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

Distr.: General

28 April 2023

English only

**Workshop on strengthening the effective
implementation and enforcement of the
Montreal Protocol**

Bangkok, 2 July 2023

**Open-ended Working Group of the Parties
to the Montreal Protocol on Substances
that Deplete the Ozone Layer****Forty-fifth meeting**

Bangkok, 3–7 July 2023

Item 5 (b) of the provisional agenda*

**Strengthening Montreal Protocol institutions, including
for combating illegal trade (decision XXXIV/8):
background documents prepared by the Secretariat in
accordance with decision XXXIV/8**

Summary of common features of licensing systems

Note by the Secretariat

I. Introduction

1. The present paper has been prepared in response to subparagraph 4 (b) of decision XXXIV/8 on strengthening Montreal Protocol institutions, including for combating illegal trade, in which the Thirty-Fourth Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer requested the Secretariat to identify common features of licensing systems to assist parties wishing to improve their national licensing systems for controlled substances.
2. At the forty-fourth meeting of the Open-ended Working Group of the Parties to the Montreal Protocol, parties considered institutional processes to further strengthen the effective implementation and enforcement of the Montreal Protocol. The discussion was based on the note prepared by the Secretariat for the Implementation Committee under the Non-Compliance Procedure for the Montreal Protocol in 2019, at the request of the Committee, on possible ways of dealing with illegal production of and illegal trade in controlled substances under the Montreal Protocol, identifying potential gaps in the non-compliance procedure, challenges, tools, ideas and suggestions for improvement.¹
3. The issue, including the role of licensing systems, was further discussed at the Thirty-Fourth Meeting of the Parties. Building on those discussions, the Thirty-Fourth Meeting of the Parties adopted decision XXXIV/8, in which it also requested the Secretariat to organize a one-day workshop on further strengthening effective implementation and enforcement of the Montreal Protocol.

* UNEP/OzL.Pro.WG.1/45/1/Rev.2.

¹ UNEP/OzL.Pro.WG.1/44/3. The note was originally issued as annexes II and III to the report of the Implementation Committee on the work of its sixty-third meeting (UNEP/OzL.Pro/ImpCom/63/6). It was subsequently issued as document UNEP/OzL.Pro.34/8 for consideration under item 7 of the agenda of the Thirty Fourth Meeting of the Parties, on institutional processes to strengthen the effective implementation and enforcement of the Montreal Protocol.

4. The workshop on strengthening the effective implementation and enforcement of the Montreal Protocol will be convened on 2 July 2023 in Bangkok, immediately prior to the forty-fifth meeting of the Open-ended Working Group.

5. The present note summarizes common features of licensing systems. Section II recalls the requirements under Article 4B of the Montreal Protocol, on licensing systems, as well as recommendations from previous decisions of the parties regarding the establishment and implementation of such systems. Section III describes the methodology used by the Secretariat to conduct the present analysis, and section IV sets out common features of licensing systems as well as identified good practices, some of which have been adopted by parties as part of their efforts to strengthen import and export licensing systems for controlled substances. The conclusions of the note are contained in section V, along with a summary of key features of licensing systems and potential gaps, for consideration at the workshop on strengthening the effective implementation and enforcement of the Montreal Protocol and at the forty-fifth meeting of the Open-ended Working Group.

II. Background information

A. Montreal Amendment introducing Article 4B into the Montreal Protocol

6. Based on its discussion regarding the need to address illegal trade in controlled substances,² the Seventh Meeting of the Parties, in decision VII/9, decided that the Ninth Meeting of the Parties should incorporate an import and export licensing system into the Montreal Protocol. Subsequently, in decision VIII/20, the Eighth Meeting of the Parties requested the Ninth Meeting of the Parties to also consider instituting a system to require validation and approval of exports of used and recycled ozone-depleting substances from all Parties. Accordingly, in decision IX/4, on further amendment of the Protocol, the Ninth Meeting of the Parties adopted the Montreal Amendment to the Montreal Protocol, which introduced Article 4B, under which each party was required to establish and implement a system for licensing the import and export of new, used, recycled and reclaimed controlled substances in Annexes A, B, C and E.

7. In decision IX/8, on the licensing system, the Ninth Meeting of the Parties decided that the licensing system to be established by each party should:

- (a) Assist collection of sufficient information to facilitate parties' compliance with relevant reporting requirements under Article 7 of the Protocol and decisions of the parties;
- (b) Assist parties in the prevention of illegal traffic of controlled substances, including, as appropriate, through notification and/or regular reporting by exporting countries to importing countries and/or by allowing cross-checking of information between exporting and importing countries.

