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**Montreal Protocol  
on Substances that  
Deplete the Ozone Layer**

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**Implementation Committee under  
the Non-Compliance Procedure  
for the Montreal Protocol  
Sixty-eighth meeting**  
Bangkok, 9 July 2022

## **Report of the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol on the work of its sixty-eighth meeting**

### **Introduction**

1. The sixty-eighth meeting of the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol on Substances that Deplete the Ozone Layer was held at the United Nations Conference Centre, Bangkok, on 9 July 2022.

### **I. Opening of the meeting**

2. As Ms. Guo Xiaolin (China), President of the Implementation Committee, was unable to attend in person owing to travel restrictions in place in China in relation to the coronavirus disease (COVID-19) pandemic, the Vice-President of the Committee acted as President in her stead, as called for by the rules of procedure. The acting President of the Committee, Mr. Gene Smilansky (United States of America), opened the meeting at 10 a.m. on Saturday, 9 July 2022.

3. Ms. Megumi Seki, Executive Secretary, Ozone Secretariat, welcomed the members of the Committee and the representatives of the secretariat of the Multilateral Fund for the Implementation of the Montreal Protocol and its implementing agencies, noting that the meeting was the first to be held in person after two years of online meetings owing to the coronavirus disease (COVID-19) pandemic. She highlighted that 2022 was the fiftieth anniversary of the Stockholm Conference on the Human Environment and the establishment of the United Nations Environment Programme (UNEP), noting that during the celebration of its anniversary by UNEP (UNEP@50), held in March in conjunction with the resumed fifth session of the United Nations Environment Assembly, Ms. Guo, in her capacity as the President of the Implementation Committee, had participated in a panel of speakers during a side event on the 35 years of implementation and compliance mechanisms under multilateral environmental agreements. The Executive Secretary thanked Ms. Guo for her excellent presentation, which had highlighted the highly effective non-compliance mechanism of the Montreal Protocol, the oldest such mechanism among all the multilateral environmental agreements. She then turned to the agenda of the current meeting, briefly reviewing the various items that the Committee would consider, drawing particular attention to agenda item 5, where consideration of the case of the Democratic People's Republic of Korea would raise the issue of *de minimis*, which she characterized as important and interesting. She closed her remarks by assuring the members that the Secretariat was, as always, available to assist the work of the Committee, with the Multilateral Fund secretariat and implementing agencies providing any additional information required.

## **II. Adoption of the agenda and organization of work**

### **A. Attendance**

4. Representatives of the following Committee members attended the meeting: Bhutan, Chile, China, Costa Rica, Egypt, European Union, North Macedonia, Poland, Senegal, and the United States.
5. The meeting was also attended by representatives of the secretariat of the Multilateral Fund and representatives of the implementing agencies of the Fund: United Nations Environment Programme, the United Nations Industrial Development Organization, and the World Bank.
6. The list of participants is set out in annex II to the present report.

### **B. Adoption of the agenda**

7. The Committee adopted the following agenda on the basis of the provisional agenda (UNEP/OzL.Pro/ImpCom/68/R.1), as orally amended to include under item 7, "Other matters", a request from Madagascar to change its baseline data:
  1. Opening of the meeting.
  2. Adoption of the agenda and organization of work.
  3. Presentation by the Secretariat on data and information submitted under Articles 7 and 9 of the Montreal Protocol and on related issues.
  4. Presentation by the secretariat of the Multilateral Fund for the Implementation of the Montreal Protocol on relevant decisions of the Executive Committee of the Fund and on activities carried out by the implementing agencies to facilitate compliance by parties.
  5. Follow-up on previous decisions of the parties and recommendations of the Implementation Committee on issues related to non-compliance:
    - (a) Data reporting obligations under Article 7 (decision XXXIII/7):
      - (i) Cuba;
      - (ii) Russian Federation;
      - (iii) San Marino;
    - (b) Existing plans of action to return to compliance:
      - (i) Democratic People's Republic of Korea (decision XXXII/6);
      - (ii) Kazakhstan (decision XXIX/14);
      - (iii) Libya (decision XXVII/11).
  6. Establishment of licensing systems under Article 4B, paragraph 2 bis, of the Montreal Protocol and follow-up on decision XXXIII/8.
  7. Other matters.
  8. Adoption of the recommendations and the report of the meeting.
  9. Closure of the meeting.

### **C. Organization of work**

8. The Committee agreed to follow its usual procedures.

## **III. Presentation by the Secretariat on data and information submitted under Articles 7 and 9 of the Montreal Protocol and on related issues**

9. The representative of the Secretariat gave a presentation summarizing the report of the Secretariat on the information provided by parties in accordance with Articles 7 and 9 of the Montreal Protocol (UNEP/OzL.Pro/ImpCom/68/R.2).

10. With regard to reporting pursuant to Article 9, under which each party was required to submit a summary of activities on such matters as research, development and public awareness, the Secretariat had not received any new submissions since the Thirty-Second Meeting of the Parties to the Montreal Protocol. The most recent report was the one received from Lithuania in 2020.

