delegations considered that a date should be set for final phase-out, including essential uses, and one delegation proposed that, in the interim, a ceiling of 5 per cent should be set for essential uses. Two delegations emphasized that it was important for the Open-ended Working Group to consider the recommendations of the Technology and Economic Assessment Panel on essential uses before they were considered by the Meeting of the Parties in 1993. One delegation urged the adoption of essential uses as soon as possible so as to give a clear signal to industry, but some other delegations considered that essential uses should be adopted as late as possible in order to make the list of such uses as short as possible.

39. Several delegations drew attention to the implications of adjusting the phase-out date for developing countries and considered that new adjustments and amendments should only apply to developing countries after a review by 1995. One delegation suggested that a study should be made of the extent to which the needs of developing countries could be met by domestic production, recycling and imports. A number of delegations drew attention to the need to ensure supplies to developing countries during the grace and phase-out periods.

40. One delegation, a Party not operating under Article 5, paragraph 1, said that it would not be in a position to implement the phase-out dates proposed by the Executive Director for the controlled substances.

41. The meeting established an informal subcommittee to consider a list of essential uses, proposed by one delegation, develop criteria to be used when identifying essential uses, make recommendations on the procedure and timetable to be followed and consider the political resolution of some of the amendments proposed in the light of their recommendations. One delegation emphasized that the Sub-Committee on Essential Uses should exclude halons from its deliberations since criteria for essential uses of halons had been developed by the Halons Technical Options Committee.

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B. Annex A, Group II (Halons)

42. The Chairman of the informal halon working team established to discuss international halon banking briefly summarized the team's main conclusions. The team did not consider that a physical halon bank as such was required internationally but information exchange on the availability and demand for recycled halons should be improved. The team emphasized that international trade in recycled halons played an essential role in satisfying the world's need for halons. It considered that the earliest technically feasible date for the phase-out of halons would be 1 January 1994, although it was likely that production in developed countries would cease before then. The team was of the opinion that the date for phase-out of production and consumption should be the same. Finally, it expressed the view that, even though the recycled material was available, the door should not be closed to provision for essential uses.

43. Several delegations supported the view that the phase-out date for consumption and production should be the same, but some delegations proposed that the date should be 1 January 1996. One delegation considered that recycled material should be available only for essential uses. Another delegation considered that it should be available for all uses to avoid production. A number of delegations emphasized that any decision on trade in recycled materials would depend on a solution being found to the problem of dumping.

C. Annex B, Group I (Other Fully Halogenated CFCs)

44. It was agreed that the remarks made by the delegates regarding CFCs (Annex A, Group I) applied also to the substances in Annex B, Group I.

D. Annex B, Group II (Carbon Tetrachloride)

45. There was a general opinion in favour of the time-schedule suggested for an earlier phase-out, though some delegations doubted the need for an interim target. The issue of essential uses should be decided upon, along with the essential uses for other controlled substances.

E. Annex B, Group III (Methyl Chloroform)

46. One delegation said that methyl chloroform had uses that might be required after 1996. They were low-volume, high-value applications that related to human safety. No decision could be taken, therefore, until the results of the negotiations on essential uses were known. That delegation, like several others, could see no point in establishing interim phase-out dates.

47. Another delegation said that so many different proposals regarding methyl chloroform had been submitted at the previous meeting of the Working Group that, at the time, it had requested that the Scientific Assessment Panel carry out a chlorine loading sensitivity analysis. The technological

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situation was different from that of CFCs, methyl chloroform having become a controlled substance only two years previously. There was a danger that industry might replace it by toxic chemicals. Another delegation, which had proposed, during the sixth meeting, the year 2000 as the phase-out date, said that it could consider the earlier date of 1996.

48. The Chairman of the Scientific Assessment Panel said that there could be significant reduction in chlorine loading through fulfilling interim targets, in the case of methyl chloroform, as indeed, in those of other controlled substances and illustrated the reduction by means of an example. Some delegations supported that view.

Amendments

A. HCFCs and HBFCs

49. One delegation said that those were two huge groups of chemical with very varied ODP values and that some of them were very valuable ones (e.g. HCFC 22) with no known substitutes. It suggested that they be separated into two groups, those with high ODP values, which should be phased out earlier, and those with low ODP values phased out later.

50. Several delegations concurred, commenting that HCFC 22 had the dual role of a transitional substance and a future controlled one. If its phase-out date were too close, industry in the developing countries would not use it as a transitional substance.

51. Yet another delegation suggested a division into three separate categories, each with different dates to phase out both production and consumption: HCFC 141B by 2002; HCFCs 22 and 142B in new equipment by 2010 and, for servicing existing equipment, by 2020; HCFCs 123, 124 and 225 in new equipment by 2015 and for servicing existing equipment by 2030. It did not, however, favour the use of a cap.

52. A number of delegations were in favour of a cap on consumption and production. One of them thought that the figure of 3 per cent, suggested by the Executive Director, was too low, while several others thought it was too high. They pointed out that, while HCFCs were needed as transitional substances, HBFCs were not needed and could be banned in the very near future. It would be preferable to have a list of accepted uses rather than essential ones. Some delegations reiterated the proposals made by them at the sixth meeting.

53. The Chairman of the International Halon Banking Committee said that there was a possibility that HBFCs would have a role in halon replacement.

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B. Methyl bromide

54. The representative of a non-governmental organization said that methyl bromide would be particularly dangerous over the next 10 to 20 years and must be phased out forthwith. There should be no exemption for quarantine fumigation. In general, the essential-uses loophole must be stopped in that and all other cases, lest phasing out become a sham.

55. Many delegations, of both developing and developed countries, considered that methyl bromide was absolutely essential for quarantine fumigation and extremely important for other uses such as soil fumigation and fumigation of grain and fruit in storage. Any ban on the chemical would be a serious blow to the international trade in agricultural commodities. In terms of lifetimes, there was no similarity between CFCs and halons, on the one hand, and methyl bromide, on the other. While the chemicals in the former category had lifetimes of up to a century, methyl bromide had a lifetime of two years only. Moreover, methyl bromide was a natural product which was soluble in water and reactive. The reasonable course was to have a study made to eliminate the scientific uncertainties and, in the meantime, to reduce emissions by the proper management of soil fumigation instead of imposing control measures. Some of those delegations suggested the establishment of an ad hoc working group on methyl bromide. One delegation proposed a number of specific points which should be studied, including management capacity to control emissions into the atmosphere from soil fumigation. Another delegation stressed the importance of carrying out the study in cooperation with the appropriate specialized agencies.

