OEWG 38 opened in Vienna, Austria, on 18 July 2016. In the morning, delegations heard opening remarks and addressed the agenda and the organization of work. Discussion then turned to the TEAP report on updated and new information on ODS alternatives.

In the afternoon, parties addressed the Dubai Pathway on HFCs, the TEAP 2016 report, and issues related to exemptions under Articles 2A–21 of the Montreal Protocol, including nominations for essential-use exemptions (EUEs) for 2017 and nominations for critical-use exemptions (CUEs) for 2017 and 2018. They also addressed issues related to the phase-out of HFCs, the availability of recovered, recycled or reclaimed halons, terms of reference (TOR) for the study on the 2018-2020 replenishment of the MLF, a report by the TEAP and the SAP on carbon tetrachloride (CTC) discrepancies, and destruction of ODS banks.

The HFC Management Contact Group met in the evening.

OPENING SESSION

OEWG Co-Chair Leslie Smith (Grenada) opened the meeting. Tina Birmpili, Executive Secretary, Ozone Secretariat, welcomed OEWG 37’s “concrete and positive outcome” on generating solutions to challenges identified under the Dubai Pathway on HFCs. She recalled the previous two ExMOPs were convened to take decisions on the phase-out of methyl bromide and the final phase-out of CFCs, which she described as difficult issues at the time. She stressed both decisions were made without absolute certainty on alternatives, emphasizing that knowledge on alternatives will keep improving. She urged participants to take action on HFCs.

ADOPTION OF THE AGENDA AND ORGANIZATION OF WORK: OEWG Co-Chair Smith introduced the agenda and the organization of work (UNEP/OzL.Pro.WG.1/38/1).

On agenda item four on the Dubai Pathway on HFCs, PAKISTAN observed that this item also addresses the amendments. He said the agenda item would not be finalized unless the amendments are resolved.

CHINA introduced a CRP on the establishment and coordination of an ad hoc standard coordinating group on criteria or standards on substitutes. OEWG Co-Chair Smith said the CRP will be addressed under other matters.

OEWG 38 then adopted the agenda.

PAKISTAN, supported by the US, requested no parallel groups be scheduled when considering the Dubai Pathway on HFCs. SAUDI ARABIA, supported by KUWAIT, EGYPT, BAHRAIN and others, requested time for regional consultations.

The RUSSIAN FEDERATION questioned the practice of night sessions. Many supported this sentiment, including EGYPT, PAKISTAN and SUDAN. IRAN suggested night sessions end by 10:00 pm. ARGENTINA requested breaks. KUWAIT proposed limiting contact groups to two to three hours.

The US, SENEGAL, BAHRAIN, JORDAN, FSM and others urged efficiency to minimize night sessions. The US said night sessions could be necessary, distinguishing between night sessions and “marathon night sessions.”

REPORT BY THE TEAP ON UPDATED AND NEW INFORMATION ON ALTERNATIVES TO ODS

OEWG Co-Chair Paul Krajnack (Austria) introduced this item (UNEP/OzL.Pro.WG.1/38/2 and Add.1). TEAP Co-Chairs Lambert Kuijpers (the Netherlands), Bella Maranion (US) and Roberto Peixoto (Brazil) presented the updated report, which inter alia: further updates information related to the refrigeration and air conditioning (RAC) sector, specifically on RAC and not-in-kind technologies, safety standards and criteria related to “environmentally sound”; addresses alternatives to fishing vessels’ refrigeration systems; and further updates HAT information and scenario assumptions, specifically on the outcomes of projects testing refrigerants under HAT conditions, and elaborating on scenarios through including annual HFC production reporting by country, considering existing regulations in business as usual (BAU) scenarios and calculating the impact of an 18-year manufacturing conversion period.