11. With regard to reporting of data under paragraph 3 of Article 7, all the parties were in full compliance with their reporting obligations for 2020 and prior years. For 2021, a total of 120 parties had thus far reported Article 7 data for 2021, with 61 of them using the online reporting system. One party not operating under paragraph 1 of Article 5 (non-Article 5 party) was in non-compliance with its obligation under paragraph 2 of Article 7 to report hydrofluorocarbon (HFC) baseline data. The case had been considered by the Committee at its sixty-seventh meeting, leading to the adoption of decision XXXIII/7; despite that, the party had not yet submitted its HFC data for 2011, 2012 and 2013. In another case, one party operating under paragraph 1 of Article 5 (Article 5 party) had failed to report its HFC data when submitting its Article 7 data for 2021, having recently become a party to the Kigali Amendment, and the Secretariat was following up on the matter.

12. On the matter of cases of non-compliance or possible non-compliance with the control measures for the consumption and production of controlled substances under the Protocol, for 2020, two parties had submitted data showing non-compliance with the control measures. The information from one had been considered by the Committee the previous year, while the data reported by the other had been designated as provisional by the party and the Secretariat was following up in an attempt to clarify and resolve the matter. For 2021, there were no new cases of possible non-compliance among the 120 parties that had reported to date; however, one party with a plan of action for return to compliance had reported consumption or production of controlled substances above the plan's benchmarks.

13. Regarding critical-use exemptions for controlled substances for 2021, four parties, namely Argentina, Australia, Canada and South Africa, had been granted critical-use exemptions for methyl bromide for 2021. Australia, Canada and South Africa had submitted their accounting reports for 2021, while Argentina had not submitted a nomination in 2022 and therefore did not submit an accounting report.

14. With respect to reporting of exports pursuant to decision XVII/16, the Secretariat routinely sent aggregated information of reported exports to importers. For 2020, destinations had been specified for 97 per cent of exports (by weight). Thus, in 2022, the Secretariat had sent letters to 159 importers informing them of the amounts reported by exporters for 2020 as having been destined for their countries. With regard to the reporting of imports and source countries under decision XXIV/12, the Secretariat routinely provided compiled information on reported imports to those exporting parties that requested it. For 2020, the source country had been specified for 65 per cent of reported imports (by weight). Thus, in 2022, the Secretariat had sent letters to 54 exporters inviting them to submit requests for compilations of data for 2020 and had sent the compiled aggregate information for 2020 to the 19 parties that had requested it.

15. As for reporting, pursuant to decisions XVIII/17 and XXII/20, of excess production and consumption of controlled substances attributable to stockpiling, the Secretariat was yet to compile and analyse the cases for 2021, as most countries reporting production had only submitted their data recently. The Secretariat would provide an update at the sixty-ninth meeting.

16. With regard to the reporting of process agent uses (decisions X/14 and XXI/3), only four parties (China, the European Union, Israel and the United States) still reported the use of ozone-depleting substances as process agents (decisions XXIII/7 and XXXI/6). To date, one party, the European Union, had reported its process agent uses for 2021. In addition, the one party that was previously not reporting its emissions in metric tons had indicated that it was working to change its internal process to allow it to report emissions in metric tons.

17. On the matter of the production of phased-out controlled substances, production had been fairly stable for the past several years, with over 90 per cent of production attributable to feedstock uses. On the issue of feedstock uses, some 59 per cent of the controlled substances produced for feedstock uses were hydrochlorofluorocarbons (HCFCs), with chlorofluorocarbons and carbon tetrachloride being the other significant substances. The consumption of methyl bromide for quarantine and pre-shipment uses had been relatively stable over the past 15 years and had oscillated around 10,000 metric tons per year. The number of parties reporting destruction of controlled substances had been rising gradually, from 16 parties in 2006 to 26 parties in 2020, with the number of metric tons destroyed ranging from 15,000 to 32,000 metric tons over past 15 years.

18. Under decisions XXIV/14 and XXIX/18, parties had been requested to specify zero quantities with zeros – instead of leaving blank cells – on their Article 7 data reporting forms. The number of parties submitting incomplete forms had fallen from 2012 to 2019 but had risen slightly in 2020, to 13 parties. Most parties that left blank cells had subsequently confirmed that a blank cell indicated zero; however, the Secretariat was still following up with few parties and would provide an update at the sixty-ninth meeting.

19. Finally, the representative of the Secretariat informed the Committee that the Secretariat had received a request from Madagascar to revise its HCFC data for 2009 from 33.0 ODP-tonnes to 16.49 ODP-tonnes. As 2009 was a baseline year for HCFCs, pursuant to decision XIII/15, any proposed changes had to be brought to the Committee and, if found to be appropriate, forwarded to the Meeting of the Parties for approval. The request was to be discussed under agenda item 7.

20. Following his presentation, the representative of the Secretariat responded to a question regarding how importing countries could best tackle illegal trade. Recalling that, in decision XIV/7 on illegal trade, parties were invited to report illegal trade, he suggested that countries facing such issues could begin by reporting such trade and then work with the implementing agencies to address it. The acting President drew attention to annex II to the Implementation Committee's report on the work of its sixty-third meeting, which laid out possible areas for consideration by the parties with regard to dealing with illegal production and trade under the Montreal Protocol. Noting that the annex was one of the background documents for agenda item 5, on institutional processes to strengthen the effective implementation and enforcement of the Montreal Protocol, to be discussed at the forty-fourth meeting of the Open-ended Working Group, he suggested that it might be fruitful to raise the issue in the context of that discussion.