56. Several delegations said that a production and consumption freeze by 1995 was quite out of the question, since the use of methyl bromide for essential purposes was increasing rather than diminishing, especially in the developing countries.

57. One delegation said that it was in favour of a production and consumption freeze by 1995 and a complete phase-out by the year 2000, apart from exemption for quarantine uses. Another delegation said that some traded commodities were currently fumigated in the country of import, and noted the difficulties that could arise for exporting countries if controls on the consumption of methyl bromide did not take full account of that fact. The results of the detailed study proposed by the Executive Director and generally supported would, of course, determine the final decisions.

58. A number of delegations submitted a written proposal that further scientific investigation should be carried out to establish what proportion of the methyl bromide produced was anthropogenic and to quantify, in terms of uses, its emissions into the stratosphere; that a special group should be established to assess the economic impact of methyl bromide and the availability of viable substitutes; and that the results of both inquiries should be presented to the Meeting of the Parties in 1994. They also proposed, in connection with the use of methyl bromide in soil fumigation, that assistance be given in terms of training and the transfer of technology

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so that management methodologies could be rapidly implemented. Those proposals were supported by virtually all the delegations of developing countries that took the floor, many of them stating that the information available to date did not justify the listing of methyl bromide as a controlled substance, that little was known about the possible substitutes and the economic impact and the incremental costs had not been estimated. Several delegations of countries not operating under Article 5, paragraph 1, of the Protocol also supported those proposals.

59. One delegation said, with reference to the Executive Director's four proposals, that the second and the fourth, namely, a freeze by 1995 and a detailed study, should be adopted and decisions on phase-out plans postponed until further information was available as a result of the study. That proposal was regarded as acceptable by most delegations of Parties not operating under Article 5, paragraph 1, of the Montreal Protocol. Another proposal, that the principle of controlling methyl bromide should be accepted by the Parties at their Fourth Meeting but that the modalities should be deferred until the detailed study on methyl bromide was submitted, also attracted some support from delegations representing the same group of countries and from several delegations of developing countries.

60. Several delegations emphasized that the precautionary principle required that methyl bromide should be listed as a controlled substance, since the information already available made it clear that methyl bromide was an ozone-depleting substance which met all the criteria therefor. A number of delegations stated that very little methyl bromide was used in their countries for any purposes at all and one of them said it was not permitted for soil fumigation in its country, being replaced in part by crop rotation and in part by pesticides.

61. In reply to a suggestion that the countries operating under Article 5, paragraph 1, would be protected by the 10-year grace period, the delegations of several of those countries said that there were not many advantages to be obtained from the 10-year grace period unless a country concerned was a producer as well as a consumer.

62. The proposals made by two countries were subsequently combined in a text stating that each country should ensure that, for the twelve-month period commencing on 1 January [1995], and in each twelve-month period thereafter, its level of consumption/production of methyl bromide did not exceed, annually, its level of consumption/production in [1991] and that, at their meeting in [1994], the Parties should, in accordance with Article 6 and, in particular, based on an assessment made by the Technology and Economic Assessment panel, confirm or adjust the commencement year and the base year previously referred to. Owing to lack of time, that proposal could not be considered in full. However, some delegations reiterated that no control should be considered till a detailed study was complete.

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63. In reply to a question concerning the meaning of the square brackets in the combined proposal, one of the delegations sponsoring it replied that the years placed in square brackets were subject to modification at a later stage.

64. One delegation stated that a number of delegations of developing countries took the view that the combined proposal met their concerns to a limited extent only. They needed information on the scientific aspects of methyl bromide as a controlled substance but also on the economic aspects, with particular reference to the incremental costs involved. In response to a comment that the economic aspects would be covered by the Montreal Protocol, once methyl bromide became a controlled substance, that delegation replied that it was well aware of the fact but that, in view of past experience, the developing countries wanted the costs to be quantified.

C. Obligation of Parties under Article 5

65. One delegation stated that, in the view of a group of developing countries that had examined the Executive Director's proposal, it did not go far enough to meet their concern in that it proposed application of adjustments and amendments only after the review. It should reflect the language of Article 5, paragraph 8, of the Montreal Protocol while, at the same time, taking into consideration the performance and implementation actually achieved in those countries. Moreover, the review should be carried out in 1995 rather than in 1994.

66. A number of delegations of countries operating under Article 5, paragraph 1, supported that proposal, one of them pointing out that, while the Parties had the right to ratify the Copenhagen amendments or to refrain from ratifying them, there would be a problem in the event of adjustments being approved.

67. A number of delegations of countries not operating under Article 5, paragraph 1, found the Executive Director's proposal unnecessary, drawing attention to the fact that many provisions of Article 5 already met the concerns of the developing countries. Some of them stated that the proposal was unacceptable because it would make control measures applicable to some Parties only and not to others. The universal applicability of the control measures, subject to the grace period, was one of the Protocol's core elements, the other being the Financial Mechanism.

68. One delegation responded that different treatment of the two categories of Parties was inherent in the Montreal Protocol. The problem was one of convincing the developing countries that the provisions of the Protocol were working. It pointed out that, under Article 2 of the Protocol, if the developing countries rejected proposed adjustments, they would not come into effect at all.

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D. Countries with economies in transition

69. A number of delegations said that they agreed with the Executive Director's conclusions concerning both the proposed amendments. It was not possible to establish a third category of countries under the Montreal Protocol. If the Parties contributing to the Multilateral Fund wished temporarily to relieve certain among them from their contributions and assume their financial burdens, that could be done by a decision at a Meeting of the Parties and no amendment was necessary.

70. The delegation of South Africa said that it needed a postponement of the phase-out dates for a few years because of its circumstances. It could, however, withdraw its amendment in favour of the Netherlands amendment, which would meet its case.

71. The delegation of the Russian Federation said that, while it was ready to implement the obligations of the London adjustments and Amendment, it would require more time to fulfil the obligations which would be imposed by the adjustments and amendments currently being proposed. It therefore supported the Netherlands amendment (UNEP/OzL.Pro/WG.I/6/5, Annex). Another delegation concurred and yet another delegation supported that plea, although its country was not in the same situation.

72. The delegation of Hungary, referring to the Netherlands amendment, said that its concern could be covered by a decision of the Parties, as suggested by the Executive Director.

