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

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**Implementation Committee under
the Non-Compliance Procedure
for the Montreal Protocol
Seventy-first meeting**
Nairobi, 20 October 2023

Report of the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol on the work of its seventy-first meeting

I. Opening of the meeting

1. The seventy-first 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 headquarters of the United Nations Environment Programme in Nairobi on Friday, 20 October 2023.
2. The President of the Committee, Gene Smilansky (United States of America), opened the meeting at 10.05 a.m. on Friday, 20 October 2023.
3. 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 to Nairobi, the home of the Secretariat, and noted that the Committee had last met in Nairobi in 2007, at its thirty-eighth meeting. She drew attention to the items that the Committee would consider during the current meeting, namely data reporting obligations, existing plans of action for specific parties to return to compliance, the status of the establishment of licensing systems by parties that had ratified the Kigali Amendment to the Montreal Protocol, and information from the Executive Committee of the Multilateral Fund. In addition, as the deadline for reporting of 2022 data had passed, the Committee might determine the cases of non-reporting and consider potential cases of non-compliance with control measures and action plan targets. The Committee would also be invited to discuss and approve recommendations and draft decisions to be forwarded to the Thirty-Fifth Meeting of the Parties; the President would report on the work of the Committee under item 21 of the agenda of the preparatory segment of that meeting. 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: Chile, China, Egypt, Netherlands (Kingdom of the), North Macedonia, Senegal, United States of America. The representatives of Lebanon, Poland and Suriname were unable to be present.
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, United Nations Industrial Development Organization, 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/71/R.1), as orally amended to include under item 7, “Other matters”, a request from the Secretariat for the Committee to consider the process and timelines for revising the primer for members:

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 XXXIV/14): Afghanistan (recommendation 70/1);
 - (b) Existing plans of action to return to compliance:
 - (i) Democratic People’s Republic of Korea (decision XXXII/6 and recommendation 70/2);
 - (ii) Kazakhstan (decision XXIX/14 and recommendation 70/3).
6. Establishment of licensing systems under Article 4B, paragraph 2 bis, of the Montreal Protocol and follow-up on decision XXXIV/15 (recommendation 70/5).
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. A 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.35/6–UNEP/OzL.Pro/ImpCom/71/2) and its addendum (UNEP/OzL.Pro.35/6/Add.1–UNEP/OzL.Pro/ImpCom/71/2/Add.1). He explained that he would not repeat the information presented to the Committee at its seventieth meeting and would provide only updates and new information.

10. With regard to reporting of data under Article 7, a total of 189 parties that were required to report data for 2022 had done so. Of the parties reporting, 146 were operating under paragraph 1 of Article 5 of the Protocol (Article 5 parties), and 43 were parties not doing so (non-Article 5 parties). Of the 189 parties, 107 had used the online reporting system and 175 had met the deadline of 30 September 2023. The nine parties that were yet to meet their obligations to report annual data for 2022 were Belgium, Croatia, the Democratic People’s Republic of Korea, Iceland, Kazakhstan, Portugal, San Marino, Spain and the State of Palestine. Regarding data for previous years, all 198 parties to the Protocol had reported annual data for past years up to and including 2021. Afghanistan, with assistance from the United Nations Industrial Development Organization, had recently submitted figures for both 2021 and 2022. For San Marino, the party’s submission of annual data for 2021 had excluded hydrofluorocarbons (HFC). San Marino had indicated, however, that it was considering providing estimated data for 2021. Regarding HFC baseline data, Eritrea had not yet submitted the required data for 2020, 2021 or 2022, despite its ratification of the Kigali Agreement on

7 February 2023 and the resulting deadline of 8 August 2023 for the submission of data for 2020 and 2021. The country had, however, confirmed that it planned to undertake a country-wide survey in January 2024. The United States of America had submitted HFC baseline data on production, imports and exports by substance and for the years 2011, 2012 and 2013.

11. With regard to the four cases of confirmed or possible non-compliance with the control measures for the consumption and production of controlled substances under the Protocol, only one party had not yet provided the necessary clarification with regard to two substances. One party had confirmed that consumption not previously accounted for had been for laboratory and analytical uses. The Secretariat was continuing to work with another party to confirm the details surrounding its consumption of methyl bromide. Two other parties had reported excess consumption or production as a result of stockpiling, which primarily concerned unintentional by-production scheduled for destruction. One of those parties had not yet confirmed, however, that it had measures in place to avoid diversion of the excess production, as required under decision XXII/20.