21. One member, expressing concern that Parties were still leaving blank cells in reports and failing to report on destination countries for exports or source countries for imports, proposed that the Secretariat be requested to prepare two draft recommendations: one reminding parties of the requirement to report a zero rather than a blank cell and another reminding parties that reporting on destination countries for exports and source countries for imports, while not an obligation, was essential for identifying cases of illegal trade. Another member supported the proposal and the Committee agreed to proceed in that manner.

22. Subsequently, the Committee considered the draft recommendations prepared by the Secretariat. Several members observed that the proposed recommendations essentially repeated the text of the relevant decisions of the Meeting of the Parties, and questioned the value of doing so. The representative of the Secretariat explained that such recommendations gave more weight to the Secretariat's efforts to follow up with parties on their implementation of the decisions of the Meeting of the Parties.

23. The Committee therefore agreed:

*Noting with concern* that some parties, when reporting Article 7 data to the Secretariat, still left incomplete or blank cells in the data reporting forms and did not provide clarification despite requests by the Secretariat to do so,

To recall decision XXX/14, in which the Meeting of the Parties urged all parties, when reporting data on production, imports, exports or destruction of controlled substances, to enter a number in each cell in their submitted data reporting forms, including zero where appropriate, rather than leaving any cell blank, in accordance with decision XXIV/14, and to provide clarification to the Ozone Secretariat regarding blank cells when requested to do so.

#### **Recommendation 68/1**

24. The Committee therefore agreed:

*Recalling* decisions XVII/16 and XXIV/12,

*Noting with appreciation* that a majority of parties exporting controlled substances regularly provided information on the countries of destination of their exports in response to decision XVII/16,

*Noting also with appreciation* that a number of parties importing controlled substances regularly provided information on the source countries of their imports, in response to decision XXIV/12,

*Noting further* that such information facilitated the exchange of information on and the identification of differences between data reported on imports and data reported on exports, which might in turn facilitate the identification of possible cases of illegal trade,

*Noting also*, however, that a large number of importing parties and a small number of exporting parties did not provide the information requested,

To recall decision XXX/12, in which the Meeting of the Parties urged parties exporting controlled substances to report to the Secretariat information on the destinations of their exports, as called for in decision XVII/16, and encouraged parties importing controlled substances to report to the Secretariat information on the sources of their imports, as set out in decision XXIV/12.

#### Recommendation 68/2

### IV. Presentation by the secretariat of the Multilateral Fund for the Implementation of the Montreal Protocol on relevant decisions of the Executive Committee of the Fund and on activities carried out by the implementing agencies to facilitate compliance by parties

25. The Chief Officer of the Multilateral Fund secretariat reported on relevant decisions of the Executive Committee of the Fund and on activities carried out by bilateral and implementing agencies, summarizing the information provided in the annex to the note by the Secretariat on country programme data and prospects for compliance (UNEP/OzL.Pro/ImpCom/68/INF/R.3). She noted that the presentation would cover HCFC data, the status of the HCFC phase-out, HFC consumption in Article 5 parties based on the country programme reports, progress on policy matters at the eighty-ninth and ninetieth meetings of the Executive Committee and the impact of the COVID-19 pandemic on the activities of the Multilateral Fund.

26. The data reported for HCFC consumption by Article 5 parties was based on the latest Article 7 data, meaning for 2021 when available and otherwise for 2020. The data indicated that the main chemicals still consumed, namely HFC-123, HCFC-141b, HCFC-142b and HCFC-22, were essentially being used in the chillers, foam and refrigeration and air-conditioning manufacturing and servicing sectors, and that 48.7 per cent of the HCFC baseline was still being consumed.

27. Regarding the status of HCFC phase-out, as of the ninetieth meeting of the Executive Committee, stage I of HCFC phase-out management plans had been approved for 145 countries, stage II had been approved for 103 countries and stage III had been approved for 9 countries. Total funding of \$1.16 billion had been approved in principle for the related activities, of which \$970.97 million had been disbursed to the implementing agencies. A total of 30 Article 5 parties had committed, in their phase-out management plans, to phasing out 35 per cent of the HCFC baseline by 2020, 32 to phasing out 67.5 per cent of the HCFC baseline by 2025 and 79 to a complete phase-out by 1 January 2030.

28. In terms of the main messages regarding the HCFC phase-out, most of the foam manufacturing enterprises and a large portion of the refrigeration and air-conditioning manufacturing enterprises were currently under conversion. Challenges with regard to the availability and market uptake of alternative technologies on the local market persisted. All countries were successfully addressing the refrigeration servicing sector. According to the latest HCFC consumption figures, 51.3 per cent of the consumption baseline had already been phased out, and the cumulative amount of HCFCs that would have been phased out once the HCFC phase-out management plans were completed represented 71.8 per cent of the baseline. In the production sector, China had completed stage I of its HCFC production phase-out management plan. Further, the Executive Committee had approved additional funding for HCFC production phase-out management plan stage II (HPPMP stage II) of China, on an exceptional basis, at its eighty-first meeting, and approved the HPPMP stage II of China its eighty-sixth meeting. As of the ninetieth meeting of the Executive Committee, reporting by Article 5 parties on the status of funding of their HCFC phase-out management plans showed that the cumulative amount of HCFCs that would have been phased out once their plans were completed represented 73.1 per cent of the starting point for aggregate reduction.

29. At its ninetieth meeting, the Executive Committee had approved stage II of the HCFC phase-out management plans for 8 countries and stage III for 1 country; tranches of approved HCFC phase-out management plans for 11 countries; renewal of institutional projects in 25 countries; preparation activities for stage III of the HCFC phase-out management plan for 1 country; HFC investment project preparation activities for 1 country; HFC phase-down plans preparation activities for 15 countries; and an HCFC phase-out management plan verification report for 1 country.