8. In 2016, the Kigali Amendment introduced paragraph 2 bis into Article 4B, under which each party was also required to establish and implement a system for licensing the import and export of new, used, recycled and reclaimed Annex F substances (hydrofluorocarbons, or HFCs) by 1 January 2019 or within three months of the date of entry into force of the paragraph for it, whichever is later. Any party operating under paragraph 1 of Article 5 (Article 5 party) that decided it was not in a position to establish and implement such a system by 1 January 2019 could delay taking those actions until 1 January 2021.

9. Under paragraph 3 of Article 4B, each party is required to report to the Secretariat on the establishment and operation of its licensing system within three months of the date of introducing that system. The specific implementation details and features of the system are left to the discretion of the party; however, according to paragraph 3 of decision IX/8 of the Ninth Meeting of the Parties, the Secretariat and implementing agencies should take steps to assist parties in the design and implementation of appropriate national licensing systems. Accordingly, the Secretariat has provided technical assistance in that regard at the request of parties seeking advice on their national reform processes and regulations related to their licensing system.

10. As at 28 April 2023, all 198 parties to the Montreal Protocol had established a licensing system for controlled substances in Annexes A, B, C and E, and 126 of the 148 parties to the Kigali Amendment had confirmed the establishment and implementation of their licensing system for

² UNEP/OzL.Pro.7/12, para. 69: "A number of representatives pointed to regrettable evidence of illegal trade in controlled substances. That was a serious threat to the achievements already gained and required a concerted, coordinated response, through a continuous exchange of information and a tightening of control systems. Existing arrangements should be strengthened and, if necessary, new arrangements adopted."

controlled substances in Annex F. In accordance with paragraph 4 of Article 4B, the Secretariat periodically prepares and circulates to all parties a list of the parties that have reported to it on their licensing systems for HFCs and forwards that information to the Implementation Committee for its consideration and appropriate recommendations to parties. Each Meeting of the Parties adopts a decision on the status of the establishment of licensing systems for HFCs, based on the recommendation of the Implementation Committee.³ Up-to-date information on the status of domestic licensing systems for HFCs is available on the Secretariat's website.⁴

B. The role of an effective licensing system in the Montreal Protocol implementation

11. As recognized and recalled by a number of subsequent decisions⁵ and discussions,⁶ licensing systems play a central role in preventing illegal trade, providing for the monitoring of imports and exports of controlled substances and facilitating data collection and verification. These activities facilitate parties' compliance with their obligations under the Montreal Protocol and with relevant reporting requirements under Article 7 of the Protocol and country programme data submission to the secretariat of the Multilateral Fund for the Implementation of the Montreal Protocol.

12. Pursuant to paragraph 2 of decision IX/8, parties are required to communicate to the Secretariat the name and contact details of the national focal point for licensing systems, to facilitate the efficient notification and/or reporting and/or cross-checking of information. The Secretariat prepares a full, up-to-date list of the contact details to all parties and circulates it as an information document at each Meeting of the Parties and Implementation Committee meeting.⁷ Up-to-date contact information is also made available through the Secretariat's website.⁸

13. In decision XIII/12, the Thirteenth Meeting of the Parties requested the Secretariat to prepare a study with practical suggestions on monitoring of international trade and prevention of illegal trade in ozone-depleting substances and mixtures and products containing ozone-depleting substances. Developed in consultation with the Technology and Economic Assessment Panel, the World Customs Organization, the Division of Technology, Industry and Economics of the United Nations Environment Programme (UNEP) and the World Trade Organization and presented at the twenty-second meeting of the Open-ended Working Group, the study highlighted the critical value of an effective licensing system and included various recommendations regarding the establishment and implementation of such a system.⁹

14. In paragraph 3 of decision XIX/12, the Nineteenth Meeting of the Parties suggested the following measures, to be implemented domestically on a voluntary basis, to parties wishing to improve implementation and enforcement of their licensing systems in order to combat illegal trade more effectively:

- (a) Sharing information with other parties, such as by participating in an informal prior informed consent procedure or similar system;
- (b) Establishing quantitative restrictions, for example import and/or export quotas;
- (c) Establishing permits for each shipment and obliging importers and exporters to report domestically on the use of such permits;
- (d) Monitoring transit movements (trans-shipments) of ozone-depleting substances, including those passing through duty-free zones, for instance, by identifying each shipment with a unique consignment reference number;
- (e) Banning or controlling the use of non-refillable containers;

³ See, for example, [decision XXXIV/15](#).

⁴ <https://ozone.unep.org/additional-reported-information/licensing-systems>.