12. Regarding reporting on process-agent uses for 2022, all four parties that still used controlled substances for process-agent uses had reported the required data for 2022. Regarding the completion of data forms, in relation to decisions XXIV/14 and XXIX/18, there were no cases to consider for 2021 and, as data for 2022 were still being collected, any cases to consider for 2022 would be presented to the Committee at its seventy-second meeting.

13. In response to a previous request to provide information on the reporting of emissions of HFC-23, the Secretariat had provided such information in section Q of the report in document UNEP/OzL.Pro.35/6–UNEP/OzL.Pro/ImpCom/71/2 and sought guidance from the Committee as to whether the information provided was sufficient and in a suitable format.

14. Members of the Committee thanked the representative of the Secretariat for his comprehensive report and presentation.

15. In response to questions from a member of the Committee, the representative of the Secretariat clarified that one party that still used controlled substances for process-agent uses had reported data after the report contained in document UNEP/OzL.Pro.35/6–UNEP/OzL.Pro/ImpCom/71/2 had been published, and that therefore the pertinent information had been included in document UNEP/OzL.Pro.35/6/Add.1–UNEP/OzL.Pro/ImpCom/71/2/Add.1. One party was still reporting in ODP-tonnes rather than metric tons but was making the necessary internal arrangements to allow for reporting in metric tons in the future.

16. In response to a question from a member of the Committee regarding the information on the reporting of emissions of HFC-23, the representative of the Secretariat said that the difference between the figures given for production of hydrochlorofluorocarbons (HCFCs) and HFCs for feedstock use and for total production of HCFCs and HFCs could not be assumed to be the figure for consumptive use, as the figure could include exports. In response to a further question from the member of the Committee regarding the possibility of more complete accounting for the total production, he indicated that the Secretariat could include information similar to that contained in table 11 of the data report (UNEP/OzL.Pro.35/6–UNEP/OzL.Pro/ImpCom/71/2). On the issue of publishing the reported information on HFC-23 emissions, he noted that standard practice, absent further guidance, was not to publish information by country, by substance or by facility, as some parties had previously expressed concerns regarding the confidentiality of that information.

17. The Committee agreed to forward for consideration by the Thirty-Fifth Meeting of the Parties the draft decision set out in section A of annex I to the present report.

Recommendation 71/1

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

18. The Chief Officer of the secretariat of the Multilateral Fund reported on relevant decisions of the Executive Committee of the Fund taken at its ninety-second meeting, on activities carried out by bilateral and implementing agencies, and on policy issues due to be discussed at the ninety-third meeting of the Executive Committee, 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/71/INF/R.2).

19. The most recent data reported for HCFC consumption by Article 5 parties showed that the level of HCFCs consumed had fallen to 44.8 per cent of the consumption baseline, which was in line with the progress required to meet the 2025 consumption phase-out target. Current work in that regard was mainly focused on phasing out HCFC-22. Most foam manufacturing and a large portion of refrigeration and air-conditioning manufacturing were under conversion, mainly to low-global-warming-potential technologies, though the availability and penetration of some alternative technologies in local markets continued to pose challenges. All countries were addressing the refrigeration servicing sector. Overall, 77.1 per cent of starting point consumption and 75.8 per cent of baseline consumption were covered by HCFC phase-out management plans that had already been approved, with 7,475 ODP-tonnes remaining for phase-out management plans that might be submitted in the future. Under the phase-out management plans, HCFC-141 and HCFC-21 would be phased out completely, and 90.7 per cent of starting point consumption of pre-blended polyols would be phased out. More work was required, however, with regard to phasing out HCFC-123 and HCFC-22.

20. For HCFC production, stage I of China's phase-out plan for production had been completed. Additional funding had been approved at the eighty-first meeting of the Executive Committee, and stage II had been approved at that body's eighty-sixth meeting.

