

RESUMED SESSION OF THE THIRTY-SEVENTH MEETING OF THE OPEN-ENDED WORKING GROUP OF THE PARTIES TO THE MONTREAL PROTOCOL: 15-16 JULY 2016

The resumed session of the Thirty-Seventh Meeting of the Open-Ended Working Group of the Parties to the Montreal Protocol (resumed OEWG 37) opens today in Vienna, Austria.

Delegates will continue their work under the Dubai Pathway on Hydrofluorocarbons (HFCs), including: resolving challenges by generating solutions on the feasibility of managing HFCs; ways of managing HFCs; and work within the Montreal Protocol to an HFC amendment in 2016 under decision XXVII/1 (Process for moving forward).

The resumed OEWG 37 session will be followed by OEWG 38 on 18-21 July, and the Third Meeting of the Extraordinary Session of the Meetings of the Parties to the Montreal Protocol (ExMOP 3) on 22-23 July.

A BRIEF HISTORY OF THE OZONE REGIME

Concerns that the Earth's stratospheric ozone layer could be at risk from chlorofluorocarbons (CFCs) and other anthropogenic substances first arose in the early 1970s. At that time, scientists warned that releasing these substances into the atmosphere could deplete the ozone layer, hindering its ability to prevent harmful ultraviolet rays from reaching the Earth. This would adversely affect ocean ecosystems, agricultural productivity and animal populations, and harm humans through higher rates of skin cancers, cataracts and weakened immune systems. In response, a UN Environment Programme (UNEP) conference held in March 1977 adopted a World Plan of Action on the Ozone Layer and established a Coordinating Committee to guide future international action.

VIENNA CONVENTION: Negotiations on an international agreement to protect the ozone layer were launched in 1981 under the auspices of UNEP. In March 1985, the Vienna Convention for the Protection of the Ozone Layer was adopted. It called for cooperation on monitoring, research and data exchange, but it did not impose obligations to reduce ozone depleting substances (ODS) usage. The Convention now has 197 parties, which represents universal ratification.

MONTREAL PROTOCOL: In September 1987, efforts to negotiate binding obligations to reduce ODS usage led to the adoption of the Montreal Protocol, which entered into force in January 1989. The Montreal Protocol introduced control measures for some CFCs and halons for developed countries (non-Article 5 countries). Developing countries (Article 5 countries) were granted a grace period, allowing them to

increase their ODS use before taking on commitments. The Protocol and all its amendments have been ratified by 197 parties.

Since 1987, several amendments and adjustments have been adopted, adding new obligations and additional ODS and adjusting existing control schedules. Amendments require ratification by a particular number of parties before they enter into force; adjustments enter into force automatically.

LONDON AMENDMENT AND ADJUSTMENTS:

Delegates to the second Meeting of the Parties to the Montreal Protocol (MOP 2), held in London, UK, in 1990, tightened control schedules and added ten more CFCs to the list of ODS, as well as carbon tetrachloride (CTC) and methyl chloroform. MOP 2 also established the Multilateral Fund (MLF), which meets the incremental costs incurred by Article 5 countries in implementing the Protocol's control measures and finances clearinghouse functions. The Fund is replenished every three years.

COPENHAGEN AMENDMENT AND ADJUSTMENTS:

At MOP 4, held in Copenhagen, Denmark, in 1992, delegates tightened existing control schedules and added controls on methyl bromide, hydrobromofluorocarbons and hydrochlorofluorocarbons (HCFCs). MOP 4 also agreed to enact non-compliance procedures. It established an Implementation Committee to examine possible non-compliance and make recommendations to the MOP aimed at securing full compliance.

MONTREAL AMENDMENT AND ADJUSTMENTS:

At MOP 9, held in Montreal, Canada, in 1997, delegates agreed to: a new licensing system for importing and exporting ODS, in addition to tightening existing control schedules; and banning trade in methyl bromide with non-parties to the Copenhagen Amendment.

BEIJING AMENDMENT AND ADJUSTMENTS:

At MOP 11, held in Beijing, China, in 1999, delegates agreed to controls on bromochloromethane, additional controls on HCFCs, and reporting on methyl bromide for quarantine and pre-shipment applications.

MOP 21: MOP 21 took place in Port Ghalib, Egypt, in 2009, and adopted decisions on: alternatives to HCFCs; institutional strengthening; environmentally sound management of ODS banks; methyl bromide; and data and compliance issues. This meeting was the first at which delegates considered a proposal to amend the Protocol to include HFCs submitted by the Federated States of Micronesia (FSM) and Mauritius.

MOP 22: MOP 22 took place in Bangkok, Thailand, in 2010, and adopted decisions on, *inter alia*: the terms of reference for the Technology and Economic Assessment Panel (TEAP) study on the MLF replenishment and the evaluation of the financial mechanism; and assessment of technologies for ODS



destruction. Delegates also considered two amendments proposed to address HFCs under the Protocol, one submitted by the US, Mexico and Canada, and another submitted by FSM.

COP 9/MOP 23: COP 9/MOP 23 took place in Bali, Indonesia, in 2011, and adopted decisions on, *inter alia*: a US\$450 million replenishment of the MLF for the 2012-2014 period; updating the nomination process and recusal guidelines for the TEAP; the treatment of ODS in relation to servicing ships; and additional information on alternatives. Delegates also discussed the two proposed amendments to the Protocol to address HFCs.

MOP 24: MOP 24 took place in Geneva, Switzerland, in 2012, and adopted decisions on, *inter alia*, the review by the Scientific Assessment Panel (SAP) of RC-316c, a CFC not controlled by the Montreal Protocol; procedural issues related to the TEAP and its subsidiary bodies; and data and compliance issues. MOP 24 did not reach agreement on two draft decisions on: clean production of HCFC-22 through by-product emission control; and amendment of the Montreal Protocol to include HFCs.