⁵ See, for example, decisions [XVI/32](#), [XXIV/17](#) and [XXXIV/15](#).

⁶ Discussions during the forty-first meeting of the Open-ended Working Group and the Thirty-Fourth Meeting of the Parties, for instance, highlighted the centrality of the licensing system in the effective and successful implementation of the Montreal Protocol (see [UNEP/OzL.Pro.34/9](#), para. 115, and [UNEP/OzL.Pro.WG.1/41/5](#), annex II).

⁷ See, for example, document [UNEP/OzL.Pro.34/INF/5–UNEP/OzL.Pro/ImpCom/69/INF/4](#).

⁸ <https://ozone.unep.org/countries/additional-reported-information/focal-points/licensing-systems>.

⁹ [UNEP/OzL.Pro.WG.1/22/4](#).

- (f) Establishing appropriate minimum requirements for labelling and documentation to assist in the monitoring of trade of ozone-depleting substances;
- (g) Cross-checking trade information, including through private-public partnerships;
- (h) Including any other relevant recommendations from the ozone-depleting substances tracking study.¹⁰

15. The measures, which can be considered as good practices and recommendations, have also been promoted through the work of the implementing agencies.¹¹

16. The Executive Committee of the Multilateral Fund, in its decision 63/17, decided that for all submissions from its sixty-eighth meeting (3–7 December 2012) onward, Governments would be required to confirm that an enforceable national system of licensing and quotas for hydrochlorofluorocarbon (HCFC) imports and, where applicable, production and exports was in place and capable of ensuring the country’s compliance with the Montreal Protocol HCFC phase-out schedule for the duration of the agreement.¹²

17. In order to increase the accessibility of available data on domestic licensing systems and assist parties in improving their licensing systems, the Ozone Secretariat posts relevant links and regulations shared by parties on a voluntary basis under the country profiles on its website.¹³ As is indicated in the report of the forty-first meeting of the Open-ended Working Group, all parties are “open to the concept of transparency of their licensing systems, with the opportunity to learn from other countries’ systems”.¹⁴

III. Methodology

18. To identify common features of licensing systems, the Secretariat began by compiling, analysing and comparing the information that parties had already submitted to the Secretariat on their domestic licensing systems in accordance with paragraph 3 of Article 4B, including the relevant links and regulations that had been posted under the country profiles of the Secretariat’s website. Also drawing on recommendations from relevant past decisions of the parties, including decision XIX/12, and reports developed at the request of the parties,¹⁵ the Secretariat generated a non-exhaustive list of possible features of an import and export licensing system for controlled substances. Knowledge generated by the implementing agencies, including UNEP, during the implementation of national phase-out plans in Article 5 parties was used to identify and confirm features of a national licensing system and good practices for effective operation.¹⁶

19. Based on its initial analysis, the Secretariat requested 67 parties to provide information on their domestic licensing systems, selected to cover all regions and include a balanced number of Article 5 and non-Article 5 parties, including low-volume-consuming countries.

20. As at 27 April 2023, the Secretariat had received the requested information from 46 parties, including relevant information extracted from verification reports submitted to the Multilateral Fund,¹⁷

¹⁰ The tracking study referred to is Chatham House and Environmental Investigation Agency, *ODS Tracking: Feasibility Study on Developing a System for Monitoring the Transboundary Movement of Controlled Ozone-Depleting Substances between the Parties* (2006). The list of suggested measures incorporates many of the recommendations from that study.

¹¹ See, for example, Janusz Kozakiewicz, *Legislative and Policy Options to Control Hydrofluorocarbons* (UNEP, 2018).

¹² UNEP/OzL.Pro/ExCom/63/60 and [Corr.1](#).

¹³ <https://ozone.unep.org/countries>.

¹⁴ UNEP/OzL.Pro.WG.1/41/5, annex II, para. 4 (f) (i).

¹⁵ UNEP/OzL.Pro/WG.1/22/4; Chatham House and Environmental Investigation Agency, *ODS Tracking: Feasibility Study on Developing a System for Monitoring the Transboundary Movement of Controlled Ozone-Depleting Substances between the Parties* (2006).

¹⁶ See, for example, Janusz Kozakiewicz, *Legislative and Policy Options to Control Hydrofluorocarbons* (UNEP, 2018); UNEP, *Establishing an HCFC Import Quota System* (2012); *Training Manual for Customs and Enforcement Officers*, 3rd ed., *Saving the Ozone Layer: Phasing Out Ozone Depleting Substances in Developing Countries* (United Nations Publication, 2013); UNEP, “*OzonAction Kigali Fact Sheet No. 12 – Interactions with Other Policy Measures*” (2017).