73. The delegation of the Netherlands said after some discussion that, in view of the conclusion reached by the Executive Director in his note and the ensuing exchange of views, it withdrew its amendment.

74. The delegations of South Africa and the Russian Federation stated that, since the delegation whose amendment they had adopted had withdrawn its proposal, they desired, under rule 37 of the rules of procedure, to reintroduce the proposed amendment by that country: they would however agree that any exemption from obligations would be temporary.

75. Several delegations, one of them speaking on behalf of the Group of 77 and China, said that the original amendment proposed by the initial delegation had been amended and withdrawn and had thus ceased to exist. One of them said that, while a proposal could, indeed, be reintroduced under rule 37 of the rules of procedure, it then came under the six-month rule set forth in paragraph 2 of rule 35 of the rules of procedure. That interpretation of the rules of procedure having been rejected by the Chairman, another delegation said that it wanted a ruling on the subject by the Legal Counsel of the United Nations.

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76. The Chairman said that, under his own interpretation of the rules of procedure, the proposed amendment would be submitted to the Fourth Meeting of the Parties.

77. Another delegation said that the London Meeting of the Parties had strengthened the Montreal Protocol. The current meeting of the Open-ended Working Group was sending the wrong signals and there was a danger that the Fourth Meeting of the Parties at Copenhagen would be seen as weakening the Protocol. The proposals would encourage non-compliance and severely damage the ozone layer. He urged the Parties to nip in the bud all such attempts by some Parties to evade their obligations and damage the ozone layer. Several other delegations concurred and one of them stated that the Netherlands amendment should be expanded to apply to all Parties and not merely to those not operating under Article 5, paragraph 1, of the Protocol.

78. Another delegation expressed the view that many statements had indicated the Parties' resolve to strengthen the Protocol through the tightening of phase-out dates, the addition of new substances, recovery and recycling initiatives and halon banking. That delegation was confident that the Fourth Meeting of the Parties would leave a legacy of decisive and responsible action.

E. Import and export of recycled controlled substances

79. Several delegations supported the Executive Director's proposal that recycled controlled substances should not be taken into account when calculating consumption. Some delegations supported the view that the Executive Director's proposal could be implemented through the adoption of a decision by the Parties reversing their previous decision taken at their First Meeting in Helsinki, regarding the treatment of used controlled substances as virgin material. Two delegations proposed that substances exported or imported for the purposes of recycling should not be taken into account either when calculating consumption. One such delegation emphasized that the trade in recycled substances must be reported under Article 7 of the Protocol and that, where alternatives were available, the recycled ozone-depleting substances should not be used. In addition, developed countries must set apart some percentage of the recycled substances to meet the needs for those substances of the Parties operating under Article 5, paragraph 1 of the Protocol. Another delegation said that import of recycled substances by countries operating under Article 5, paragraph 1, should be taken into account when calculating their base-year consumption. Yet another delegation said that the Technology and Economic Assessment Panel must study the global supply and demand of those substances and suggest appropriate policies.

80. The Open-ended Working Group agreed that the effects of any decision on the issue of determining consumption in the base year for countries operating under Article 5, paragraph 1, should be studied and that the Scientific Assessment Panel should review the impact of continuous use of recycled substance on the ozone layer and report to the Working Group not later than May 1993.

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F. Recovery/reclamation/recycling/destruction

81. A number of delegations endorsed the Executive Director's view that no amendment was necessary at the present stage. Several delegations indicated that they would introduce a draft decision to be taken by the Parties at Copenhagen for the promotion of recovery, reclamation and recycling of controlled substances. Several other delegations supported the proposal made by one delegation that the Technology and Economic Assessment Panel should also study leakage control. Some delegations pointed out that there would have to be appropriate provisions concerning countries operating under Article 5, paragraph 1, particularly with regard to transfer of technology for reclamation and recycling.

82. The Open-ended Working Group endorsed the proposal of the Executive Director and the suggestions made during the discussion.

G. Meeting the needs of Article 5 Parties for controlled substances during the grace and phase-out periods

83. In response to a request for an estimate of the amount of controlled substances required by countries operating under Article 5, paragraph 1, the Chief Officer of the Interim Multilateral Fund gave certain preliminary estimates.

84. The Open-ended Working Group requested the Executive Committee of the Interim Multilateral Fund to estimate the quantities of controlled substances required by countries operating under Article 5, paragraph 1, during their grace and phase-out periods, the extent to which the need could be met by existing production facilities and by recycling in countries operating under Article 5, paragraph 1, and the methods of meeting such needs in full, and to report through the Secretariat to the Fourth Meeting of the Parties. It also decided to recommend to the Fourth Meeting that such a process of estimation should be carried out on an ongoing basis. In view of that recommendation, the delegation of Brazil withdrew the amendment it had proposed to Article 2, paragraph 13.

H. Trade provisions (Article 4) for the new substances

85. The Secretariat, responding to a request for information on the compatibility of trade provisions under the Montreal Protocol with the provisions of the General Agreement on Tariffs and Trade, said that the GATT Secretariat had made no objection to the trade provisions of the Montreal Protocol. One delegation commented that, to date, there had been very little discussion in GATT on the subject. The Secretariat added that any measures should be proportional to the potential environmental threat and non-discriminatory between Parties and non-Parties. One delegation emphasized that the trade provisions of the Montreal Protocol ensured that that was the case and they had in fact been formulated on the basis of informal

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consultations with those concerned so as to be compatible with the provisions of GATT.

86. One delegation stated that its Government had not adopted a position with respect to the trade provisions for the new substances as the matter was still under consideration.

87. After concluding its consideration of the matters covered by the Executive Director's note (UNEP/OzL.Pro/WG.I/7/3), certain proposals contained in the Annex to the report of the sixth meeting of the Open-ended Working Group (UNEP/OzL.Pro/WG.I/6/5) were considered.

Proposal by Malta

88. After the Secretariat gave its understanding of Article 5, paragraph 1 of the Protocol, the delegation of Malta said it interpreted that Article to mean that, once a developing country, Party to the Protocol, which had not been operating under Article 5, paragraph 1, had reduced its consumption below the threshold figure of 0.3 kg per capita, it would be deemed to be operating under that provision. If no delegation challenged that interpretation, it would be able to withdraw its proposal. As there was no challenge to the interpretation of Article 5, paragraph 1, the delegation of Malta withdrew its amendment.