30. HFC consumption for 2020 had been reported by 101 Article 5 parties in their country programme data reports. HFCs were primarily being used in the aerosol, foam, refrigeration manufacturing and refrigeration servicing sectors, with refrigeration understood to include air conditioning. Currently, HFC-134a, R-404A and R-410A accounted for 76.6 per cent of reported HFC consumption measured in metric tons, which translated to 78.4 per cent of consumption when measured in CO<sub>2</sub>-equivalent metric tons. In terms of overall trends in HFC consumption, the country programme data reports indicated a steep decrease from 2019 to 2020, possibly owing to the economic impact experienced as a result of the COVID-19 pandemic but as yet unexplained. The Multilateral Fund secretariat also faced challenges in connection with reconciling data reported in country programme data reports with data reported under Article 7 as countries did not report pure substances and blends separately under those reports. At its ninetieth meeting, the Executive Committee had approved a new format for the reporting of manufacturing of blends, on a voluntary basis, in the country programme data report and had requested the secretariat to update the practical manual for country programme data reporting with information on ways to report HFC data, in order to facilitate reconciliation with HFC data reported under Article 7.

31. Key decisions taken by the Executive Committee at its eighty-ninth and ninetieth meetings included decisions on updating the analysis of the implications of parallel or integrated implementation of HCFC phase-out and HFC phase-down activities, mainly with regard to the resources needed by the Multilateral Fund institutions and implementing agencies; potential strategies, policy measures and commitments, as well as projects and activities, that could be integrated into stage I of HFC phase-down plans for Article 5 parties to ensure limits on growth and sustainable reductions in HFC consumption; ways to operationalize decision XXVIII/2, paragraph 16, and decision XXX/5, paragraph 2, relating to maintaining energy efficiency while adopting low-global warming potential (GWP) alternatives to HCFCs in low-volume-consuming countries; options for mobilizing financial resources for energy efficiency while phasing-down HFCs with low GWP-alternatives; ways to operationalize decision XXVIII/2, paragraph 24, on the management of stockpiles of used or unwanted controlled substances, including destruction; and key aspects related to HFC-23 by-product control technologies. With respect to the last decision mentioned, the Chief Officer recalled that funding had been approved in principle in the amounts of \$2.26 million and \$3.83 million, respectively, for HFC-23 by-product control technology projects that were under implementation in Mexico and Argentina.

32. At its ninety-first meeting, the Executive Committee would continue to discuss the issues of the HFC cost-funding guidelines, for which certain aspects, including cost-effectiveness thresholds, remained to be finalized; the analysis of the level and modalities of funding for HFC phase-down in the refrigeration servicing sector; the review of institutional-strengthening projects, including levels of funding; and the overview of current monitoring, reporting, verification and enforceable licensing and quota systems developed with support from the Multilateral Fund, an issue that the Executive Committee considered it should only take up again following discussion by the parties in the meeting of the Open-ended Working Group and at the Meeting of the Parties.

33. Finally, regarding the impact of the COVID-19 pandemic on the activities of the Multilateral Fund, the Executive Committee had agreed to maintain the operation of the Multilateral Fund through intersessional approval processes (for the eighty-fifth to eighty-eighth meetings) and by conducting online meetings for specific items. At its eighty-ninth meeting, the second part of which was held in person, and its ninetieth meeting, held in person, the Executive Committee had made substantial progress on key policy matters relating to the HFC phase-down, although it still needed more time to complete that work, ideally by the end of the 2022. In the meantime, the implementing agencies had reported challenges arising from COVID-19-related restrictions, but had been creative in responding to those challenges and, together with the national ozone units, had continued to implement their activities. With the situation now improving and activities progressing despite current global supply chain challenges, the Multilateral Fund secretariat was working with the implementing agencies to identify ways of expediting the implementation of the various projects and activities, bearing in mind each country's specific situation.

34. Following her presentation, the Chief Officer responded to questions and comments from members. In response to one member's plea for sufficient resources to enable Article 5 parties to meet their commitments, she assured the Committee that the Executive Committee was addressing the issue of adequate funding, particularly for the refrigeration sector and institutional-strengthening projects. Responding to a concern raised regarding the need to adjust the HFC baseline in the light of the unexplained downward trend in HFC consumption, she noted that only a small fraction of countries had reported data to date, with many big countries still to report, and it was therefore not clear how the observed trend might evolve. She pointed out that the baseline for group 1 parties would be

determined by the Ozone Secretariat in 2023, while the discussion in the Executive Committee was based on the starting point, which also took into account the data reported each year.

35. The Committee took note of the information presented.

## **V. Follow-up on previous decisions of the parties and recommendations of the Implementation Committee on issues related to non-compliance**

36. The representative of the Secretariat presented information on cases related to compliance with obligations under the Montreal Protocol (UNEP/OzL.Pro/ImpCom/68/R.3), along with the list of compliance issues to be considered by the Implementation Committee at its sixty-eighth meeting (UNEP/OzL.Pro/ImpCom/68/INF/R.1) and the information submitted by parties for the consideration of the Implementation Committee at its sixty-eighth meeting (UNEP/OzL.Pro/ImpCom/68/INF/R.2). She also provided pertinent information received after the documents had been finalized and proposed amendments to the Secretariat's draft recommendations as appropriate.