Responding to questions, the TEAP Co-Chairs reiterated the importance of increasing the comparability of projects testing alternatives under HAT conditions, noting this poses challenges. They clarified that, inter alia: assessment of commercial availability and the expected price of alternatives is challenging as they work with publically available information; carbon dioxide and ammonia systems for vessel refrigeration are medium cost, in part due to the cost of the necessary auxiliary systems required and their complexity; the report only considers HFC production related to the RAC sector; there is limited or no reported information on HFC production for many countries so the report reflects best estimates, but further investigation is warranted; penetration of HFOs is ongoing, but there are large price-related uncertainties; the use of blends has been included in the scenarios by applying GWP averages for the blends; energy efficiency is not included in the scenarios as it depends on the refrigerant used and the systems and conditions in which it is used; safety and standards for ODS alternatives will be investigated; and F-gas regulations will be considered for the next update.
“DUBAI PATHWAY ON HYDROFLUOROCARBONS (HFCs)”

Noting that the resumed session of OEWG 37 had generated solutions to all the challenges identified in the Dubai Pathway on HFCs, OEWG 37 Co-Chair Smith said the HFC Management Contact Group would reconvene in an evening session with Patrick McInerney (Australia) and Xia Yingxian (China) continuing as co-chairs.

**HFC MANAGEMENT CONTACT GROUP:** Contact Group Co-Chair Xia proposed developing a plan for negotiations, presenting several documents to guide negotiations on the amendment proposals (UNEP/OzL.Pro.WG.1/38/7 and UNEP/Ozl.Pro.WG.1/resumed.37/INF/1).

BAHRAIN called for identifying priorities and areas on which consensus can be reached quickly and leaving contentious issues for later.

BURKINA FASO suggested parties present their proposals. PAKISTAN supported individual discussions on each proposal so that delegates could query proponents on each element. FSM agreed with focusing first on the four existing proposals, but reviewing them issue by issue, while bringing in other proposals, such as the documents introduced by the African Group in a prior OEWG on desired elements of any amendment proposal.

EL SALVADOR, supported by SENEGAL and SOUTH AFRICA, called for having the consolidated proposals on the screen, reading the proposals, finding areas of overlap and identifying areas of difference. The US said suggested looking at the consolidated proposals to find areas of consensus and focus on those to find common ground. BRAZIL opposed using the Secretariat consolidation on-screen.

SAUDI ARABIA opposed a process based on the four proposals, as the views of all parties, including Saudi Arabia, have not yet been incorporated. He also objected to discussing issues related to climate change mitigation or adaptation, saying they belong under the UNFCCC. The RUSSIAN FEDERATION said the contact group can only discuss options, not amendment proposals, and insisted that the latter be discussed in the OEWG.

The EU, supported by CANADA, CAMEROON and INDONESIA, suggested separating policy issues from legal issues, leaving legal drafting for a second phase. He called for addressing baseline issues, followed by the freeze or first reduction step, the overall reduction schedule, finance and exemptions, and other issues related to the implementation of an amendment. ARGENTINA supported the EU approach, but suggested periodically “taking the temperature” to see how close the options suggested fulfill negotiators’ expectations. COLOMBIA suggested starting with a read though of each of the four proposals, followed by critical discussion, then discussion by issue, focusing first on areas where the existing proposals already suggest convergence.

Contact Group Co-Chair Xia reflected on the evening’s session, reminding participants of the group’s principle that nothing is agreed until everything is agreed. He said the group will proceed by discussing elements, focusing initially on baselines and control measures.

Expressing concern about the cross-cutting nature of the issues, SAUDI ARABIA requested not closing the text. Contact Group Co-Chair Xia reiterated that nothing will be agreed until everything is agreed.

**TEAP 2016 REPORT**

TEAP Co-Chair Ashley Woodcock presented the Flexible and Rigid Foams Technical Options Committee (FTOC) analysis of challenges in the transition to low-GWP substances in the foam sector. Woodcock also noted that the RAC and Heat Pumps TOC (RTOC) section provides a status report by sub-sector.

Sergey Kopylov, Co-Chair, Halons TOC (HTOC), provided an update on agents’ development, progress in developing alternatives for military and aviation uses and information submitted in response to decision XXVI/17 regarding information on civil aviation uses. He noted the data all provide a single message—the likely supplies of recycled halons may become insufficient to satisfy aviation needs in the near future.

Marta Pizano, Co-Chair, Methyl Bromide TOC (MBTOC), reported on controlled and exempted uses 1999-2014, noting quarantine and pre-shipment (QPS) consumption has remained stable and that controlled uses still face major challenges, including illegal trade, stocks reporting and non-reported uses.