89. One delegation inquired what the implications would be for the Multilateral Fund since, in due course, every Party would reduce its consumption below the threshold figure.

Proposal by Brazil

90. The Secretariat stated that, at its sixth meeting, the Working Group had concluded that the reporting requirements in cases of transshipment of controlled substances could be handled by a decision of the Parties. It had thus decided to submit an appropriate recommendation to the Meeting of the Parties (UNEP/OzL.Pro/WG.I/6/5, para. 82). It had, however, omitted to do so and the Brazilian proposal was designed to fill the gap. The Secretariat thus suggested that the following text should be transmitted to the Parties:

"In cases of transshipment of controlled substances through a third country (as opposed to imports and subsequent re-exports), the country of origin of the controlled substances shall be regarded as the exporter and the country of final destination shall be regarded as the importer. In such cases, the responsibility for reporting data shall lie with the country of origin as the exporter and the country of final destination as the importer. Cases of import and re-export should be treated as two separate transactions; the country of origin would report shipment to the country of intermediate destination, which would subsequently report the import from the country of origin and export to the country of final destination, while the country of final destination would report the import."

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91. The Working Group decided to recommend that text to the Meeting of the Parties. The delegation of Brazil then withdrew its amendment to Article 7.

Report of the Sub-Committee on Essential Uses

92. The Chairman of the Sub-Committee on Essential Uses introduced its report (UNEP/OzL.Pro/WG.I/7/L.3). There were three sets of square brackets in the report, due to differences of opinion in the Sub-Committee.

93. A number of delegations suggested that the Working Group should simply endorse the Sub-Committee's report as it stood. Several others expressed concern at the third criterion for essential use in the first paragraph, first-subparagraph of page 2 of the Sub-Committee's report, namely "well-being (encompassing cultural and intellectual aspects) of society". After some discussion, it was decided that those words should be placed in square brackets. One delegation stressed that the criterion "economically feasible" should be applied in the light of the urgency and essentiality of protecting and restoring the ozone layer.

94. One delegation inquired whether the third subparagraph on page 3 referred to recycled material. The Chairman of the Sub-Committee informed it that the reference was to recycled and unused quantities of the substances. In reply to another question, he stated that the availability of alternatives and substitutes might depend on their regulatory status, hence the reference in the last paragraph of page 3.

95. The delegation of Japan said that, having seen the report, it was prepared to withdraw the three proposed amendments that it had submitted regarding essential uses. The delegation of Canada said that it was prepared to accept a 1996 phase-out date for methyl chloroform on similar grounds and withdrew its proposal for a phase-out by the year 2000.

96. On the Chairman's suggestion, the Working Group decided to adopt the Sub-Committee's report by consensus, mentioning that a number of delegations had concerns which they would reiterate when the matter was reopened for the elimination of the square brackets.

Draft report of the informal halon working team on international bank management

97. The chairman of the informal halon working team on international bank management introduced its draft report. Having first given an account of its draft conclusions and recommendations which, it was decided, would be attached to the Working Group's report as Annex II, he referred to the background, mandate and composition of the team, the report it had received from the Halons Technical Options Committee and the reports on national halon bank management programmes provided by members of the team.

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98. The team had discussed the special needs of the developing countries, problems with identifying sources of available recycled halon, essentiality as a condition of transfer, the need for destruction of severely contaminated or unwanted halons, the need to assist the developing countries in establishing banking programmes and the assistance that UNEP IE/PAC could provide.

99. The chairman of the informal halon working team added that the team would not meet again but would finalize the report by correspondence and send it to the Secretariat for circulation before the Meeting of the Parties.

100. One delegation inquired how the proposed halon advisory committee would relate to the Halons Technical Options Committee. The chairman of the team replied that the latter Committee was convened once every two years and that, moreover, the proposed committee should comprise both experts and government representatives.

101. One delegation took the view that, as halon production could be halted as soon as an international bank was operating, it was very important that the international halon bank should become operational as soon as possible.

102. Several delegations having stated that it was difficult to consider the draft report without having a written text, the Working Group decided to note with appreciation the work carried out by the team and to await the receipt of the final report before making detailed comments.

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

103. The Secretariat introduced its Note (UNEP/OzL.Pro/WG.I/7/2) on the establishment of the Financial Mechanism under Article 10 of the amended Montreal Protocol. It pointed out that there was a typing error in the penultimate line of paragraph 9: the correct dates were 1994-96.

104. One delegation, referring to paragraph 7, pointed out that the Executive Committee of the Interim Multilateral Fund had not approved the requirements for 1994-96, which was the task of the Parties, but had taken note of them. Moreover, it did not consider that the increase of \$40 million could be absorbed in 1993 alone.

105. The Chief Officer of the Interim Multilateral Fund summarized the activities of the Executive Committee of the Interim Multilateral Fund, referring to the annex to document UNEP/OzL.Pro.3/Bur/1/2/Rev.1. At its next meeting, the Executive Committee hoped to consider a number of country programmes, and investment projects from countries operating under Article 5, paragraph 1. Although the Committee could approve investment projects, their implementation would not start until the financial resources were available.

106. The Chairman announced that since there was no response by delegates to the Note by the Secretariat, he was declaring that the Open-ended Working

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Group recommended that the Fourth Meeting of the Parties should adopt the terms of reference as recommended by the Executive Committee, that the amount of the Fund for 1994-1996 should be \$500 million, as recommended, and that the location of the Fund Secretariat should be Montreal, Canada.

107. Some delegations, however, mentioned that the Chairman had not noticed their earlier signals to take the floor on the subject and expressed the view that they were in no position to commit their Governments on the basis of documentation which had only just been received and which required to be studied further. Any such decisions would have to be made by the Parties at their Fourth Meeting. The most that the members of the Open-ended Working Group could do was to take note of the information they had received and transmit it to their Governments. A number of delegations added that there could be no question of increasing the size of the Fund until existing contributions had been fully paid up.

108. One delegation made a statement on behalf of the States members of the European Community present at the meeting. Having emphasized that they were fully committed to the agreement, reached in London in June 1990, on the establishment of a financial mechanism to meet the agreed incremental costs that developing-country parties to the Montreal Protocol acting under Article 5, paragraph 1, would incur in complying with their obligations under the Protocol, it said that the States in question had various concerns about the operation of the Interim Financial Mechanism established by decision II/8. It was essential that the Protocol should have an efficient and effective financial mechanism in which all the Parties could have full confidence; the Interim Financial Mechanism had not yet, in their view, passed that test. There were other options such as the Global Environment Facility which had emerged from recent environmental conventions.