¹⁷ Relevant extracts from verification reports were either communicated to the Secretariat by parties or shared by the Multilateral Fund secretariat with the concerned party’s permission.

regulations and briefing notes describing the functioning and operation of their systems.¹⁸ That information was supplemented by the relevant links and regulations previously shared with the Secretariat by those parties and posted under their country profiles. The licensing systems have been analysed against the non-exhaustive list of possible features and good practices to determine which are most common. Identified common features are those mentioned by a majority of the parties that provided information. The figures in this study reflect only the information explicitly provided by parties regarding the identified features. Such features may also be used by other parties that, however, did not mention relevant information to the Secretariat.

21. The findings of the analysis are summarized in the following section.

IV. Common licensing system features and good practices in licensing the import and export of controlled substances

22. While policy frameworks governing the operation of import and export licensing systems vary greatly depending on the country and include a range of different institutional and legal measures, the systems themselves have a number of common features. This section describes the most recurrent features, as well as other features being adopted by parties that can be considered good practices for strengthening existing licensing systems. These features and good practices can enhance the effectiveness of licensing systems and help parties to achieve their compliance objectives.

A. Structure and functioning

1. Scope of the licensing system

23. Under paragraphs 1 and 2 bis of Article 4B of the Montreal Protocol, each party is required to establish a licensing system for both imports and exports. In paragraph 3 of decision XVII/16, the Nineteenth Meeting of the Parties urged all parties to fully implement their obligations under Article 4B, in particular the licensing systems for the control of imports, exports and re-exports (re-exports meaning exports of previously imported substances). On the basis of the information communicated to the Secretariat for the purposes of the present analysis, it appears that about eight of the parties whose licensing systems were studied by the Secretariat only enshrine the licensing of imports in their regulations.

24. In paragraph 3 of decision XVII/16, echoing subparagraph 3 (d) of decision XIX/12, the Nineteenth Meeting of the Parties further urged parties to control, through the licensing system and if technically and administratively feasible, transit of all controlled ozone-depleting substances, including mixtures containing them, regardless of whether the party concerned is or is not recognized as the producer and/or importer, exporter or re-exporter of the particular substance or group of substances. The information received from parties shows that national licensing systems are rarely used to monitor such transit movements, including movements through free trade zones.

25. All the licensing systems considered in the present analysis control new, used, recycled and reclaimed controlled substances, as required under paragraphs 1 and 2 bis of Article 4B of the Montreal Protocol. Some countries go beyond the Montreal Protocol requirements and require the issuance of licences for products and equipment containing controlled substances, as recommended by decision IX/9. Based on the information received by the Secretariat as part of this analysis, 12 parties were identified as implementing such practice, although the number may be higher.

2. Institutional framework

26. Most institutional structures that implement licensing systems involve close cooperation between ministries responsible for the environment, trade and/or finance and customs. In the case of Article 5 parties, a national ozone unit managing national programmes to comply with the Montreal Protocol is also part of this institutional framework. Such cooperation facilitates the exchange of information and data collection and verification, as well as coordination and efficiency in the licensing process.

27. The environmental ministry or agency, or in the case of Article 5 parties the national ozone unit (commonly part of an environmental ministry or agency), is generally the entity reviewing applications for import and export quotas and licences. If the licence-issuing authority is different from the national ozone unit in Article 5 parties, licences are usually issued on the basis of the prior

¹⁸ Any additional information received after the preparation of the present note will, to the extent possible, be reflected in the Secretariat's overview presentation during the workshop.

approval and recommendations of the national ozone unit or the quotas issued by the national ozone unit, as was observed in 11 countries as part of this analysis. In one case out of the information provided to the Secretariat, the national ozone unit is not involved in the issuance of licences but receives regular statistical data from the relevant authority.

28. The participation of associations of importers/exporters in activities of the relevant licensing administrations, especially in Article 5 parties, has been identified as a practice that allows the national ozone unit to communicate information more effectively, allocate quotas more transparently and build capacity and trust when preparing the industry for the reduction of quotas. A national committee has also been institutionalized in some countries (five parties identified in this analysis), involving stakeholders from relevant ministries, including the national ozone unit, if one exists, as well as from industry. Such a committee is a platform for discussion and regular meetings to agree on strategies and actions for implementing the Montreal Protocol nationally, including quota allocation and operation of the licensing system.

3. Registration and quota system

29. The licensing systems analysed by the Secretariat generally include a requirement for importers and exporters to be accredited and registered with the competent licensing authority.