Medical and Chemicals TOC Co-Chairs Helen Tope and Jianjun Zhang reported that metered dose inhalers (MDIs) are nearly CFC-free and recommended updating information on a 13 process agent uses.

Lambert Kuijpers, Co-Chair, Decision XXVII/5 Working Group, reporting on the Working Group’s estimates on the possible need for essential use, servicing or basic needs production of HCFCs after 2020. He said TEAP concluded: in RAC and foams, no potential essential uses after 2020 have been identified; HCFC-123 for fire protection may require up to 750 tonnes annually; and small amounts of HCFCs may be needed for laboratory and analytical uses, and solvent uses.

Responding to questions from delegates, TEAP asked the Russian Federation for a bilateral consultation on MDI data; agreed that TEAP should clarify what it means in the report when saying alternatives in HAT countries look promising; asked Tunisia to discuss bilaterally how to handle disposal of methyl bromide cylinders; agreed to an EU request for sideline discussions on illegal trade, stocks reporting and non-reported uses; and explained how TEAP derived its estimates of feedstock emissions.

**ISSUES RELATED TO EXEMPTIONS UNDER ARTICLES 2A–21 OF THE MONTREAL PROTOCOL**

**NOMINATIONS FOR EUES FOR 2017:** OEWG Co-Chair Smith introduced the agenda item, congratulating parties for achieving the CFC phase-out. He informed that China has requested an EU of 65 tonnes of CTC for 2017. CHINA provided an update on its efforts towards alternatives. The EU queried why China has not applied standards described in the TEAP report. Noting that China intends to present a CRP, OEWG Co-Chair Smith said OEWG 38 would return to the agenda item.

**NOMINATIONS FOR EUES FOR 2017 AND 2018:** OEWG Co-Chair Smith introduced the agenda item, informing that five parties submitted eight critical use nominations (CUNs) for methyl bromide. CANADA, AUSTRALIA and SOUTH AFRICA provided updates on their nominations and research to find alternatives to methyl bromide. Observing that the MBTOC report states that China did not submit the results of a groundwater study, CANADA said it submitted the results in August 2015. She further requested the MBTOC to update the text box on pesticide use in Canada, based on information her country provided in March 2016.

NIGERIA supported South Africa’s CUN. The EU lauded China’s CRP. ARGENTINA supported the EU's approach, but questioned which consensus can be reached quickly and leaving contentious issues for later.

**ISSUES RELATED TO THE PHASE-OUT OF HFCs**

OEWG Co-Chair Krajnik introduced this item. The EU stated that EUEs should only be allowed in exceptional cases, saying that some servicing needs will still exist. He queried whether TEAP should be encouraged to continue its work on servicing...
needs in non-Article 5 countries beyond 2020, saying that it could possibly report back on this issue in 2018 when the TEAP will report on laboratory and analytical procedures that can be performed without using ODS.

The EU, with AUSTRALIA, stated that there was no need for further production for basic domestic needs. CANADA said they will discuss this issue bilaterally. AUSTRALIA, with CANADA, urged maintaining the “servicing tail” and removing the restriction for use in sectors beyond just the RAC sector. She further suggested that parties take possible EUEs into account.

CANADA also called for EUEs for laboratory and analytical uses beyond 2020, but stated that she does not see a need for EUEs beyond this usage.

SAUDI ARABIA noted that extensive discussions had been held on the linkages between HFCs and HCFCs during the resumed OEWG 37 session, and called for these discussions to be referenced in the TEAP report. OEWG Co-Chair Krajnik confirmed this request will be noted in the OEWG 38 report.

The US stated that the situation should continue to be monitored and encouraged continued cooperation to see if any of the suggested changes need to take place in the near term.

OEWG Co-Chair Krajnik encouraged further consultation on the margins, saying that parties should take the opportunity to develop a CRP, if needed, while all parties are present.

**AVAILABILITY OF RECOVERED, RECYCLED OR RECLAIMED HALONS**

OEWG Co-Chair Smith introduced this agenda item. The EU expressed disappointment with the slow progress made by the aviation industry in phasing out halons and finding suitable alternatives. He urged sending a strong political signal encouraging further progress in this area.

