



OEWG 37 HIGHLIGHTS: SATURDAY, 16 JULY 2016

The resumed OEWG 37 met for its final day on Saturday, 16 July 2016, in Vienna, Austria. Informal discussions were held throughout the day and night. Topics addressed included funding, HCFCs-HFCs linkages and exemptions not related to HAT.

The HFC Management Contact Group reconvened in the evening to assess whether solutions had been generated for the identified challenges. As more time was required, informal discussions resumed. Following protracted negotiations, the contact group reconvened to conclude its work in the early hours of Sunday, 17 July 2016. Participants then convened in plenary, which heard an update on the status of discussions on each of the identified challenges. OEWG 37 was gavelled to a close at 3:12 am.

CONTINUATION OF THE DISCUSSION UNDER ITEM 4 OF THE OEWG 37 AGENDA: "DUBAI PATHWAY ON HFCS"

On Saturday evening, at 5:20 pm, Contact Group Co-Chair Patrick McInerney reconvened the HFC Management Contact Group, requesting the facilitators of the informal discussion groups to report on progress made throughout the day.

On exemptions not related to HAT, Facilitator Martin Sirois reported that a text had been agreed allowing exemptions, for example those for critical or essential uses, and that the date for deciding on the exemption mechanism would be set during the amendment negotiations.

On the linkages between HCFCs and HFCs, Facilitator Mazen Hussein said that progress had been made, but the group needed additional time to finish its work.

On funding, Facilitator Annie Gabrielle said the group had made considerable progress and generated some solutions, but more work was needed on, *inter alia*, overarching principles and timelines, energy efficiency, and other activities.

Co-Chair McInerney then conducted a stocktaking of the remaining challenges, asking for reports from delegations on any issue not already addressed in Geneva or in the informal groups of the resumed session. CHINA said it had conducted consultations on flammability, but would need more time to conclude. The EU reported that discussions on the availability of technologies had resulted in general agreement that periodic technology reviews should be conducted, advised by the TEAP, and that these would include energy efficiency. CHINA reported that consultations on non-party trade provisions had resulted

in a compromise text saying such provisions for all countries would enter into force five years after the freeze date for Article 5 parties. Regarding synergies with the UN Framework Convention on Climate Change (UNFCCC), Co-Chair McInerney suggested, and the contact group agreed, that this challenge should be revisited once amendment negotiations are underway and it becomes clearer what approach will be taken.

The contact group was suspended for informal groups to meet.

Co-Chair Xia reconvened the contact group on Sunday, 17 July at 2:06 am, inviting the facilitators of the informal groups to provide reports on progress.

On funding, Facilitator Gabriel said the informal group reached consensus on a number of solutions related to the funding challenges for consideration by the contact group. She highlighted agreement on: three overarching principles and timelines; guidance provided to the ExCom on incremental costs, including on the consumption manufacturing sector and the production and servicing sectors; and the cut-off date for eligible capacity, which will be determined by the MOP.

On the consumption manufacturing sector, she noted that the group agreed to negotiate incremental operating costs and the duration of those costs in the context of an amendment, explaining that discussion focused on the cost of process and application patents, and designs and incremental costs of royalties.

On the servicing sector, she noted there was agreement on categories of costs that would be eligible for inclusion in cost calculations, and on two points to be considered during amendment negotiations regarding additional import costs and incremental costs of refrigerants for motor vehicle servicing and re-charging. She observed that the group also discussed several other issues, including energy efficiency.

On other issues, CHINA shared text on the safety of substitutes: "Parties recognize the importance of timely updating international standards for flammable low-GWP refrigerants including IEC60335-2-40 and support promoting actions that allow safe market introduction, as well as manufacturing, operation, maintenance and handling of zero-GWP or low-GWP refrigerant alternatives to HCFCs and HFCs." Parties agreed.

The EU reminded delegates of its text on periodic technology reviews, which states: "Conduct periodic technology reviews to identify alternatives that will include information on energy efficiency." SAUDI ARABIA expressed concern about combining energy efficiency and availability of technologies, saying that availability also includes cost concerns. He requested time to develop and discuss draft text. Following a short



consultation, the EU reported that the text now stated “Conduct periodic reviews of alternatives using criteria set out in paragraph 1(i) of decision XXVI/9 (Response to the report by the TEAP on information on alternatives to ODS),” noting that parties will discuss this issue further at the OEWG 38.

PAKISTAN requested the Co-Chairs to provide an update on the status of challenges not mentioned.

Xia clarified that some outstanding issues will be taken forward to OEWG 38 and, as such, issues will be subject to further consultation and negotiation before adoption of any amendment. The contact group was then adjourned.

On Sunday morning, when the OEWG 37 plenary reconvened at 2:50 am, OEWG 37 Co-Chair Leslie Smith asked the contact group to report on its outcome. Contact Group Co-Chair McInerney reported a “concrete and positive outcome” and reviewed the solutions developed for each category of challenges identified in the Dubai Pathway, noting that solutions for some challenges would require further discussion during the course of the amendment negotiations.