### **A. Data reporting obligations under Article 7 (decision XXXIII/7)**

#### **1. Cuba**

37. Introducing the sub-item, the representative of the Secretariat recalled that at the time of the Thirty-Third Meeting of the Parties, Cuba, an Article 5 party, had not yet reported its 2020 data under paragraph 3 of Article 7 and, while a party to the Kigali Amendment, had not yet submitted its baseline data for HFCs for 2020. In decision XXXIII/7, the Meeting of the Parties had noted the non-compliance by Cuba with its data reporting obligations and requested the Committee to review the party's situation at its sixty-eighth meeting. Cuba had since submitted both sets of data for 2020, thereby complying with its data reporting obligations. Moreover, the Article 7 data submitted for 2020 confirmed Cuba's compliance with the control measures for that year.

38. The Committee noted with appreciation that Cuba had submitted its outstanding data in accordance with the data reporting obligations under paragraph 3 of Article 7 of the Montreal Protocol and as urged in decision XXXIII/7, and that the data confirmed that the party was in compliance with the control measures for 2020. The Committee also noted with appreciation that Cuba had submitted its hydrofluorocarbon (HFC) baseline data for 2020 in accordance with the data reporting obligations under paragraph 2 of Article 7 of the Montreal Protocol and as urged in decision XXXIII/7.

#### **2. Russian Federation**

39. Introducing the sub-item, the representative of the Secretariat recalled that at the time of the Thirty-Third Meeting of the Parties, the Russian Federation, a non-Article 5 party, while a party to the Kigali Amendment, had not yet submitted its baseline data for HFCs for the years 2011, 2012 and 2013. In decision XXXIII/7, the Meeting of the Parties had noted the non-compliance by the Russian Federation with its data reporting obligations and requested the Committee to review the party's situation at its sixty-eighth meeting. The Russian Federation had since reported its HFC consumption and production data for the baseline years, thereby complying with its data reporting obligations.

40. The Committee noted with appreciation that the Russian Federation had submitted its outstanding HFC baseline data in accordance with the data reporting obligations under paragraph 2 of Article 7 of the Montreal Protocol and as urged in decision XXXIII/7.

#### **3. San Marino**

41. Introducing the sub-item, the representative of the Secretariat recalled that at the time of the Thirty-Third Meeting of the Parties, San Marino, a non-Article 5 party, was a party to the Kigali Amendment but had not yet submitted its baseline data for HFCs for the years 2011, 2012 and 2013. In decision XXXIII/7, the Meeting of the Parties had noted the non-compliance by San Marino with its data reporting obligations and requested the Committee to review the party's situation at its sixty-eighth meeting. At the time of the sixty-eighth meeting of the Committee, San Marino had still not reported its HFC consumption and production data for the baseline years and thus remained in non-compliance with its data reporting obligations.

42. The Committee therefore agreed:

(a) To note with concern that San Marino had not yet submitted its HFC baseline data for the years 2011–2013 in accordance with paragraph 2 of Article 7 of the Montreal Protocol and as urged in decision XXXIII/7;

(b) To urge San Marino to report its outstanding data to the Secretariat as quickly as possible and preferably no later than 15 September 2022, in time for consideration by the Implementation Committee at its sixty-ninth meeting.

### Recommendation 68/3

## B. Existing plans of action to return to compliance

### 1. Democratic People's Republic of Korea (decision XXXII/6)

43. Introducing the sub-item, the representative of the Secretariat recalled that in decision XXXII/6, the Meeting of the Parties, noting the party's non-compliance with the HCFC control measures for production and consumption, had noted with appreciation the submission of a plan of action to return to compliance in 2023. In addition to commitments regarding maximum levels of production and consumption up to 2023, the plan of action to return to compliance included a commitment to establish additional national policies to facilitate the HCFC phase-out. The Democratic People's Republic of Korea had submitted its Article 7 data for HCFCs for 2021, which showed levels of production and consumption slightly exceeding the commitments for the year as set out in the plan of action to return to compliance. The party had not yet submitted any update regarding progress on implementing the plan of action in spite of a reminder communicated by the Secretariat in April 2022.

44. To facilitate discussion of the matter, the representative of the Secretariat also provided a brief overview of the discussions held to date, by the Implementation Committee and the Meeting of the Parties, on decimal points in annual and baseline data and treatment of *de minimis* quantities of ozone-depleting substances. At its thirty-sixth meeting, the Committee had adopted recommendation 36/54, on reporting, presentation and review of data in respect of very small quantities (*de minimis*) of ozone-depleting substances relative to compliance with the Montreal Protocol, to be forwarded to the Meeting of the Parties. In the recommendation, the Committee had sought guidance on the number of decimal places to which baseline and annual data should be rounded to assess compliance; at the time, the Secretariat had recently begun presenting data to three decimal places, to take into account the progress made by countries in phasing out controlled substances and the increasingly small quantities being reported. The recommendation also requested the Meeting of the Parties to decide whether it wished to set a *de minimis* level for determining non-compliance. The Eighteenth Meeting of the Parties had discussed the matter and indicated that the Secretariat should return to its practice of reporting to one decimal place, but had not set a *de minimis* level. The Twentieth Meeting of the Parties had agreed to discuss the matter again at the request of the Committee at its forty-seventh meeting. The discussion by the Meeting of the Parties had led to decision XXIII/30, whereby the Secretariat was directed to use two decimal places.