21. For HFC consumption, the most recent data reported through country programmes showed that HFC-134a, R-410A, HFC-32, R-404A and HFC-227ea together accounted for 85.2 per cent of total HFC consumption in metric tons and that R-410A, HFC-134a, R-404A, R-507A and HFC-227ea together accounted for 81.8 per cent in carbon-dioxide-equivalent tonnes. Refrigeration, air-conditioning and heat-pump manufacturing; refrigeration, air-conditioning and heat-pump servicing; and fire-fighting applications were the largest three uses, accounting for more than 85.8 per cent of total consumption in metric tons and for 88.5 per cent in carbon-dioxide-equivalent tonnes.

22. Regarding HFC data, reporting errors, such as incorrect quantities or substances, had been identified in a few cases and communicated to the relevant countries and agencies, and the necessary corrections to the data had been made. A further challenge had been the fact that HFC data were reported both as pure substances and as blends. Some blends were reported under their trade names, with information on their composition provided only in the case of a few countries. The situation posed challenges for reconciling the data reported in the Article 7 data reports and in country programme reports, as HFCs contained in blends needed to be reported as blends in the latter. The Executive Committee had approved a revised reporting format with minimal changes to include the manufacturing of blends, to the extent possible, and, under its decision 92/4, had requested its secretariat to provide additional information, to the extent possible, on the uses of HFC-23 reported in the column "other" in future documents on country programme data and prospects for compliance.

23. A total of 23 Kigali implementation plans and six HCFC phase-out management plans had been submitted for consideration by the Executive Committee at its ninety-third meeting. Other matters to be considered at the meeting included cost funding guidelines for the phase-down of HFCs; an operational framework for energy efficiency during HFC phase-down; types of activities and assistance required by Article 5 parties for local installation and assembly; finalization of the template for the Kigali implementation plan stage I agreement; the administrative cost regime for implementing agencies; a results framework for the operations of the Multilateral Fund; and monitoring, reporting, verification and licensing in the light of discussions on those topics at the Thirty-Fifth Meeting of the Parties.

24. 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

25. A representative of the Secretariat presented information on cases related to compliance with obligations under the Montreal Protocol (UNEP/OzL.Pro/ImpCom/71/R.3), along with the list of compliance issues to be considered by the Committee (UNEP/OzL.Pro/ImpCom/71/INF/R.1) and the information submitted by parties (UNEP/OzL.Pro/ImpCom/71/INF/R.2).

A. Data reporting obligations under Article 7 (decision XXXIV/4): Afghanistan (recommendation 70/1)

26. The Thirty-Fourth Meeting of the Parties, in decision XXXIV/14, had noted that Afghanistan was in a position of non-compliance with its data reporting obligations under the Protocol, and had urged the party to report the required data to the Secretariat as soon as possible. At its seventieth meeting the Committee, in recommendation 70/1, had noted with concern that Afghanistan had not yet submitted the required data, and had urged the party to report to the Secretariat its data for 2021 as a matter of urgency, and preferably no later than 15 September 2023, to enable the Committee to assess the status of compliance by the party at the current meeting. The focal point for Afghanistan had informed the Secretariat on 29 September 2023 of the party's efforts to collect data for 2021 and 2022, and the party had subsequently submitted those data on 19 October 2023. A provisional review of the data had indicated that the party was in compliance with the control measures for both years.

27. The Committee therefore agreed to note with appreciation that Afghanistan had submitted all outstanding data in accordance with its data reporting obligations under Article 7 of the Montreal Protocol, as urged in decision XXXIV/14, and that the data submitted confirmed that the party was in compliance with the Protocol's control measures for 2021.

B. Existing plans of action to return to compliance

1. Democratic People's Republic of Korea (decision XXXII/6 and recommendation 70/2)

28. The representative of the Secretariat recalled that in decision XXXII/6 the Thirty-Second Meeting of the Parties had noted the non-compliance by the Democratic People's Republic of Korea with the HCFC control measures for production and consumption for 2019, but had also noted with appreciation the submission of a plan of action to return to compliance in 2023. The data reported by the party for 2021 had, however, shown that the party's production and consumption of HCFCs were inconsistent with its commitments under the plan of action. Furthermore, the party had not yet submitted an update regarding progress in implementing the other actions and measures in the plan of action. Consequently, the Committee had, at its sixty-eighth meeting, adopted a recommendation noting non-adherence by the Democratic People's Republic of Korea to the commitments for 2021 set out in the plan of action and requesting clarification of the issue, and had reiterated the point in recommendations 69/4 and 70/2.