109. Although the Executive Committee had worked hard to make the Interim Financial Mechanism a reality, the States in question were particularly concerned at the slow progress made in approving projects to phase out ozone-depleting substances. They thus welcomed the Executive Committee's decision to establish a subcommittee to report to it on ways of improving the implementation of investment projects.

110. While the Secretariat had provided a useful note on the establishment of the financial mechanism (UNEP/OzL.Pro/WG.I/7/2/Rev.1), it had been received very recently and was still being considered in the various capitals. The States in question thus proposed that the Secretariat should prepare a further note on those issues, taking account of the Executive Committee's response to their consensus and of the outcome of the review of the implementation of investment projects that the Committee had initiated. That note could then be considered at a further meeting of the Open-ended Working Group in late October or early November 1992.

111. Another delegation said that the Executive Committee had decided to establish a subcommittee to review the situation of payment for the projects

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already approved. The problem related solely to the World Bank, since UNEP and UNDP were making the payments without difficulty. In other words, it was a procedural or bureaucratic problem within the World Bank which, according to officials of the World Bank, was well on its way to resolution. The Executive Committee had never expressed any dissatisfaction with its own operational procedures. While it would, no doubt, be useful if the Open-ended Working Group could review the situation prior to the Fourth Meeting of the Parties, it was doubtful whether much new information would be available and, in the meantime, there was a recommendation to be submitted to the Parties.

112. Several other delegations expressed general support for that statement but thought that the main problem was one of unpaid contributions.

113. Another delegation said that, while it was in favour of any attempt to improve the financial mechanism, it strongly supported the balanced agreement reached in London and felt that anything which might upset that delicate balance was to be avoided. If it were necessary to review the situation again before the Fourth Meeting of the Parties, the solution might be to hold a five-day Preparatory Meeting in Copenhagen rather than the four-day one provided for.

114. Several other delegations said that the statement by the delegation speaking on behalf of the States members of the European Community present at the meeting meant that no meaningful discussion could be held in the Working Group, for which no further meeting was scheduled before the Fourth Meeting of the Parties. They strongly supported the recommendations to the Fourth Meeting of the Parties as already announced by the Chairman. They recalled that many developing countries, including the two largest, had been encouraged to accede to the Montreal Protocol by the establishment of the Multilateral Fund. One of them added that certain developed countries were backtracking and breaking their promises, using the Executive Committee as a scapegoat for their failure to pay their contributions.

115. The Secretariat said that no further meeting of the Open-ended Working Group was planned before the Fourth Meeting of the Parties. The Preparatory Meeting in Copenhagen would have many issues before it, including the report of the Open-ended Working Group. As for the further note requested by the European Community, it was by no means clear what its contents would be since the subcommittee constituted by the Executive Committee would not deal with the issues on which a decision by the Fourth Meeting of the Parties was required. Any proposals received from any Party for communication to the Fourth Meeting of the Parties, if received well in advance by the Secretariat, would of course be placed before the Meeting of the Parties.

116. In response to the statement made on behalf of the States members of the European Community present at the meeting, one delegation, speaking on behalf of the Group of 77 and China, stressed that they respected and abided by the decision taken and announced by the Chairman.

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117. Following further extensive discussion on the matter, the Open-ended Working Group adopted the following decision:

"1. The Open-ended Working Group calls upon the Parties to reaffirm, at their Fourth Meeting, their commitments made at their Second Meeting held in London in June 1990 and recommends that the following decisions be taken at their Fourth Meeting with regard to the Financial Mechanism under Article 10 of the amended Montreal Protocol:

- (a) to establish the Multilateral Fund provided for in Article 10 of the amended Montreal Protocol;
- (b) to adopt the terms of reference for the Multilateral Fund and Executive Committee, as recommended by the Executive Committee of the Interim Multilateral Fund at its seventh meeting (Doc. UNEP/OzL.Pro/ExCom.7/30);
- (c) to locate the Multilateral Fund Secretariat at Montreal, Canada.

2. Further, the Open-ended Working Group recommends that, with a view to ensuring continued and effective operation of the Financial Mechanism under the Montreal Protocol, the Parties should review, by 1995 at the latest, the operation of the Financial Mechanism and the conditions necessary for its continued and most effective functioning consistent with the provisions of Article 10 of the amended Montreal Protocol.

3. Recognizing that the Fourth Meeting of the Parties has to decide upon the size of the Multilateral Fund, the Open-ended Working Group takes note of the figures presented in document UNEP/OzL.Pro/WG.I/7/2/Rev.1 and recommends that the Parties should decide upon this question in the light of these figures and other available information."

118. One delegation, speaking on behalf of the States members of the European Community present at the meeting, emphasized that they were unable to take a position on the recommendation at the present stage. In the interests of consensus, they had refrained from objecting to the adoption of the decision but, if a vote had been taken, they would have had to vote against because of their instructions. Two other delegations concurred with that statement. Another delegation stated that it was not able to take a position. If a vote had been taken, it would have abstained.

119. Another delegation, speaking on behalf of the Group of 77 and China, reiterated their commitment to protection of the ozone layer. They had, therefore, viewed with trepidation the element of doubt raised regarding the future of the Fund. The Group of 77 and China considered that the decision taken by the Open-ended Working Group was by consensus and should be transmitted to the Parties without further discussion. They could not accept

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any change in the provisions regarding the Fund under Article 10 of the amended Montreal Protocol and held the view that the minimum amount of the Fund for 1994-1996 should be \$500 million.

120. Several other delegations expressed their dismay at the attitude adopted by a number of speakers, which boded ill for the future of the Multilateral Fund.

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

121. Some delegations expressed the view that support should be given for institutional strengthening, because it would enable the best use to be made of the financial resources available.

122. One delegation, while agreeing that institutional strengthening should be supported, also wished to reiterate the proposal made during the sixth meeting of the Open-ended Working Group, i.e. that three other items should be added to the indicative list, namely, research and development on substitute substances, the early retirement of equipment and the evaluation of substitutes.

123. The Secretariat said that the Executive Committee had already decided that institutional strengthening was covered by the indicative list. In the same way, with the exception of research and development on substitute substances, all the items proposed for inclusion in the list could be interpreted as covered.