Noting an International Civil Aviation Organization (ICAO) resolution establishing non-mandatory standards for halon use, the EU suggested the Montreal Protocol encourage parties to incorporate these standards into national legislation. He stated that recycled halons should be used for aviation processes, to avoid new halon production for use in the near term. He encouraged collaboration among the TEAP, the Secretariat and ICAO on this issue.

CAMEROON queried how halons can be recovered and transported for further use.


OEWG Co-Chair Krajnik introduced this agenda item. CANADA, supported by AUSTRALIA, the EU, BRAZIL and PAKISTAN, suggested using the previous TORs, contained in decision XXV/8 (TOR for the study on the 2015–2017 replenishment of the MLF of the Montreal Protocol), as a starting point for discussion. AUSTRALIA, supported by SAMOA and many parties, proposed establishing a contact group, with SAMOA suggesting discussion on guidelines on which action has not been taken. The US supported a robust, well-grounded estimate from the TEAP on resource needs for the MLF. BELARUS proposed the TOR include a paragraph on ensuring that the three-year replenishment corresponds to the UN scale of assessment.

BRAZIL, supported by the US and FSM, recommended including a provision for possible early action that parties might undertake on HFCs.

OEWG Co-Chair Smith confirmed establishment of a contact group that will use the previous TOR as a starting reference.

**REPORT BY THE TEAP AND THE SAP ON ANALYSIS OF THE DISCREPANCIES BETWEEN OBSERVED ATMOSPHERIC CONCENTRATIONS AND REPORTED DATA ON CTC**

OEWG Co-Chair Smith introduced this agenda item. Paul Newman, Scientific Assessment Panel (SAP), informed that a report on the issue is available electronically and the SAP will present the full report at MOP 28.

**DESTRUCTION OF ODS BANKS**

OEWG Co-Chair Krajnik introduced this agenda item, reminding delegates that Article 5 parties raised the issue at MOP 27 and agreed to discuss it at an OEWG in 2016. SAMOA said that with the continued storage of ODS without proper destruction, stocks continue to build up and may lead to accidental venting, thus causing harm to the environment. She noted that this poses particular challenges for Article 5 parties, including as a result of insufficient capacity and inadequate infrastructure. She underscored that with an HFC phase-down, stockpiles of HFCs could further exacerbate the situation. She said that Samoa recognizes that decisions have been taken allowing for requests for assistance to be made through the ExCom, among others, and noted that the issue is also addressed in the Dubai Pathway on HFCs. Noting that a CRP will not be submitted, she said the agenda item is being kept open so that the issue can be discussed and requests for assistance made.

The EU recognized the challenges this issue poses, particularly for LDCs and SIDS. With SAMOA, she said that lessons can be learned from current activities. She also underscored opportunities for synergies with other chemicals agreements and agencies, which can contribute to further progress. She suggested that the Secretariat engage with these secretariats and agencies by elaborating on potential synergies.

OEWG Co-Chair Krajnik suggested further bilateral discussion on the matter.

**IN THE CORRIDORS**

OEWG 38 opened with a celebratory air as participants welcomed OEWG 37’s agreement. Many parties, however, quickly questioned the process that led to this consensus, with several cautioning that night sessions should not become standard practice in the Montreal Protocol. Several observed that delegates without rest were losing focus and concentration, with one admitting to becoming “aggressive in negotiation tactics” without the necessary breaks and another noting that delegations were sleeping during the informal discussions. Observing some of us “are not really night owls,” another urged avoiding “the dreaded night session,” which was not efficient. Others introduced the term “marathon night session” to the Protocol’s vocabulary. A minority accepted such sessions as necessary, saying “we accept going for the marathon” but most urged avoiding “open-ended” sessions.

 Parties proved their ability to work efficiently in the afternoon, as they sped through agenda items 5-11, putting them slightly ahead of the day’s agenda and closing the evening plenary three minutes ahead of schedule.

As the evening’s contact group on HFCs meandered through familiar arguments, however, several seasoned delegates reflected that the pathway to an amendment will not be quick. Observing that parties have not yet even begun discussing the four amendment proposals on the table, but are instead discussing how to discuss them, more than one delegate resigned themselves to never seeing the inside of a Viennese café.
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