30. The analysis revealed general use of a quota allocation mechanism combined with the licensing system. The annual quota restricts the maximum quantity of controlled substances to be imported (and produced) as part of the strategy to comply with phase-down and phase-out targets under the Montreal Protocol. In some cases, the quota system is enshrined in the regulation establishing the licensing system, while in other cases it is established under a separate regulation or administrative order.

31. Quotas are usually allocated for one calendar year, based on historical shares and import statistics. In many cases, a small percentage is allocated for new companies entering the market, and a safety margin is retained for emergencies and to ensure compliance. Often, a business that does not use its quota will not be allocated a quota for the following year. The license-issuing authority, which for many Article 5 parties is the national ozone unit, is generally the entity that manages and allocates quotas, which are the basis on which companies can apply for a licence to import controlled substances.

4. Application procedure and utilization of licences

32. Depending on the country and the request from the company, the issued licence may cover all or part of the allocated quota, for a given calendar year or for specific months. Some countries issue a licence for each shipment, as recommended in paragraph 3 (d) of decision XIX/12, which may increase the burden of the process but allows more precise monitoring of movement and quota uses and limits opportunities for fraud.

33. Common requirements for importers and exporters applying for licences are described below, along with additional requirements that have been identified as good practice.

(a) Documentation

34. The application form for import and export licences generally has to be signed by the head of the company or someone authorized to sign on the company's behalf. Usually, the form must state the names and addresses of suppliers (entity from the exporting country) or customers (entities from the importing country or national customers), the substance name, the customs code, the quantity to be imported or exported, the certificate of origin and the customs office where the shipment will be declared, and must include a copy of the sales contract or invoice number. In most cases, the business entity must also provide evidence that it follows safety standards, rules and regulations for safe handling of such chemicals. Some countries request companies that were granted quotas and licences for previous years to submit reports on the actual use of the quotas and licences. Such reports are helpful as another source of information for cross-checking data at the end of the year and monitoring the entry and use of controlled substances, as well as for realistically estimating needs and demand for the following year. In the case of an import licence, a distribution plan for the year describing how the substances would reach end users, as well as intended uses, is sometimes part of the requirements.

35. In some cases, the licensing system includes a requirement for accurate labelling of the content of imported and exported cylinders, to help preliminary identification of the content of the shipment and deter illegal trade. The extent to which such a requirement applies could not be accurately determined based on information available for the present analysis; however, considering

recommended good practices¹⁹ and the information contained in some licensing system descriptions, the label should include the chemical name, chemical formula and trade name of the substance, the American Society of Heating, Refrigerating and Air-Conditioning Engineers (ASHRAE) refrigerant designation, the producer's name and address and the batch number. This type of requirement can apply to the labelling of used substances (recovered, recycled or reclaimed)²⁰ to avoid the import or export of disguised virgin substances.²¹ In some cases, the label also indicates the percentage weight of the controlled substance for mixtures and, in the case of HFCs, the mass in equivalent carbon dioxide concentration. If required by the country, the specific use for which the container is intended is sometimes part of the information provided by the label, especially if the quota system exempts importation for specific uses, such as laboratory and analytical uses.²²

(b) Licence fees

36. Most countries covered by this analysis charge a fee for a licence to import or export substances controlled under the Montreal Protocol. In some licensing systems (observed in four countries that provided information), the fee depends on the substance and is aimed at incentivizing the import and export of ozone- and climate-friendly refrigerants. Sometimes, the fee system also promotes the import and export of recovered, recycled or reclaimed substances. The Secretariat notes that in paragraph 2 of decision XIV/7, parties were encouraged to introduce economic incentives that were appropriate and consistent with international trade law, to promote the use of ozone-depleting substance substitutes and products (including equipment) containing them or designed for them, and technologies that utilized them.

(c) Customs clearance

37. In most countries covered by this analysis, a company must present its licences to customs authorities for clearance in order to proceed with a shipment or, in the case of an import, to release the controlled substance to the market. Supporting documents such as invoices and declaration forms are usually requested. Customs officers record the quantities used and remaining in the document reflecting the licence or in an online system. They then generally communicate the imported or exported quantity to the relevant authorities, who subtract the reported quantity from the annual quota. Alternatively, the customs authority can enter such information online if an online single-window system is established, in which case the quota will be adjusted automatically.

