

COMMUNICATION

REQUEST FOR CLARIFICATION OF NATIONAL DEFINITIONS OF HAZARDOUS WASTES IN RELATION TO OZONE DEPLETING SUBSTANCES WASTE

The Secretariat of the Montreal Protocol on substances that deplete the ozone layer has kindly requested the cooperation of the Secretariat of the Basel Convention in identifying the extent to which the Basel Convention prior informed consent regime applies to transboundary movements of ozone depleting substance (ODS) waste. One particular area of interest for the Secretariat of the Montreal Protocol in this regard, and for which the Secretariat of the Basel Convention would appreciate the kind assistance of Parties to the Basel Convention, is to clarify with each Party whether its national definition of hazardous wastes, if existent and as notified through the Secretariat, includes such ODS waste.

By decision XX/7 of the Meeting of the Parties to the Montreal Protocol, entitled "Environmentally sound management of banks and ozone-depleting substances", the text of which is attached to this General Communication, Parties to the Montreal Protocol decided to address the issue of the destruction of ozone-depleting substances banks, including matters related to the transportation of such banks. Decision XX/7 requested the Secretariat of the Montreal Protocol to develop a report on possible funding opportunities for the management and destruction of ozone-depleting substances banks that would, *inter alia*, describe the necessary legal framework for the transport of such substances. The findings of the report will be addressed during the 29th meeting of the Open Ended Working Group of the Montreal Protocol in Geneva, 15-18 July 2009, preceded by a workshop where the report findings will be discussed.

In the context of cooperation with the Secretariat of the Montreal Protocol, the Secretariat of the Basel Convention has brought to its attention that Parties to the Basel Convention have, under article 3, the right to extend the scope of the hazardous wastes regulated by the prior informed consent regime. The Secretariat of the Basel Convention has agreed to reach out to the Parties to the Basel Convention and ask them whether their national definition of hazardous wastes, if existent and as notified through the Secretariat, includes ODS waste. Any reply will be included as received in an addendum to the above-mentioned report.

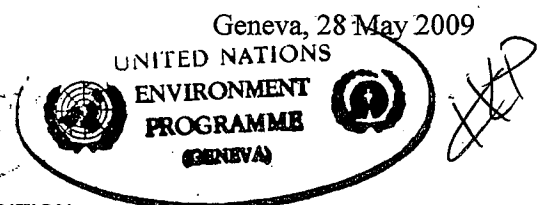
The Secretariat would very much appreciate if Parties could clarify whether:

1. Wastes, other than those listed in Annexes I and II, considered or defined as hazardous under their national legislation and notified in accordance with article 3 of the Basel Convention are wastes falling within the scope of the Montreal Protocol;
2. National legislation, as notified in accordance with article 3 of the Basel Convention, contains requirements other than those under the Basel Convention concerning transboundary movements applicable to such wastes.

It is also advisable that Basel Convention focal points liaise with their national ozone officers counterparts to assess their national situation on this important matter.

The Secretariat would very much appreciate receiving a response from Parties by **12 June 2009**.

To: Focal Points to the Basel Convention
Cc: Competent Authorities of the Basel Convention,
Permanent Missions to the United Nations



SECRETARIAT OF THE BASEL CONVENTION
ON THE CONTROL OF TRANSBOUNDARY MOVEMENTS OF HAZARDOUS WASTES AND THEIR DISPOSAL
15, chemin des Anémones, 1219 Châtelaine (Geneva), Switzerland

Tel: [41 22] 917 8218 • Fax: [41 22] 797 3454 • Email: sbc@unep.ch • Web: www.basel.int

XX/7: Environmentally sound management of banks of ozone-depleting substances

1. To invite Parties, international funding agencies, including the Multilateral Fund and the Global Environment Facility, and other interested agents to enable practical solutions for the purpose of gaining better knowledge on mitigating ozone-depleting substance emissions and destroying ozone-depleting substance banks, and on costs related to the collection, transportation, storage and destruction of ozone depleting substances, notably in Parties operating under paragraph 1 of Article 5 of the Montreal Protocol;

2. To request the Executive Committee of the Multilateral Fund to consider as a matter of urgency commencing pilot projects that may cover the collection, transport, storage and destruction of ozone-depleting substances. As an initial priority, the Executive Committee might consider projects with a focus on assembled stocks of ozone-depleting substances with high net global warming potential, in a representative sample of regionally diverse Parties operating under paragraph 1 of Article 5. It is understood that this initial priority would not preclude the initiation of other types of pilot projects, including on halons and carbon tetrachloride, should these have an important demonstration value. In addition to protecting the ozone layer, these projects will seek to generate practical data and experience on management and financing modalities, achieve climate benefits, and would explore opportunities to leverage co-financing;

3. To encourage Parties to develop or consider further improvements in the implementation of national and/or regional legislative strategies and other measures that prevent the venting, leakage or emission of ozone-depleting substances by ensuring:

(a) Proper recovery of ozone-depleting substances from equipment containing ozone-depleting substances, during servicing, use and at end of life, where possible in applications such as refrigeration, air conditioning, heat pumps, fire protection, solvents and process agents;

(b) The use of best practices and performance standards to prevent ozone-depleting substance emissions at the end of the product life cycle, whether by recovery, recycling, reclamation, reuse as feedstock or destruction;

4. To encourage all Parties to develop or consider improvements in national or regional strategies for the management of banks, including provisions to combat illegal trade by applying measures listed in decision XIX/12;