45. During the ensuing discussion, one member concurred with the Secretariat's proposal that the deviation represented by the Democratic People's Republic of Korea's Article 7 data for 2021 be considered too insignificant to require further follow up, saying that there could be many sources of such a small deviation, including the data calculations themselves, and that the compliance mechanism should fully recognize parties' efforts to comply with their obligations.

46. Other members were reluctant to take that view, however. One questioned whether it was legally within the Committee's remit to decide that a deviation was too insignificant to follow up. He also raised a concern of a technical nature, noting that several parties that were low-volume-consuming countries reported consumption quantities equivalent to the deviation under discussion and might also be considered to be in non-compliance. Another member expressed concern about setting a precedent that would be applied to future cases. Yet another member said that, in requesting reporting to the second decimal point, the Meeting of the Parties could be understood to have been expecting that data to be used to assess compliance. Consequently, he proposed that the recommendation reflect the standard language used for cases of non-compliance, with added language highlighting the insubstantial nature of the deviation in the present case. His proposal was supported by a second member.



47. The acting President observed that the argument being made for not using standard language was that the deviation was too insignificant, which put the Committee in the difficult position of taking a stand on what qualified as “insignificant” should it choose to adopt the draft recommendation proposed by the Secretariat.

48. The Committee therefore agreed:

(a) To recall decision XXXII/6, in which the Meeting of the Parties, while noting that the Democratic People’s Republic of Korea was in non-compliance with the Montreal Protocol control measures for hydrochlorofluorocarbon (HCFC) production and consumption, noted with appreciation the plan of action submitted by the Democratic People’s Republic of Korea to ensure its return to compliance with those measures in 2023;

(b) To note with some concern that the Democratic People’s Republic of Korea had reported, for 2021, annual production of 24.81 ODP-tonnes of HCFCs and annual consumption of 58.03 ODP-tonnes of HCFCs, which was higher than its commitment, as set out in decision XXXII/6, to reduce its production and consumption of HCFCs to no greater than 24.80 ODP-tonnes and 58.00 ODP-tonnes, respectively, for that year, and thus that the Democratic People’s Republic of Korea had not strictly adhered to its commitments for 2021 as set out in its plan of action;

(c) To request the Democratic People’s Republic of Korea to provide an explanation for the deviations and, if appropriate, to submit a revised plan of action to ensure its return to compliance with the Protocol’s control measures for HCFCs in 2023, for consideration by the Implementation Committee at its sixty-ninth meeting;

(d) Also to request the Democratic People’s Republic of Korea to submit a progress report on the establishment, pursuant to paragraph 5 of decision XXXII/6, of additional national policies facilitating HCFC phase-out that might include, but would not be limited to, bans on imports, on production or on new installations, and certification of refrigeration technicians and companies, for consideration by the Implementation Committee at its sixty-ninth meeting;

(e) To continue to monitor closely the progress made by the Democratic People’s Republic of Korea in implementing its plan of action and phasing out HCFCs.

#### **Recommendation 68/4**

### **2. Kazakhstan (decision XXIX/14)**

49. Introducing the sub-item, the representative of the Secretariat recalled that in decision XXIX/14, the Meeting of the Parties had noted that Kazakhstan had reported HCFC consumption data that was inconsistent with its commitments for 2015 and 2016 under its previously submitted plan to ensure its return to compliance with the control measures for HCFC consumption by 2016, and adopted the party’s revised plan of action to ensure its return to compliance with the Protocol’s HCFC control measures up to 2030. In its revised plan of action, the party had committed to 2021 HCFC consumption of no more than 3.95 ODP-tonnes. The party had yet to submit its Article 7 data for 2021.

50. One member asked that the word “preferably” be removed from the draft recommendation in order to be clear about the deadline for submission. The representative of the Secretariat explained that under paragraph 3 of Article 7 parties were required to submit the data by 30 September, hence the deadline of 15 September constituted a request to submit earlier, with the aim of allowing more time for the preparation of documents for the sixty-ninth meeting of the Committee.

51. The Committee therefore agreed:

To request Kazakhstan to report to the Secretariat its data for 2021 on the production and consumption of controlled substances, in accordance with paragraph 3 of Article 7 of the Montreal Protocol, preferably no later than 15 September 2022, for consideration by the Committee at its sixty-ninth meeting, to assess the status of compliance by Kazakhstan with its commitments as set out in decision XXIX/14.

#### **Recommendation 68/5**

### **3. Libya (decision XXVII/11)**

52. Introducing the sub-item, the representative of the Secretariat recalled that in decision XXVII/11, the Meeting of the Parties had established that Libya was in non-compliance with the control measures for HCFCs and had noted with appreciation the submission by the party of a plan of action to ensure its return to compliance with the HCFC control measures up to 2021. In its revised

plan of action, the party had committed to 2021 HCFC consumption of no more than 76.95 ODP-tonnes. Libya had submitted its Article 7 data for 2021, thereby complying with its data reporting obligations. Moreover, the 2021 data confirmed that the party was adhering to its commitments.