5. Online systems and the single-window concept

38. Many countries are implementing or developing an online system to centralize the issuance and monitoring of quotas and licences. Twenty-eight parties mentioned to the Secretariat the use of such information technology systems to facilitate communication and coordination among relevant administrations and companies, increasing efficiency and transparency and enabling importers and exporters to access their online applications, licences and remaining quotas anytime. Generally, the system automatically verifies compliance with many of the application requirements, including the country of destination or origin, chemical name and customs code.

39. Such electronically operated systems, in some cases, are developed under a single-window concept, designed as a single entry point for meeting import and export requirements, connecting the registration and quota system with the licensing system and customs clearance.²³ Online single-window systems are used by an increasing number of parties. Such an approach provides real-time information access by relevant authorities and administrations, including the national ozone units, customs officers, companies and ministries and agencies involved. Each actor has access to the platform and is able to see applications, issued licences and quotas. This approach facilitates

¹⁹ Kozakiewicz, *Legislative and Policy Options to Control Hydrofluorocarbons*.

²⁰ In para. 5 of decision VI/19, on trade of previously used substances, all parties that exported previously used substances were requested to take, where appropriate, steps to ensure that such substances were labelled correctly and were of the nature claimed, and to report any related activities through the Secretariat to the Seventh Meeting of the Parties.

²¹ Used controlled substances may be excluded from calculated level of consumption of countries importing or exporting such substances (except when calculating the base year consumption under para. 1 of Article 5 of the Protocol) if such imports and exports are reported to the Secretariat (para. 2 of decision IV/24 and paras. 2 and 3 of decision VI/19). In such instances, they are not considered for the purposes of phase-out or phase-down schedules and therefore usually not counted as part of the allocated quota.

²² Kozakiewicz, *Legislative and Policy Options to Control Hydrofluorocarbons*, p. 26.

²³ Chatham House and Environmental Investigation Agency, *ODS Tracking: Feasibility Study on Developing a System for Monitoring the Transboundary Movement of Controlled Ozone-Depleting Substances between the Parties* (2006).

verification and clearance by customs officers, as well as recording and monitoring from relevant authorities of the use of part of the quota or licence. Following customs clearance, if the licensed quantity has been exhausted, the licence is automatically closed. Such a system also facilitates data collection and verification.

40. Some countries have a separate online system for issuing licences, which is connected to the customs automated systems. The use of such mechanism has been observed in 17 countries that provided information as part of this analysis.

6. Use of an informal prior informed consent mechanism

41. In paragraph 1 of decision IX/8, adopted in 1997, the Ninth Meeting of the Parties specified that licensing systems should assist parties in the prevention of illegal traffic of controlled substances, including, as appropriate, through notification and/or regular reporting by exporting countries to importing countries and/or by allowing cross-checking of information between exporting and importing countries. Subparagraph 3 (a) of decision XIX/12 encouraged parties to share information with other parties – for example, by participating in an informal prior informed consent procedure or a similar system.

42. In decision XVII/16, the Seventeenth Meeting of the Parties requested the Secretariat to undertake a feasibility study on developing an international system for monitoring the transboundary movement of controlled ozone-depleting substances between the parties. The study, presented to the Eighteenth Meeting of the Parties in 2006, indicated that the next logical step beyond current licensing systems and closer regulation of transit trade was the establishment of a prior informed consent (PIC) system through which the importing country would have to give explicit approval for any imports of ozone-depleting substances licensed for export from another country. The feasibility study report presented in particular the informal PIC system already used by the South Asia and South-East Asia and Pacific regional networks. It noted that the network's countries issued licences on a per-shipment basis:

An importing national ozone unit, when issuing an import licence, should, within five working days of its issue, send a copy of the licence to the corresponding exporting national ozone unit. Similarly, the exporting national ozone unit should check the corresponding import licence documents before issuing export licences, and should send the copy of the licence to the corresponding importing national ozone units.²⁴

43. In decision XIX/12, the Nineteenth Meeting of the Parties acknowledged the initiative to combat illegal trade through informal prior informed consent by countries in the South Asia and South-East Asia and Pacific regions. In subparagraph 3 (a) of the decision, parties were encouraged to share information with other parties by participating in an informal PIC procedure or similar system.

44. In 2006, the Compliance Assistance Programme launched the informal prior informed consent (iPIC) mechanism to facilitate information exchange between countries on intended trade in substances controlled under the Montreal Protocol, as well as mixtures, products and equipment containing controlled substances.²⁵ The mechanism consists of a secure online platform²⁶ for sharing information on importers, exporters and trade and consulting relevant country focal points prior to shipping. As at 14 April 2023, 103 Article 5 and non-Article 5 parties to the Montreal Protocol were registered on the online platform.