124. The delegation concerned then proposed the following addition to the indicative list: 2(a)(vi) Research and development on substitute substances.

125. Another delegation proposed the following new subparagraph to replace subparagraph 2(c)(ii) of the indicative list:

"Cost of recovery, recycling, reclamation and destruction of ozone-depleting substances, including:

Cost of establishing new production facilities for recovery, recycling, reclamation and destruction equipment;

Cost of patents, designs and incremental cost of royalties;

Capital costs;

Cost of training, as well as the cost of research and development to adapt technology to local circumstances."

126. Several delegations took the view that the indicative list, which had been considered at some length in the Executive Committee, was sufficiently

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comprehensive to cover all known requirements and, at the same time, the language of the list gave scope for the Executive Committee to include new categories, as and when the need arose. The list was an indicative one and attempts to make it comprehensive might be counter-productive.

127. Another delegation, while concurring with the previous speakers, said that, if methyl bromide were to be added to the list of controlled substances, some further guidance might be required by the Executive Committee. Yet another delegation, which also supported the retention of the list as it stood, said that the Executive Committee had two useful reference documents on the definition of incremental costs, one prepared by the Secretariat (UNEP/OzL.Pro/ExCom/21 and Corr.1) and the other by the World Bank (UNEP/OzL.Pro/ExCom/7/Inf.4).

128. One delegation said that, prior to the Second Meeting of the Parties, an understanding had been reached that, since developing countries were not in a position to contribute to the Fund, they should meet the administrative costs of implementing projects, although the case of the least developed countries would have to be reviewed separately. A number of delegations stressed that all countries operating under Article 5, paragraph 1, were on an equal footing and that no attempt should be made to differentiate among them.

129. In reply to a question raised by a delegation, the Secretariat said that the appendices to decision II/8 applied only to the Interim Financial Mechanism and, when the Financial Mechanism was established, the Fourth Meeting of the Parties would have to decide on them afresh for the Financial Mechanism.

130. After some discussion, the Working Group decided that the additions to the list proposed by two delegations should be mentioned in its report and that the Executive Committee should be asked to consider, at its next meeting, the inclusion of those items in the indicative list and to make its recommendations to the Fourth Meeting of the Parties.

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

131. The Secretariat said that Article 5 of the Montreal Protocol referred to "developing countries" without defining them. Moreover, there was no generally accepted definition of the term, although several organizations of the United Nations system, such as UNCTAD, UNDP and the World Bank, had their own criteria. At the Working Group's sixth meeting, some delegations had stated that it was desirable to establish objective criteria on classification, while some others had feared that any such endeavour might upset the balance achieved by the Parties to the Protocol.

132. The observer for the World Bank said that the lack of a definition of the term "developing country" rendered it difficult for his organization to

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give assistance from the Global Environment Facility (GEF) to certain countries in connection with substances depleting the ozone layer. According to the World Bank's own criterion (a per capita income of less than \$4,000), many Eastern European and CIS countries qualified as developing ones but the consumption of controlled substances in some of those countries exceeded the limit specified in Article 5 of the Protocol. It would be only logical if all countries needing assistance in connection with ozone-depleting substances could obtain it under the Montreal Protocol.

133. One delegation said that it was highly likely that, in the near future, applications for Article 5, paragraph 1, status would be received from a number of the countries mentioned by the observer for the World Bank. It would be useful, therefore, if some objective criteria could be devised.

134. Some other delegations said that no recommendation by the Working Group was needed and, after a short discussion, it was decided that the Working Group would not make a specific recommendation on the issue.

E. 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; measures to clarify the situation of such a Party with respect to Article 2 control measures; and, status if at the time a member of the Executive Committee

135. A subcommittee chaired by Canada presented its report on the clarificatory decision proposed to the Fourth Meeting of the Parties. Two delegations basically concurred with the conclusions presented, but suggested that specific guidelines be included in the decision to eliminate fully the uncertainties that existed with respect to the status of a Party operating under Article 5, paragraph 1, exceeding the consumption limits specified in that Article. Several other delegations supported the conclusion that the non-compliance procedures in the Protocol were adequate to deal with the situation and expressed the view that such concerns would be fully addressed through the procedures.

136. After the discussion, the Working Group recommended the following clarificatory decision to the Fourth Meeting of the Parties:

"With regard to the question addressed by the Meeting of the Parties concerning the situation where a developing country that operated under Article 5, Paragraph 1, of the Protocol exceeded the maximum level of consumption of controlled substances in Annex A of 0.3 kg per capita, those situations were best considered on a case-by-case basis and the Montreal Protocol already had the necessary structures to deal with them.

The draft procedures on non-compliance and terms of reference for the Implementation Committee, as proposed by the Ad Hoc Working Group of Legal Experts on Non-Compliance with the Montreal Protocol to the Fourth Meeting of the Parties (UNEP/OzL.Pro/WG.3/3/3), would enable the

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Implementation Committee to address such a situation, with a view to securing an amicable solution, and make recommendations to the Meeting of the Parties as appropriate regarding inter alia such measures as reduction schedules and technical and financial assistance."

137. One delegation, supported by several others, cautioned the Parties against weakening compliance with the Protocol, though they did not object to the decision announced by the Chair in the interests of consensus.

IV. OTHER MATTERS

138. The Chairman said that the reports of two committees established by the Parties were currently available. He would invite the representatives of those committees to describe the reports, after which the members of the Working Group could ask them questions. Discussion of the reports would, however, be out of order, since the committees were not subject to the Working Group.

Report of the Implementation Committee

139. The President of the Implementation Committee, describing its report (UNEP/OzL.Pro/Imp/Com/3/3), said that the international community had pledged itself by the Montreal Protocol to remedy the damage to the ozone layer that man-made substances had caused. With full compliance by all the Parties, that task would take about 70 years. It was thus essential that there should be effective non-compliance procedures. The Implementation Committee had been established by the Parties to act as a non-judicial forum to settle disputes and find amicable solutions. That was an experiment which, if successful, would set a useful precedent for subsequent environmental agreements.

140. The Implementation Committee was currently operating under the procedure established by the Second Meeting of the Parties in June 1990. The Ad Hoc Working Group of Legal Experts on Non-Compliance with the Montreal Protocol had prepared a draft revised non-compliance procedure, a draft indicative list of possible situations of non-compliance and a draft indicative list of steps to be taken in cases of non-compliance. It remained to be seen, of course, what decisions the Fourth Meeting of the Parties would take on those issues.