53. Libya had also committed to certain policy activities in its plan of action and had submitted a progress report to the Secretariat on those activities. The party had outlined its process for monitoring and enforcing its licensing system for the imports and exports of ozone-depleting substances. As a result of that process, the party had at least three sources of data for cross-verification and submission of Article 7 to the Ozone Secretariat and country programme data to the Multilateral Fund secretariat. With respect to a ban on the procurement of air conditioners containing HCFCs, the party informed the Secretariat that the Ministry of the Environment had instructed the relevant ministries not to consider any new projects using HCFCs, effective July 2023. Regarding the import of such equipment, the party was proposing to introduce a ban on room air conditioners as of July 2023 and possibly extend the ban to large central air-conditioning systems by the end of 2025. Existing importers had already been advised to begin gradually phasing out the import of second-hand equipment containing HCFCs.

54. The representative of the Secretariat subsequently responded to a query regarding the need for a further update on the progress made in implementing its plan of action given that the party had returned to compliance with relevant control measures, explaining that whenever a party was the subject of a decision that included commitments to meet certain benchmarks, monitoring of compliance with the benchmarks continued.

55. On the suggestion of one member, the Committee also agreed to remove the words “to return to compliance” from the name of the plan of action, to avoid confusion.

56. The Committee therefore agreed:

(a) To note with appreciation the submission by Libya of its Article 7 data for 2021, which indicated that Libya was in compliance with its commitment for 2021 under its plan of action as recorded in decision XXVII/11;

(b) Also to note with appreciation the submission by Libya of a further update on the progress made towards imposing a ban on the procurement of air-conditioning equipment containing HCFCs and towards considering a ban on the import of such equipment;

(c) To request Libya to submit to the Secretariat, by 15 March 2023, a further update on the progress made towards the implementation of the actions set out in paragraph 2 (b) and (c) of decision XXVII/11, for consideration by the Implementation Committee at its seventieth meeting.

#### **Recommendation 68/6**

## **VI. Establishment of licensing systems under Article 4B, paragraph 2 bis, of the Montreal Protocol and follow-up on decision XXXIII/8**

57. Introducing the item, the representative of the Secretariat drew attention to the report of the Secretariat (UNEP/OzL.Pro/ImpCom/68/R.4) providing updated information on the status of licensing systems for HFCs pursuant to Article 4B, paragraph 2 bis, of the Protocol, under which each party was required to establish and implement a system for licensing the import and export of HFCs within three months of the entry into force of that provision for it. Furthermore, paragraph 3 of Article 4B required each party, within three months of the date of introducing its licensing system, to report to the Secretariat on the establishment and operation of the system, while paragraph 4 required the Secretariat to periodically prepare and circulate to all parties a list of the parties that had reported on their licensing systems and to forward that information to the Implementation Committee for consideration and appropriate recommendations to the parties.

58. A total of 136 parties had ratified the Kigali Amendment by 8 July 2022, of which 116 had confirmed the establishment and implementation of their licensing systems, including 76 Article 5 parties. In addition, 9 countries that were not parties to the Kigali Amendment had reported on the establishment of licensing systems for HFCs, down from 10 previously as Italy had recently ratified the Kigali Amendment.

59. At the time of the Thirty-Third Meeting of the Parties, 15 parties to the Kigali Amendment had not yet established licensing systems, although they ought to have done so by then; those parties were listed in decision XXXIII/8. Three of them, Eswatini, Sierra Leone and South Africa, had since reported on the establishment of their systems.

60. As of 8 July 2022, out of the 136 parties to the Kigali Amendment, 22 had yet to report on the establishment of licensing systems. For four of them, Congo, Morocco, Solomon Islands and Tajikistan, the Amendment had not yet entered into force; for a fifth, the United Republic of Tanzania, the three-month deadline for establishing licensing systems was yet to expire; and for a sixth, Türkiye, the time frame of three additional months within which it was required to report on the establishment of its licensing system had not yet expired. The remaining 16 parties, Angola, Botswana, Burundi, Cameroon, Côte d'Ivoire, Cuba, El Salvador, Ethiopia, Lesotho, Liberia, Mali, Mozambique, San Marino, Sao Tome and Principe, Somalia and Zambia, ought to have reported on the establishment of licensing systems as of 8 July 2022. Their names would be annexed to a draft decision on the matter to be formulated by the Committee at its sixty-ninth meeting and forwarded to the Thirty-Fourth Meeting of the Parties for its consideration. The list of parties to be appended to the decision would be updated by the Secretariat reflecting their interim status.

61. The Committee therefore agreed:

(a) To take note with appreciation of the report on the status of the establishment and implementation, pursuant to Article 4B, paragraph 2 bis, of the Montreal Protocol, of licensing systems for the import and export of HFCs;

(b) To note with appreciation that 116 parties to the Kigali Amendment to the Protocol had to date reported the establishment and implementation of such licensing systems, as required under the terms of the Amendment, and that another 9 parties that had not yet ratified the Kigali Amendment had also reported the establishment and implementation of such licensing systems;

(c) To urge the 16 parties listed in the appendix to the present recommendation to provide information to the Secretariat on the establishment of licensing systems and to do so as a matter of urgency and preferably before 15 September 2022;

(d) To continue periodically reviewing, as called for in paragraph 4 of decision XXXIII/8, the status of the establishment and implementation of such licensing systems by all the parties to the Kigali Amendment, as called for in Article 4B, paragraph 2 bis, of the Protocol, and to consider any appropriate recommendations to the parties.