45. Based on the information received by the Secretariat, some countries use prior informed consent through bilateral information exchange with their trading partner countries on issued licences, and not necessarily through the above-mentioned online platform. Such practice has been identified in 2 out of the 46 parties that provided information to the Secretariat, but is likely to be used by more parties.

²⁴ Ibid.

²⁵ An iPIC consultation usually consists of an exchange of emails. A case can be consulted within a day or two. The UNEP OzoneAction regional coordinators provide assistance and support to follow-up on specific cases, as required (*Training Manual for Customs and Enforcement Officers*, 3rd ed., *Saving the Ozone Layer: Phasing Out Ozone-Depleting Substances in Developing Countries*, pp. 99–100).

²⁶ iPIC online platform (<https://www.ozonaction.org/ipic/login>).

B. Enforcement

1. Monitoring of issued licences

(a) Continuous coordination with customs officers

46. Close cooperation between the license-issuing authority and customs officials helps in establishing a more efficient control regime.²⁷ It facilitates monitoring of imports and exports of controlled substances, including through sharing information on issued licences for customs clearance, gathering intelligence on trade and cross-checking data to identify discrepancies. Some parties have decided to formalize such cooperation through a bilateral memorandum of understanding. This type of agreement ensures a clear understanding of the scope of the collaboration and respective roles and commitments of partners over the long term and provides for regular training through requirements for such training.

47. In general, customs officers verify possession of the appropriate licence and permits. Customs officers may also report to the national ozone unit or other relevant authority if they suspect mislabelling or illegal imports or exports. Such communication can be facilitated through a single-window system.

48. Online single-window systems allow for instantaneous access to updated information on licences, permits and other relevant data. If there is no online or single window system in the country, in practice the licence-issuing authority shares information bilaterally with the customs officers or copies them in every communication with companies on issued licences. Customs officers may also contact the national ozone unit or other appropriate licensing authority directly to obtain the necessary information.

(b) Regular reports from licence holders

49. Once the licence has been issued, the competent authority responsible for reporting data to the Secretariat and the Multilateral Fund secretariat has to be informed of the actual quantity imported and exported for data verification purposes. As was recommended in subparagraph 3 (c) of decision XIX/12, some parties require regular reports from importers and exporters, generally once a year, with specific deadlines for submission. The mandatory reports usually include information on the shipment dates, shipment origin and destination, and names and addresses of the business partners (the importers, in the case of exports, and the exporters in the case of imports). Such information is also usually used to facilitate investigation of any discrepancy with data from other sources, such as the customs administration.

2. Penalties

50. All the parties included in this analysis had established specific laws and regulations on penalties. Some legal frameworks include penalties for wrongful use of the licence, which are most often imposed in cases of illegal trade involving the licence holder. In such cases, the licence is usually revoked for the following years and the company excluded from quota allocation, in addition to fines, seizures, confiscation and other applicable proceedings (see UNEP/OzL.Pro/Workshop.11/2/Add.1–UNEP/OzL.Pro.WG.1/45/5/Add.1, para. 52). Failure to report or late reporting of actual trade by the company may also result in penalties, including the exclusion from following quota allocations.

3. Training and awareness-raising activities

51. Provision of training and resource materials is essential to ensure the effectiveness of the licensing system.²⁸ Customs officers must know the control measures and regulation provisions regarding ozone depleting substances and HFCs trade, and must be able to communicate with the licence-issuing authority and other relevant agencies to determine whether a particular shipment is legitimate.

52. Based on the present analysis, it appears that many relevant ministries, or national ozone units in Article 5 parties, share publicly available information and resource materials on the operation of the licensing system through their relevant websites, and/or provide regular training to customs officers,

²⁷ Ezra Clark, “Customs, Playing a Key Role in Protecting the Ozone Layer and Mitigating Climate Change”, *WCO News*, no. 82, Feb. 2017.

²⁸ *Training Manual for Customs and Enforcement Officers*, 3rd ed., *Saving the Ozone Layer: Phasing Out Ozone-Depleting Substances in Developing Countries*.

importers and exporters.²⁹ Capacity-building support may include webinars, presentations, twinning workshops to enhance cooperation, manuals and briefing notes describing the licensing procedure, including the use of the online system, and setting out importers' and exporters' obligations. Some countries also institutionalize customs training through the curriculum of customs training institutions as part of their strategy.

C. Data collection, verification and reporting

53. The license-issuing authority, which in the case of Article 5 parties is usually the national ozone unit, is generally responsible for data collection and verification, to meet the reporting requirements under Article 7 of the Montreal Protocol and of the Multilateral Fund secretariat. All the parties considered in this analysis collaborate with customs administrations, and some of them also work with other relevant actors. Decision XIX/12, sub-paragraph 3 (g), encourages parties to cross-check trade information, including through private-public partnerships.