29. Despite sending repeated reminders about the Committee's requests for clarification, the Secretariat had not received any communication from the party regarding the outstanding issues, nor had the party yet submitted its data for 2022. The Committee therefore considered whether to issue a recommendation based on previous recommendations on the matter, but with the addition of language that stressed the urgency of the matter, or whether instead to forward a draft decision to the Thirty-Fifth Meeting of the Parties.

30. Responding to a question from a member of the Committee as to whether there had been any communication between the Secretariat and the Democratic People's Republic of Korea since the seventieth meeting, a representative of the Secretariat said that the party had acknowledged receipt of the letter containing the recommendation of the Committee, but that no further communication had taken place.

31. One member of the Committee expressed support for forwarding a draft decision to the Thirty-Fifth Meeting of the Parties. In answer to his question as to whether there were any implementing agencies currently active in the Democratic People's Republic of Korea, a representative of the Multilateral Fund said that, in the light of the situation in relation to the relevant Security Council resolutions, there were currently no implementing agencies active in the country.

32. In response to a request for clarification from a member of the Committee regarding the invitation in the draft decision to the Democratic People's Republic of Korea to send a representative to the seventy-second meeting of the Committee, a representative of the Secretariat confirmed that the invitation was in line with past practice and recalled that representatives of the party had responded to a similar invitation in the past, having participated in the sixty-seventh meeting of the Committee, which had been held online.

33. The Committee therefore agreed to forward for consideration by the Thirty-Fifth Meeting of the Parties the draft decision set out in section B of annex I to the present report.

Recommendation 71/2

2. Kazakhstan (decision XXIX/14 and recommendation 70/3)

34. The representative of the Secretariat recalled that in decision XXIX/14, the Twenty-Ninth Meeting of the Parties had noted with concern that Kazakhstan had reported HCFC consumption data inconsistent with its commitments for 2015 and 2016 under its previously submitted plan of action to return to compliance with the control measures for HCFC consumption by 2016. In the same decision, the Twenty-Ninth Meeting of the Parties had adopted the party's revised plan of action to ensure its return to compliance with the Protocol's HCFC control measures up to 2030.

35. In recommendation 70/3, Kazakhstan had been reminded to submit to the Secretariat its Article 7 data for 2022 as soon as possible but, as the party had not yet done so, its adherence to its commitments for that year as set out in decision XXIX/14 could not be assessed.

36. The Committee therefore agreed to request Kazakhstan to report to the Secretariat its data for 2022, in accordance with paragraph 3 of Article 7 of the Montreal Protocol, preferably no later than 15 March 2024, to enable the Committee to assess at its seventy-second meeting the status of compliance by Kazakhstan with its commitments for 2022 as set out in decision XXIX/14.

Recommendation 71/3

VI. Establishment of licensing systems under Article 4B, paragraph 2 bis, of the Montreal Protocol and follow-up on decision XXXIV/15 (recommendation 70/5)

37. Introducing the item, a representative of the Secretariat drew attention to the report of the Secretariat (UNEP/OzL.Pro/ImpCom/71/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. 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.

38. A total of 155 parties had ratified the Kigali Amendment, and 135 of those parties, including 93 Article 5 parties, had confirmed the establishment and implementation of their licensing systems. In addition, five parties that had not ratified the Amendment had reported on the establishment of licensing systems for HFCs.

39. Seven of the 15 parties listed in decision XXXIV/15, namely Botswana, Burundi, Côte d'Ivoire, Ethiopia, Somalia, Türkiye and Turkmenistan, had since reported on the establishment of their licensing systems.

40. A total of 20 of the 155 parties that had ratified the Kigali Amendment had not yet reported on the establishment of licensing systems. In the case of Belize, Egypt, Kenya and the Republic of Moldova, the Amendment had not yet entered into force; for the Bahamas and Georgia, the three-month deadline for establishing a licensing system had not yet expired; and Eritrea was still within the time frame of three additional months within which it was required to report on the establishment of its licensing system. The remaining 13 parties that had not yet reported on the establishment of licensing systems, although, under Article 4B, paragraph 3, they ought to have done so by now, were Angola, the Congo, El Salvador, Indonesia, Lesotho, Liberia, Mali, Mozambique, the Republic of Korea, San Marino, Sao Tome and Principe, the Bolivarian Republic of Venezuela and Zambia. In a letter dated 3 October 2023, Lesotho had informed the Secretariat of continuing procedural delays in establishing the relevant regulation due to a change of Government and had confirmed that the licensing system would be operational by the end of 2023. Indonesia, in a letter dated 16 October 2023, had informed the Secretariat that a draft regulation would be issued by the end of December 2023 and that its licensing system would be operational by January 2024.