OEWG 37 Co-Chair Smith welcomed the report and asked if there were any objections or clarifications from the floor. INDIA noted that the funding challenge deliberations agreed that both process and application patents will be covered. In response to a request from PAKISTAN, Contact Group Co-Chair McInerney read the agreed language regarding funding for the cost of importing alternatives, which calls for a proposal on this point to be discussed while negotiating an amendment and resolved prior to the adoption of an amendment to the Montreal Protocol.

OEWG 37 Co-Chair Smith said the set of agreed solutions will be reported to OEWG 38, permitting advancement to the next stage of the Dubai Pathway, negotiations of an HFC amendment.

INFORMAL DISCUSSIONS ON HFCs-HCFCs

LINKAGES: This informal group met in the afternoon and evening, facilitated by Hussein, to consider draft text developed by a small group of interested parties. The text was presented by one party, who noted that the text acknowledges: the linkages between HFC and HCFC schedules; the preference to avoid transitions from HCFCs to high-GWP HFCs; the willingness to provide flexibility if no alternatives are available; and, *inter alia*, allow for a direct transition to low-GWP alternatives at a later date, with the text applying to “certain sectors, in particular industrial process refrigeration.”

One party questioned what “later date” meant. Another, supported by several others, called for adding “zero-GWP,” in addition to referencing low-GWP alternatives. Several questioned why the text was limited to the industrial process refrigeration sector, with some requesting inclusion of air conditioning, which was strongly opposed by another. Several parties noted that the text was not necessarily limiting, by using the term “certain sectors,” and that industrial process refrigeration had been singled out because they were complex, individually-designed systems entailing very high cost and were difficult to replace.

In the evening, parties reconvened to address the remaining bracket in the text around air conditioning. Several parties said they could agree to the original text. One party proposed replacing text on industrial process refrigeration with text on the preference to avoid transitions from HCFCs to high-GWP HFCs and the willingness to provide flexibility if no other technically proven and economically viable alternatives are available. This suggestion was strongly opposed by one party. After considerable bilateral consultations, parties agreed to include the newly proposed text as the first paragraph in addition to the paragraphs proposed in the morning, retaining specific reference to industrial

process refrigeration, removing the bracketed reference to air conditioning from the text and deleting minor duplications in the text.

INFORMAL DISCUSSIONS ON EXEMPTIONS NOT RELATED TO HAT: This informal group, facilitated by Sirois, met in the afternoon to consider compromise text developed by Australia and Canada. After extensive discussion, the group: deleted a chapeau of “Parties agreed,” since the group was to generate solutions, not negotiate text; changed a bracketed reference to 2030 as the date to consider exemption mechanisms to “in 20xx,” as a placeholder for the date to be determined after amendment negotiations set phase-down schedules; and clarified that when exemption mechanisms are considered, the option of multi-year exemptions would be taken into account. The agreed text says that: exemptions would be allowed, such as for essential uses and critical uses, in any HFC amendment; the exemption mechanism, including the possibility of multi-year exemptions, will be considered at a date to be set during amendment negotiations; and TEAP would be provided with information and guidance for its periodic review of sectors where exemptions may be required.

CLOSURE OF OEWG 37

On Sunday morning, Co-Chair Paul Krajnik presented the draft report of the meeting (UNEP/OzL.Pro.WG.1/resumed.37/L.1). Delegates adopted the report without amendments. Co-Chair Krajnik declared the meeting closed at 3:12 am.

IN THE CORRIDORS

“We have a solution to this challenge!” This refrain rang in some delegates’ ears when trying to find compromises to other exemptions not related to HAT, leading to optimism early in the day on Saturday that the informal groups would reach consensus and allow participants to have some rest between OEWG 37 and OEWG 38. As the reconvening of the contact group shifted from 9:30 pm to 10:30 pm and beyond with no end in sight, earlier optimism started fading away, with several seasoned participants commenting, “whatever time you give them, they will use.”

Many worried that the discussions on funding were taking too long, with others lamenting the growing range of issues that had crept into the “funding” discussions. As the informal group on funding got down to its last few issues, repeated promises of “soon” filtered out into the corridors, with many delegates assuring observers that they would reach consensus. Others expressed frustration over the “relentless” negotiation tactics of some delegations, saying that agreements that took hours to reach could likely have been achieved in ten minutes. Others voiced concern over the fact that delegates have not even begun discussing the amendment proposals. In the end, the group reached consensus on many of the funding challenges and deferred a few decisions to discussion during the negotiations on the amendment proposal.

Looking ahead to OEWG 38, some participants stressed the progress made in Dubai, Geneva and Vienna on solutions, arguing that these agreements represented real progress and would make the negotiations on the amendment proposal move more quickly. Others were more cautious, observing that delegates have not even begun to address the details of the amendment proposals, a time-consuming task in and of itself. With ExMOP 3 less than a week away and MOP 28 in Kigali, Rwanda, just under three months away, delegates ended OEWG 37 relieved that they had reached agreement on solutions to many challenges, but aware of the many daunting tasks ahead of them for the upcoming weeks and months.