54. Some of the parties included in the analysis cross-check data from customs records with regular reports from companies to the licence-issuing authority on actual imports and exports, and from other relevant administrations and stakeholders. This system of cross-checking allows regular verification, identification of discrepancies and reporting of accurate and consistent data. It appears that many countries only base the data they report under Article 7 and to the Multilateral Fund secretariat on customs statistics, which may not be sufficiently accurate, as customs codes may not be precise enough for the purpose of tracking imports and exports of controlled substances.

55. The reasons for discrepancies in data verification vary and can include errors in data entry; misclassification of customs codes by importers, exporters or customs officials; discrepancies in time periods; stockpiled production or imports for a specific purpose in a future year;³⁰ trans-shipments, which can lead to confusion in reporting; lack of efficiency of the monitoring system; and illegal trade.³¹

V. Conclusion

56. The information shared by parties for this analysis revealed the following common features of domestic licensing systems:

- (a) Registration of business entities by the competent licensing authority, requiring detailed information and documentation;
- (b) A quota allocation system establishing quantitative restrictions as part of the strategy to comply with phase-down and phase-out targets, often with a safety margin retained for emergencies and to ensure compliance;
- (c) Cooperation between the licence-issuing authority and the customs administration, to share information on issued licences and facilitate shipment clearance;
- (d) Regular mandatory reporting by importers and exporters to the licensing authority providing information on the actual use of the licence, which seems to serve as an additional source of data on consumption of controlled substances;
- (e) Electronically operated systems;
- (f) Penalties for wrongful use of the licence, which are most often imposed in cases of illegal trade involving the licence holder or failure to report or late reporting of actual trade by the company;
- (g) Provision of training, awareness-raising activities and resource materials for the licensing system operators, including customs agents and enforcement officers.

57. The analysis showed that the following features, while not yet used by a majority of countries even though some have been adopted, can be considered good practices for parties wishing to strengthen their licensing systems:

- (a) Extension of the licence requirements to imports and exports of products and equipment containing controlled substances;

²⁹ This training is also an activity under the national phase-out plans funded through the Multilateral Fund.

³⁰ See, for example, decisions XVIII/17 and XXII/20.

³¹ Kozakiewicz, *Legislative and Policy Options to Control Hydrofluorocarbons*.

- (b) Clear written procedures for licensing systems to address the rotation of officers, and a memorandum of understanding to ensure understanding of the respective roles of the various entities involved;
- (c) Accuracy of labelling as a licensing system requirement;
- (d) Issuance of licences on a per-shipment basis, to allow more precise monitoring of movement and quota uses;
- (e) Development of an online platform integrating a single-window concept, to facilitate communication and transparent coordination among relevant administrations and companies;
- (f) Validation of a shipment prior to import and export between parties through an informal prior informed consent mechanism;
- (g) Private-public partnerships, including institutionalized coordination groups, to facilitate coordination, information exchange, data collection and verification.

58. Areas where efforts could be strengthened include:

- (a) Ensuring that the licensing system controls imports as well as exports;
- (b) Cross-checking import and export information from customs agencies and other relevant actors, including licensing authorities (which are often within environmental ministries or agencies) and ministries of trade and/or finance, with information from mandatory reporting by licence holders;
- (c) Including monitoring of transit movements (trans-shipments) of controlled substances, including those passing through duty-free zones, as part of the licensing system, as encouraged in decisions XIX/12 and XVII/16.

59. Parties may wish to encourage parties to increase opportunities to learn from each other and exchange information on their licensing systems, including by providing such information to the Secretariat for posting under the country profiles of its website,³² as one of the means of assisting parties wishing to improve their national licensing systems.

60. With the introduction of HFCs into the scope of the Montreal Protocol by the Kigali Amendment, the licensing and quota systems also need to provide for the monitoring of imports and exports of a high number of blends and mixtures relating to HFCs, which is expected to increase the complexity of systems for licensing the import and export of controlled substances under the Montreal Protocol. There is a need for an integrated system that enables close cooperation, communication and cross-checking of information among all relevant stakeholders in the import and export licensing system, and to understand potential gaps to be addressed. An integrated system that includes those objectives is at the core of domestic implementation of the Montreal Protocol, and facilitates tracking and monitoring of transboundary movements and uses of controlled substances, data collection and verification, as well as identification of potential illegal trade.

³² <https://ozone.unep.org/countries>.