141. The reporting duty under Article 7 of the Montreal Protocol, and to some extent under Article 9, was a very important one. The reporting process was, however, slow and many Parties failed to report their data on time or reported incomplete data. That meant, of course, that they were technically in non-compliance. It appeared that some developing countries had difficulties with the reporting procedure, presumably through lack of resources. It was surely not in keeping with the aims of the Montreal Protocol that such cases should be stigmatized as non-compliance. A solution to the problem might be found through a link, via the Ozone Secretariat, between the Implementation

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Committee and the Multilateral Fund, or the Committee could itself report to the Fund. That, again, was a question to be decided by the Parties.

142. Several delegations stated that their countries had submitted their data but were mentioned in the report as not having done so. One delegation said that the shortage of qualified experts, which was the cause of late reporting by Article 5, paragraph 1, countries, could be remedied by the establishment of training facilities. A number of delegations referred to the problem of customs codification numbers for ozone-depleting substances. Another delegation pointed out that the same problem arose in the case of products containing controlled substances and that it was necessary to establish a certification system to deal with it.

143. The Secretariat stated that some countries had reported their data after the Implementation Committee's report had been completed. The status of reporting would be updated for the Fourth Meeting of the Parties. If any column in the reporting form was left blank, rather than zero being inserted, the data were registered as incomplete. As for the customs codification problem, several years of negotiations with the Customs Cooperation Council had convinced the Secretariat that no international solution was possible. Many countries had found national solutions, however, and it would be helpful if the others would follow suit.

144. The delegation of a regional economic grouping wondered whether the Secretariat might need assistance in the matter and whether some strengthening of structures might be appropriate.

145. One delegation, referring to paragraphs 37 and 38 of the report of the Third Meeting of the Ad Hoc Working Group of Legal Experts on Non-Compliance with the Montreal Protocol (UNEP/OzL.Pro/WG.3/3/3), expressed disquiet at the situation depicted therein and said that the issue should have been included in the agenda for the Working Group's current meeting.

Report of the Ad Hoc Technical Advisory Committee on ODS Destruction Technologies

146. A member of a delegation, representing the Chairman of the Ad Hoc Technical Advisory Committee on ODS Destruction Technologies, described the Committee's report, drawing particular attention to the Executive Summary in pages 5 and 6. Having given a brief account of the Committee's composition and history, he mentioned that it had completed its work. The current document was thus its final report.

147. An exhaustive inventory of destruction facilities throughout the world had revealed that their capacity might be inadequate. A survey of all the available technologies had been made and six thermal oxidizing processes were recommended for approval. Among the Committee's other recommendations in its report (page 62) was that an ongoing advisory committee or subgroup on ODS destruction technologies should be established.

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148. A number of delegations having expressed disquiet at proposal 2 in page 63 of the Committee's report, the Working Group considered that informal consultations by the interested delegations with the representatives of the appropriate non-governmental organizations might produce a consensus approach to the issue of ODS as unintentional by-products.

Statements

149. One delegation said that the possibility should be considered of allocating resources within the Protocol system to carry out scientific research into the excess of ultra-violet radiation and its effects, resulting from the deterioration in the ozone layer.

150. Statements on various issues were made by three delegations. These statements are contained in Annex III.

151. The observer for a non-governmental organization expressed concern that financial commitments in respect of the Interim Multilateral Fund were not being respected. She stated that it was unacceptable for any country to oppose controls on methyl bromide because of perceived difficulties and expressed the view that developing countries should be assisted to eliminate all ozone-depleting chemicals without exception. She emphasized that international policy had failed to make the controls on ozone-depleting chemicals correspond to the need to protect the ozone layer and ozone-friendly technologies had been ignored. Essential uses should not be used to secure extension of production and consumption of ODSs and they should be assessed in the light of the environmental damage such substances caused. She concluded by stating that ozone-depleting chemicals should be banned immediately so as to show the international community that international agreements were able to deal with serious threats to the environment.

V. ADOPTION OF THE REPORT

152. The Working Group adopted the present report, on the basis of the draft report contained in document UNEP/OzL.Pro/WG.1/7/L.1, on 17 July 1992.

VI. CLOSURE OF THE MEETING

153. After the customary exchange of courtesies, the Chairman declared the meeting closed on 17 July 1992.

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Annex I

QUESTION OF YUGOSLAVIA

Statement by the representative of the United States of America

"My delegation wishes to call your attention to Security Council resolution 757 of May 30, 1992, which noted: "The claim by the Federal Republic of Yugoslavia (Serbia-Montenegro) to continue automatically the membership of the former Socialist Federal Republic of Yugoslavia in the United Nations has not been generally accepted."

The United States firmly believes that the Socialist Federal Republic of Yugoslavia no longer exists. Furthermore, we do not consider Serbia-Montenegro to be the continuation of, or sole successor to, the Socialist Federal Republic of Yugoslavia.

Accordingly, the position of the United States is that Serbia-Montenegro is not entitled to assume the seat of the former Socialist Federal Republic of Yugoslavia in international organizations, including the United Nations Environment Programme.

The United States also believes that this issue needs to be resolved first in the United Nations Security Council and General Assembly. The United Nations Environment Programme should be guided by their disposition of this issue."

Statement by the representative of the United Kingdom
on behalf of the European Community

"The European Community and its member States have taken note of the declaration of the representatives of the People's Republic of Serbia and the Republic of Montenegro of 27 April 1992, which states that the Federal Republic of Yugoslavia continues "the State, international, legal and political personality of the Socialist Federal Republic of Yugoslavia". This declaration raises certain questions related to the continuity of Yugoslavia's membership of international organisations, including the United Nations Environment Programme. As the European Council declaration of 27 June makes clear, the European Community and its member States will not recognise the new federal entity comprising Serbia and Montenegro as the successor state of the former Yugoslavia until the moment a decision has been taken by the qualified international institutions.

In these circumstances, we consider that the participation of the delegation in question in this meeting of the Open-ended Working Group of the Parties to the Montreal Protocol is without prejudice to future decisions which might be taken on this and related issues.

The Community and its member States continue to monitor carefully the events which are taking place in the territory of the former Socialist Federal Republic of Yugoslavia. They condemn the continuing violence and express the hope that the measures adopted by the international community will prompt the parties directly responsible to embark resolutely on the course of peace."