41. In response to a question from a member of the Committee, a representative of the Secretariat confirmed that there was no specific format for reporting the establishment of a licensing system but that a party should inform the Secretariat in writing regarding the establishment of its licensing system. In response to a question from another member of the Committee as to whether the Secretariat had communicated with the 13 parties that should have already reported on the establishment of licensing systems, a representative of the Secretariat confirmed that the Secretariat had sent all parties, once they had ratified the Kigali Amendment, a notification of the dates by which they should have

established a licensing system and informed the Secretariat of that establishment, and had also sent reminders shortly before those deadlines, where required. The Secretariat did not, however, ask parties to provide a reason for not establishing, or not informing the Secretariat of the establishment of, a licensing system.

42. The Committee therefore agreed to forward for consideration by the Thirty-Fifth Meeting of the Parties to the Montreal Protocol the draft decision set out in section C of the annex to the present report, which, among other things, records the number of parties to the Montreal Protocol that have ratified the Kigali Amendment that had reported to the Secretariat on the establishment and operation of systems for licensing the import and export of Annex F controlled substances, in accordance with paragraph 3 of Article 4B of the Montreal Protocol.

43. The Committee also agreed:

(a) To urge the 13 parties listed in the appendix to the draft decision to provide information to the Secretariat on the establishment of their licensing systems, and to do so as a matter of urgency and preferably before 15 March 2024;

(b) To continue reviewing periodically the status of the establishment and implementation of such licensing systems by all parties to the Montreal Protocol having ratified the Kigali Amendment in accordance with Article 4B, paragraph 2 bis, of the Protocol and consider any appropriate recommendations to the parties.

Recommendation 71/4

VII. Other matters

Process and timelines for revising the primer for members

44. A representative of the Secretariat, noting that a copy of the draft revised primer had been sent to all members of the Committee by email on 6 October, recalled that the primer currently in use had been drafted in 2007 and therefore a revision had been deemed necessary in order to reflect current practices of the Committee and to streamline the document. She invited members of the Committee to send comments on the draft to the Secretariat by the end of November 2023 so that the revised primer could be finalized in early 2024 and then formally edited and translated.

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

45. The Committee approved the recommendations set out in the present report, noting in relation to recommendation 71/1 and the draft decision on data and information provided by the parties in accordance with Article 7 of the Montreal Protocol set out in section A of annex I to the present report and forwarded for adoption by the Thirty-Fifth Meeting of the Parties that Iceland had submitted its data for 2022 during the current meeting. The Committee agreed to entrust the Secretariat with updating the numbers and names of parties included in the draft decisions to reflect any late submissions of data by parties, including that of Iceland, after the current meeting and before the draft decisions were considered by the Thirty-Fifth Meeting of the Parties. The Committee also agreed to entrust the finalization and approval of the meeting report to its President and the Rapporteur, working in consultation with the Secretariat.

IX. Closure of the meeting

46. Following the customary exchange of courtesies, the President declared the meeting closed at 12.10 p.m. on Friday, 20 October 2023.

Annex I

Draft decisions forwarded by the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol at its seventieth and seventy-first meetings for consideration by the Thirty-Fifth Meeting of the Parties to the Montreal Protocol

The Thirty-Fifth Meeting of the Parties decides:

A. Draft decision XXXV/[--]: Data and information provided by the parties in accordance with Article 7 of the Montreal Protocol

1. To note that 190 parties of the 198 parties that should have reported data for 2022 have done so, and that 175 of those parties had reported their data by 30 September 2023 as required under paragraph 3 of Article 7 of the Montreal Protocol on Substances that Deplete the Ozone Layer;