5. To invite Parties to submit their strategies and subsequent updates to the Ozone Secretariat as soon as possible for the purpose of sharing information and experiences, including with interested stakeholders of other multilateral environmental agreements, such as the United Nations Framework Convention on Climate Change and its Kyoto Protocol and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and Their Disposal. The strategies will be placed on the Ozone Secretariat website, which will be updated regularly;

6. To note that any project implemented pursuant to the present decision when applicable should be done in conformity with national, regional, and/or international requirements, such as those mandated by the Basel Convention and Rotterdam Convention;

7. To request the Technology and Economic Assessment Panel to conduct a comprehensive cost-benefit analysis of destroying banks of ozone-depleting substances taking into consideration the relative economic costs and environmental benefits, to the ozone layer and the climate, of destruction versus recycling, reclaiming and reusing such substances. In particular, the report should cover the following elements:

(a) Consolidation of all available data on ozone-depleting substance banks and summary of this information identifying the sectors where recovery of ozone-depleting substances is technically and economically feasible;

(b) Respective levels of likely mitigation amounts, based on the categorization of reachable banks at low, medium, and high effort according to substances, sectors, regions, and where possible, subregions;

(c) Assessment of associated benefits and costs of respective classes of banks in terms of ozone depleting potential and global warming potential;

(d) Exploration of the potential "perverse incentives" or other adverse environmental effects that may be associated with certain mitigation strategies, in particular related to recovery and recycling for reuse;

(e) Consideration of the positive and negative impacts of recovery and destruction of ozone-depleting substances, including direct and indirect climate effects;

(f) Consideration of the technical, economic and environmental implications of incentive mechanisms to promote the destruction of surplus ozone-depleting substances;

8. To request the Technology and Economic Assessment Panel to provide an interim report in time for dissemination one month before the twenty-ninth meeting of the Open-ended Working Group and to provide the final report one month before the Twenty First Meeting of the Parties to the Montreal Protocol;

9. To request the Ozone Secretariat, with the assistance of the Multilateral Fund Secretariat, to consult with experts from the United Nations Framework Convention on Climate Change, the Global Environment Facility, the Executive Board of the Clean Development Mechanism, the World Bank and other relevant funding experts to develop a report on possible funding opportunities for the management and destruction of ozone-depleting substance banks, to present the report to the Parties for review and comments one month prior to the twenty-ninth meeting of the Open-Ended Working Group and, if possible, to convene a single meeting among experts from the funding institutions;

10. That the report referred to in paragraph 9 of the present decision would focus on describing possible institutional arrangements, potential financial structures, likely logistical steps and the necessary legal framework for each of the following, if relevant:

- (a) Recovery;
- (b) Collection;
- (c) Storage;
- (d) Transport;
- (e) Destruction;
- (f) Supporting activities;

11. To request the Ozone Secretariat to convene a workshop among Parties that will include the participation of the Montreal Protocol assessment panels, the secretariat of the Multilateral Fund and the Fund's implementing agencies, and seek the participation of the secretariats of other relevant multilateral environmental agreements, non-governmental organizations and experts from funding institutions for the discussion of technical, financial and policy issues related to the management and destruction of ozone-depleting substance banks and their implications for climate change;

12. That the above workshop will be held preceding the twenty-ninth meeting of the Open-ended Working Group and that interpretation will be provided in the six official languages of the United Nations;

13. Further to consider, at the twenty-ninth meeting of the Open-ended Working Group, possible actions regarding the management and destruction of banks of ozone-depleting substances in the light of the report to be provided by the Technology and Economic Assessment Panel under paragraph 7 above, the working group report to be provided by the Secretariat under paragraph 9 above and the discussions emanating from the workshop under paragraph 11 above;

14. To request the Ozone Secretariat to communicate the present decision to the Secretariat of the United Nations Framework Convention on Climate Change and its Kyoto Protocol in time for possible consideration at the fourteenth meeting of the Conference of the Parties to the Convention and fourth meeting of the Conference of the Parties serving as the Meeting of the Parties to the Kyoto Protocol on the understanding that the decision is without prejudice to any discussions that may be held on ozone-depleting substance banks within their forum;

XX/8: Workshop for a dialogue on high-global warming potential alternatives for ozone-depleting substances

Noting that the transition from, and phase-out of, ozone-depleting substances has implications for climate system protection,

Recognizing that decision XIX/6 encourages Parties to promote the selection of alternatives to hydrochlorofluorocarbons to minimize environmental impacts, in particular impacts on climate,

Recognizing also that there is scope for coordination between the Montreal Protocol and the United Nations Framework Convention on Climate Change and its Kyoto Protocol for reducing emissions and minimizing environmental impacts from hydrofluorocarbons, and that Montreal Protocol Parties and associated bodies have considerable expertise in these areas which they could share,

Recognizing further that there is a need for more information on the environmental implications of possible transitions from ozone-depleting substances to high-global warming potential chemicals, in particular hydrofluorocarbons,

1. To request the Technology and Economic Assessment Panel to update the data contained within the Panel's 2005 *Supplement to the IPCC/TEAP Special Report*⁷ and to report on the status of alternatives to hydrochlorofluorocarbons and hydrofluorocarbons, including a description of the various use patterns, costs, and potential market penetration of alternatives no later than 15 May 2009;

⁷ Available at the website http://ozone.unep.org/Assessment_Panels/TEAP/Reports/TEAP_Reports/teap-supplement-ippc-teap-report-nov2005.pdf.