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Statement by the representative of Yugoslavia

"In reference to the communications submitted and reservations made by some delegations, namely USA and UK, I would first like to underline that we do not consider the Seventh Meeting of Parties to the Montreal Protocol to be the body nor the appropriate time for discussing such an issue. I would also like to draw your attention to the note dated 27 April 1992 that the Federal Republic of Yugoslavia transmitted, through its Permanent Mission in Geneva, to your respective governments and Missions in Geneva containing the decisions of the Federal Assembly of Yugoslavia.

The said note underlines that the Assembly of the Socialist Federal Republic of Yugoslavia at its session held on 27 April 1992 promulgated the Constitution of the Federal Republic of Yugoslavia. Under the Constitution, the Federal Republic of Yugoslavia, strictly respecting the continuity of the international personality of Yugoslavia, shall continue to fulfil all the rights conferred to and obligations assumed by the Socialist Federal Republic of Yugoslavia in international relations, including its membership in all international organizations and participation in international treaties ratified or acceded to by Yugoslavia. The Federal Republic of Yugoslavia as a founding member of the United Nations acknowledged its full commitment to the world organization.

The authorities of the Federal Republic of Yugoslavia are making all efforts and have taken concrete steps to comply with all the requests addressed to them in the relevant resolutions of the UN Security Council. It is their wish to contribute to the cessation of hostilities and to find a peaceful solution through negotiations.

Allow me, Mr. Chairman, at the very outset to say how much we appreciate the brave gesture of the President of France, Mr. Francois Mitterrand. Six hours of courage, objectivity and political maturity, and a genuine desire to help resolve the Yugoslav crisis led to the opening of avenues for peace in the region. Mr. Mitterrand has given a remarkable lecture on political daring and physical courage. This was a real answer to all those who are advocating military intervention as a solution. The FR of Yugoslavia maintains that only dialogue can help and not confrontation or threat and use of force.

For these reasons, we believe the present economic sanctions against the Federal Republic of Yugoslavia will not be long lasting. Henceforth, it would be important that the Federal Republic of Yugoslavia continues to participate in the activities of this Seventh Meeting of Parties to the Montreal Protocol and UNEP as a whole.

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Once the sanctions are lifted this will contribute to the re-establishing of normal political and economic relations with other countries, including those in the territory of the former Socialist Federal Republic of Yugoslavia.

I would like to assure you that the Federal Republic of Yugoslavia will continue its active participation in UNEP and will continue to endeavour to make a positive and constructive contribution as it has been doing so far."

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Annex II

Draft conclusions and recommendations of the Informal
Halon Working Team on International Bank Management

The Informal Working Team on International Halon Bank Management concluded that, at present, there is no immediate need to establish a physical international halon bank. The international transfer of halons can be facilitated by a decision of the Parties. Information regarding sources of available halons and information to assist in the establishment of national halon bank management procedures can be made available utilizing the capabilities of UNEP IE/PAC in Paris.

The Informal Working Team on International Halon Bank Management recommends the following:

- Decisions to be adopted:
 - Allow international trade in recycled halons complying with recognized technical standards, after the phase-out, with reporting.
 - Allow temporary export of halons for the purpose of purification and re-import for national use.
- Request that Parties avoid the transfer, to developing countries, of halons unsuitable for re-use or recycle, or of quantities that would encourage excessive dependence.
- That receiving countries consider application of the Halons Technical Options Committee's essential use criteria as provided in this report.
- The establishment of a Halon Advisory Committee to:
 - Provide continued specific, technical advice to UNEP, upon request;
 - Report on evaluations of halon banking programmes to the Fifth Meeting of the Parties to the Protocol;
 - Assemble and disseminate materials to assist in the timely implementation of banking strategies;
 - Recommend simple mechanisms for suppliers to identify when halon is recycled (not newly produced);

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- Investigate barriers to the trade of recycled halon (e.g. Basel and other Conventions on shipment of used chemicals, etc.);
 - Recommend other means of facilitating halon banking;
 - Investigate the role of technologies to refurbish severely contaminated halons;
 - Investigate the role of destruction technologies, specific to the halons;
 - Recommend means to avoid the transfer, to developing countries, of halons unsuitable for re-use or recycle, or of quantities that would encourage excessive dependence;
 - Recommend appropriate technical standards and means to certify halons as suitable for re-use.
- The UNEP IE/PAC and UNDP serve as an information clearing-house for halon-related data, in particular information regarding sources of halon available for international transfer.

Annex III

Statement by the representative of Canada

"In response to a request from the World Meteorological Organization, Canada has agreed to establish a central UV-B data centre, in conjunction with the existing WMO World Ozone Data Centre, thus creating a WMO World Ozone and Ultra-Violet Data Centre. The Centre is located at the Environment Canada, Atmospheric Environment Service office in Toronto.

Environment Canada issues weekly bulletins on the status of the ozone layer over Canada and daily forecasts of UV-B radiation in Canada. This programme is supported by Health and Welfare Canada and has been endorsed by the Canadian Dermatological Association which promotes public awareness of the health effects of over-exposure to sunlight.

The Ultra-Violet Data Centre is an appropriate addition to the Ozone Data Centre and is a component of Canada's Green Plan.

The Data Centre will conduct scientific analysis and validation of the archived information and is expected to organize instrument inter-comparison and calibration as it does for ozone measurements.

The Centre will provide a reporting and distribution system for revrieval of the data."

Statement by the Government of Iceland

"For the revision of the Montreal Protocol on Substances, that Deplete the Ozone Layer, which will formally be adopted in Copenhagen in November, 1992, the Government of Iceland has decided to pursue the same course of action as the Governments of Sweden and Norway by proposing the discontinuation of the use of the ozone-depleting substances now prohibited, before January 1, 1995."

Reykjavik, July 6, 1992

(signed) Minister for the Environment

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Statement by the representative of New Zealand

"New Zealand drew the attention of the meeting to the Communique released at the conclusion of the 1992 South Pacific Forum, held in the Solomon Islands, which contained the following section on "Ozone Depletion":

In respect of ozone depletion, the Forum noted that tropical regions are particularly vulnerable to ozone depletion because the tropical ozone layer is naturally thin. The Forum emphasised that there are strong environmental and economic incentives to all member countries to ratify the Vienna Convention and Montreal Protocol before January 1993".

New Zealand added that it understood several Forum governments were actively studying the Montreal Protocol with a view to accession. It warmly welcomed these developments."