2. To note with appreciation that 109 of the reporting parties had submitted their data for 2022 by 30 June 2023, in accordance with the encouragement in decision XV/15, and that reporting by 30 June each year greatly facilitates the work of the Executive Committee of the Multilateral Fund for the Implementation of the Montreal Protocol in assisting parties operating under paragraph 1 of Article 5 of the Protocol to comply with the Protocol's control measures;

3. To note with concern that eight parties, namely Belgium, Croatia, the Democratic People's Republic of Korea, Kazakhstan, Portugal, San Marino, Spain and the State of Palestine, have not reported their data for 2022 as required under paragraph 3 of Article 7 of the Montreal Protocol, and that this places them in non-compliance with their data reporting obligations under the Protocol until such time as the Secretariat receives their outstanding data;

4. To also note with concern that one party operating under paragraph 1 of Article 5, namely Eritrea, that has ratified the Kigali Amendment to the Montreal Protocol and should have submitted baseline data for Annex F substances (hydrofluorocarbons) for the years 2020 to 2022 has not done so as required under paragraph 2 of Article 7 of the Montreal Protocol, and that this places the party in non-compliance with its data reporting obligations under the Montreal Protocol until such time as the Secretariat receives its outstanding baseline data for hydrofluorocarbons;

5. To further note with concern that one party not operating under paragraph 1 of Article 5, namely San Marino, that ratified the Kigali Amendment to the Montreal Protocol in 2020 and is thus required to submit data on Annex F substances (hydrofluorocarbons) for 2021 submitted data for other controlled substances but not for hydrofluorocarbons, as required under paragraph 3 of Article 7 of the Montreal Protocol, and that this places the party in non-compliance with its data reporting obligations under the Montreal Protocol until such time as the Secretariat receives its outstanding data for hydrofluorocarbons;

6. To note that a lack of timely data reporting by parties impedes the effective monitoring and assessment of parties' compliance with their obligations under the Montreal Protocol;

7. To urge the parties listed in paragraphs 3, 4 and 5 of the present decision to report the required data to the Secretariat as soon as possible;

8. To request the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol to review the situation of those parties at its seventy-second meeting;

9. To encourage parties to continue to report consumption and production data as soon as the figures are available, and preferably by 30 June each year, as encouraged in decision XV/15 and subsequent decisions on the matter.

B. Draft decision XXXV/[--]: Non-compliance in 2021 with the provisions of the Montreal Protocol governing consumption and production of the controlled substances in Annex C, group I (hydrochlorofluorocarbons) by the Democratic People's Republic of Korea

Recalling decision XXXII/6, in which the Meeting of the Parties noted that the Democratic People's Republic of Korea was in non-compliance with the Montreal Protocol control measures for

hydrochlorofluorocarbon production and consumption in 2019, but also 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,

Noting with concern that the Democratic People's Republic of Korea had reported, for 2021, annual production of 24.81 ODP-tonnes of hydrochlorofluorocarbons and annual consumption of 58.03 ODP-tonnes of hydrochlorofluorocarbons, which is higher than its commitment, as set out in decision XXXII/6, to reduce its production and consumption of hydrochlorofluorocarbons to no greater than 24.80 ODP-tonnes and 58.00 ODP-tonnes, respectively,

Noting that the Democratic People's Republic of Korea has not reported its annual consumption data for controlled substances for 2022 in accordance with Article 7, paragraph 3, of the Montreal Protocol,

1. To note with concern that the Democratic People's Republic of Korea did not strictly adhere to its commitments for 2021 as set out in its plan of action to return to compliance contained in decision XXXII/6 and that the party was in non-compliance with the consumption control measures for that substance under the Montreal Protocol for 2021;

2. To express great concern regarding the fact that the party has not yet, despite several requests by the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol in its recommendations 68/4, 69/4 and 70/2 and repeated reminders by the Secretariat, provided an explanation for the deviations mentioned in paragraph 1 of the present decision, and has not submitted a revised plan of action, if appropriate, to ensure its return to compliance with the control measures of the Montreal Protocol for hydrochlorofluorocarbons in 2023, along with a progress report to establish additional national policies facilitating the phase-out of hydrochlorofluorocarbons that might include, but would not be limited to, bans on imports, on production or on new installations, along with certification of refrigeration technicians and companies, as set out in its plan of action to return to compliance contained in decision XXXII/6;