#### Appendix

##### Parties that have not yet reported on the establishment of licensing systems according to Article 4B, paragraph 2 bis

1. Angola	7. El Salvador	13. San Marino
2. Botswana	8. Ethiopia	14. Sao Tome and Principe
3. Burundi	9. Lesotho	15. Somalia
4. Cameroon	10. Liberia	16. Zambia
5. Côte d'Ivoire	11. Mali	
6. Cuba	12. Mozambique	

#### Recommendation 68/7

## VII. Other matters

### Request by Madagascar for a change in its baseline data for hydrochlorofluorocarbons

62. Introducing the item, the representative of the Secretariat informed the Committee that the Government of Madagascar had submitted a request for the revision of its 2009 HCFC consumption data, along with supporting information (UNEP/OzL.Pro/ImpCom/68/R.2). She explained that, while the request would normally have been considered under agenda item 5 it was being considered under "other matters" owing to the late submission of the complete set of documents for the request. The revision concerned the year 2009, which along with 2010 was used to determine the HCFC production and consumption baselines for Article 5 parties. Consequently, the Secretariat had advised Madagascar to follow the prescribed methodology for such a request, which was set out in decision XV/19. Accordingly, the party had submitted a summary of the information required under subparagraphs 2 (a) (i)–(iii) of decision XV/19, explaining the reasons for the request; the HCFC phase-out management plan issued by the Government of Madagascar in February 2010; the project proposal for stage I of the HCFC phase-out management plan, submitted in November 2010 for the consideration of the Executive Committee at its sixty-second meeting; and a document from the Directorate-General

of Customs of Madagascar listing HCFC imports for 2009, as the country relied primarily on imports for its consumption.

63. In its documentation, the Government had explained that it wished to revise its 2009 HCFC consumption data from the present 33 ODP-tonnes to 16.49 ODP-tonnes, as the initial figure submitted to the Secretariat had been based on an erroneous estimate. The year 2009 had been marked by a deep political crisis and economic recession in Madagascar, and the surveys used as a basis for the estimate had been incomplete, having only been conducted in the larger centres. Surveys covering the informal sector and smaller cities had subsequently been conducted for the preparation of stage I of HCFC phase-out management plan for submission to the Executive Committee at its sixty-second meeting, and had allowed more accurate estimation of consumption in 2009 and 2010. The survey methodology was described in the Madagascar HCFC phase-out management plan. The change in the HCFC consumption data for 2009 would change the HCFC baseline from 24.9 ODP-tonnes to 16.6 ODP-tonnes and would also change the limits of the control measures, but would not have any impact on the party's compliance status.

64. The Committee therefore agreed:

*Noting with appreciation* the information submitted by Madagascar in support of its request to revise its existing consumption data for the baseline year 2009 for Annex C, group I, controlled substances (HCFCs),

*Noting* that decision XV/19 sets out the methodology for the submission of requests for revision of baseline data,

*Noting with appreciation* the efforts made by Madagascar to fulfil the information requirements of decision XV/19,

To forward for consideration by the Thirty-Fourth Meeting of the Parties the draft decision set out in the annex to the present report, by which the Meeting of the Parties would approve the request by Madagascar for the revision of its consumption data for HCFCs for the baseline year 2009 to 16.49 ODP-tonnes.

#### **Recommendation 68/8**

### **VIII. Adoption of the recommendations and the report of the meeting**

65. The Committee approved the recommendations set out in the present report and agreed to entrust the finalization and approval of the meeting report to its Vice-President, acting as President, and who also served as Rapporteur for the meeting, working in consultation with the Secretariat.

### **IX. Closure of the meeting**

66. Following the customary exchange of courtesies, the acting President declared the meeting closed at 5.10 p.m. on Saturday, 9 July 2022.

## Annex I

### Draft decision forwarded by the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol at its sixty-eighth meeting for consideration by the Thirty-Fourth Meeting of the Parties to the Montreal Protocol

*The Thirty-Fourth Meeting of the Parties decides:*

#### Draft decision XXXIV/[--]: Revision of the baseline data for Madagascar

*Noting* that, in decision XIII/15, the Thirteenth Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer decided to advise parties that request changes in reported baseline data for base years to present their requests before the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol, which in turn would work with the Secretariat of the Montreal Protocol and the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol to confirm the justification for the changes and present them to the Meeting of the Parties for approval,

*Noting also* that decision XV/19 sets out the methodology for the submission of such requests,

1. That Madagascar has presented sufficient information, in accordance with decision XV/19, to justify its request for the revision of its consumption data for hydrochlorofluorocarbons for 2009, which is part of the baseline for parties operating under paragraph 1 of Article 5 of the Montreal Protocol;

2. To approve the request by Madagascar and to revise its consumption data for hydrochlorofluorocarbons for the baseline year 2009 as indicated in the following table:

<i>Party</i>	<i>Previous hydrochlorofluorocarbon data (ODP-tonnes)</i>			<i>New hydrochlorofluorocarbon data (ODP-tonnes)</i>		
	<i>2009</i>	<i>2010</i>	<i>Baseline<sup>a</sup></i>	<i>2009</i>	<i>2010</i>	<i>Baseline<sup>a</sup></i>
Madagascar	33	16.8	<b>24.9</b>	16.49	16.8	<b>16.6</b>

<sup>a</sup> Hydrochlorofluorocarbon baselines established after the Twenty-Third Meeting of the Parties are presented to two decimal places whereas those established earlier are presented to one decimal place (see decision XXIII/30).

*Abbreviation:* ODP – ozone-depleting potential.

## Annex II

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