MOP 25: MOP 25 was held in Bangkok, Thailand, in 2013. The MOP adopted 21 decisions, including on: terms of reference for the study of the 2015-2017 MLF replenishment; implementation of the Montreal Protocol with regard to small island developing states; and a TEAP report on ODS alternatives. MOP 25 did not reach agreement on: amendment proposals; additional funding for the MLF for implementing the Montreal Protocol to maximize the climate benefit of the accelerated phase-out of HCFCs; and the harmonization and validation of the climate impact fund.

COP 10/MOP 26: COP 10/MOP 26 was held in Paris, France, in 2014, and adopted decisions on, *inter alia*: a US\$507.5 million replenishment of the MLF for the 2015-2017 period; availability of recovered, recycled or reclaimed halons; and a TEAP report on ODS alternatives. Delegates also discussed possible ways to move the HFC issue forward, deciding to convene a two-day workshop in 2015, back-to-back with an additional OEWG session, to continue discussions on HFC management, including a focus on high-ambient temperatures (HAT) and safety requirements, as well as energy efficiency.

MOP 27: Held immediately after the two-day resumed session of OEWG 36, MOP 27 met from 1-5 November 2015, in Dubai, United Arab Emirates. Delegates adopted a number of substantive and procedural decisions. Substantive decisions included: essential-use and critical-use exemptions; avoiding the unwanted import of products and equipment containing or relying on HCFCs; and a TEAP report on ODS alternatives. Procedural decisions addressed the budget and membership of Montreal Protocol bodies for 2016.

The two-day resumed session of OEWG 36 had agreed on a mandate for a contact group on the feasibility and ways of managing HFCs (HFC Management Contact Group). The contact group was established at MOP 27 and met throughout the week. Following protracted negotiations that concluded in the early hours of the morning, parties agreed to and adopted the Dubai Pathway on HFCs; this agreement included provision for an additional OEWG meeting and an Extraordinary MOP (ExMOP) to be held in 2016.

OEWG 37: OEWG 37 convened in Geneva, Switzerland, from 4-8 April 2016. Delegates heard an update from the TEAP on ODS alternatives. The remainder of the meeting focused on the work of the HFC Management Contact Group, under the mandate outlined in the Dubai Pathway on HFCs. Parties concluded a first review of the challenges listed in the mandate, including discussing a conference room paper (CRP) on funding

issues, reaching an "in principle" agreement on an exemption for countries with HAT conditions as part of an HFC amendment, which includes the definition of HAT.

ISSUES TO BE DISCUSSED

At the resumed OEWG 37 session, parties will continue their deliberations as part of the Dubai Pathway on HFCs. This focus includes discussions on: resolving challenges by generating solutions on the feasibility of managing HFCs; ways of managing HFCs, including the amendment proposals submitted by parties; and work within the Montreal Protocol to an HFC amendment in 2016 under decision XXVII/1 (Process for moving forward).

RESOLVING CHALLENGES BY GENERATING SOLUTIONS ON THE FEASIBILITY OF MANAGING HFCs:

At the first session of OEWG 37, parties concluded a first review of all the challenges as set out in Annex II of document UNEP/OzL.Pro.WG.1/35/3. At the resumed session, the table of challenges has been updated to reflect progress made during previous discussions. This update includes endorsed concepts and aspects of solutions generated to reflect the current texts on the HAT exemption, funding, and flexibility in implementation.

WAYS OF MANAGING HFCs: Under this agenda item, parties will continue consideration of HFC management issues, as decided at MOP 27 (decision XXVII/1), including consideration of the amendment proposals put forward at MOP 27. Four proposals have been submitted: the North American proposal, put forward by Canada, Mexico and the US (UNEP/OzL.Pro.WG.1/resumed.37/3 and Add.1); the Indian proposal (UNEP/OzL.Pro.WG.1/resumed.37/4); the European Union (EU) proposal, submitted by the EU on behalf of its 28 member states (UNEP/OzL.Pro.WG.1/resumed.37/5); and the Island States proposal, put forward by Kiribati, the Marshall Islands, Mauritius, FSM, Palau, the Philippines, Samoa and Solomon Islands (UNEP/OzL.Pro.WG.1/resumed.37/6). An information document comparing the four amendment proposals (UNEP/OzL.Pro.WG.1/resumed.37/INF/1) has been prepared by the Secretariat.

WORK WITHIN THE MONTREAL PROTOCOL TO AN HFC AMENDMENT IN 2016 UNDER DECISION XXVII/1 (PROCESS FOR MOVING FORWARD):

Parties are expected, as part of the OEWG and its contact group, to consider the process for moving forward on the remaining issues in working towards an amendment. Delegates are expected to discuss: specific issues in respect to the challenges that still need to be resolved; developing the solutions to the challenges in the form of relevant articles of the Montreal Protocol or decisions by the parties; and consideration of the proposals to amend the Protocol, in particular:

- the financial mechanism (Article 10) and the transfer of technology (Article 10A);
- the list of HFCs (substances) to be included in the Protocol (Article 1 (Definitions), and a new annex to the Protocol);
- the baselines pertaining to the phase-down of HFCs (a new article for HFC controls and Article 3 (Calculation of control levels));
- the schedules pertaining to an HFC phase-down (Article 2 (Control measures), Article 5 (Special situation of developing countries), and a new article for HFC controls);
- exemptions (Article 2 (Control measures), Article 5 (Special situation of developing countries), and a new article for HFC controls);
- trade provisions (Article 4 (Control of trade with non-parties));
- data reporting (Article 7 (Reporting of data)); and
- other articles and the preamble.