3. To note with concern that the Democratic People's Republic of Korea has not reported its 2022 data as required under Article 7, paragraph 3, of the Montreal Protocol, and that this places it in non-compliance with its 2022 data reporting obligations under the Montreal Protocol until such time as the Secretariat receives its outstanding data, as is also noted in decision XXXV/[--];¹

4. To urge the Democratic People's Republic of Korea to provide an explanation for the deviations as a matter of urgency, together with Article 7 data for 2022, no later than 15 March 2024, and, if appropriate, to submit a revised plan of action to ensure its return to compliance with the control measures of the Montreal Protocol for hydrochlorofluorocarbons in 2023, for consideration by the Implementation Committee at its seventy-second meeting;

5. To request the Democratic People's Republic of Korea to submit a progress report on efforts to establish additional national policies facilitating the phase-out of hydrochlorofluorocarbons that might include, but would not be limited to, bans on imports, on production or on new installations, along with certification of refrigeration technicians and companies, for consideration by the Implementation Committee at its seventy-second meeting, as set out in paragraph 5 of decision XXXII/6;

6. To invite the Democratic People's Republic of Korea, if necessary, to send a representative to the Committee's seventy-second meeting;

7. To caution the Democratic People's Republic of Korea, in accordance with item B of the indicative list of measures that may be taken by the Meeting of the Parties in respect of non-compliance, that, in the event that the Democratic People's Republic of Korea fails to return to compliance, the parties will consider measures consistent with item C of the indicative list of measures. Those measures may include the possibility of actions available under Article 4, such as ensuring that the supply of hydrochlorofluorocarbons, the substances that are the subject of non-compliance, is ceased so that exporting parties do not contribute to a continuing situation of non-compliance.

¹ See the draft decision in section A of the present annex.

C. **Draft decision XXXV/[-]: Status of the establishment of licensing systems under Article 4B, paragraph 2 bis, of the Montreal Protocol**

Noting that Article 4B, paragraph 2 bis, of the Montreal Protocol on Substances that Deplete the Ozone Layer requires each party to establish and implement a system for licensing the import and export of new, used, recycled and reclaimed controlled substances listed in Annex F to the Protocol,

Noting with appreciation that 135 of the 155 parties to the Montreal Protocol that have ratified the Kigali Amendment to the Protocol have reported having established import and export licensing systems for Annex F controlled substances as required, and that five parties that have not yet ratified the Kigali Amendment have also reported the establishment and implementation of such licensing systems,

Noting, however, that the 13 parties listed in the appendix to the present decision have not yet reported to the Secretariat on the establishment and operation of their licensing systems pursuant to Article 4B, paragraph 3,

Recognizing that licensing systems provide for data collection and verification, the monitoring of imports and exports of controlled substances, and the prevention of illegal trade,

Recognizing also that the successful phase-out of most controlled substances by parties is largely attributable to the establishment and implementation of licensing systems to control the import and export of ozone-depleting substances,

1. To take note with appreciation of the efforts made by the parties in the establishment and operation of licensing systems for Annex F controlled substances under Article 4B, paragraph 2 bis, of the Montreal Protocol;
2. To urge the 13 parties listed in the annex to the present decision to provide information to the Secretariat on the establishment of licensing systems as a matter of urgency, and no later than 15 March 2024, for consideration by the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol at its seventy-second meeting;
3. To urge all parties to the Montreal Protocol having ratified the Kigali Amendment that have not yet established and implemented the licensing system referred to in paragraph 1 of the present decision to do so, and to report that information to the Secretariat within three months of doing so;
4. To request the Secretariat to review periodically the status of the establishment of import and export licensing systems for Annex F controlled substances by all parties to the Protocol, as called for in Article 4B, paragraph 4, of the Protocol.

Appendix to the draft decision

Parties that have not yet reported on the establishment and operation of licensing systems pursuant to Article 4B, paragraph 3

- | | | |
|----------------|----------------------|--|
| 1. Angola | 6. Liberia | 11. Sao Tome and Principe |
| 2. Congo | 7. Mali | 12. Venezuela (Bolivarian Republic of) |
| 3. El Salvador | 8. Mozambique | 13. Zambia |
| 4. Indonesia | 9. Republic of Korea | |
| 5. Lesotho | 10. San Marino | |

Annex II*

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* The annex has not been formally edited.

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